By Mr. DENVER: Petition of shoe workers in Bethel and Georgetown, Ohio, protesting against the passage of legislation for the placing of boots and shoes on the free list; to the Committee on Ways and Means.

By Mr. DYER: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Judson G. Wall, New York, N. Y., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of legislation for the reestablishment of a grain standardization laboratory in St. Louis; to the Committee on Agriculture.

By Mr. ESCH: Petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FORNES: Petition of the National Academy of Design, New York, N. Y., protesting against any action on the part of Congress that will interfere with the design for the development of Washington as drawn up by the Washington Park Commission; to the Committee on the Library.

By Mr. HAMILL: Petition of the Italian Chamber of Commerce of New York, N. Y., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. KINDRED: Petition of Judson G. Wall, of New York, N. Y., and the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the National Academy of Design, New York, N. Y., protesting against any action on the part of Congress interfering with the plans of the Washington Park Commission for the development of Washington; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Chamber of Commerce of the United States of America, favoring the passage of House bill 25106, granting them a Federal charter; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of William Reilly, Yonkers, N. Y.; George W. Brown, James M. McGee, and Myron Wood, Philadelphia, Pa., favoring the passage of House bill 1339, granting an increase of pension to veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. PARRAN: Papers to accompany bill (H. R. 27395) granting a pension to Elizabeth Freeman; to the Committee on Invalid Pensions.

By Mr. REILLY: Petition of the Court of Common Council of the City of New London, protesting against the provision in the sundry civil bill for making no additional appointments of cadets or cadet engineers to the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

Also, petition of the Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Court of Common Council, New London, Conn., favoring legislation repealing the section of the sundry civil appropriation act which provides that no additional appointments as cadets or cadet engineers shall be made in the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

By Mr. UNDERHILL: Petition of the Social Science Section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

SENATE.

MONDAY, *January 13, 1913.*

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

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ILLINOIS RIVER BRIDGE.

Mr. CULLOM. I should like to have passed the bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill. It is somewhat important, owing to the emergency of the situation, that it should be passed at once.

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.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a joint resolution adopted by the Legislature of Vermont, relative to the submission of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

Joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited.

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

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

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

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

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

FRANK E. HOWE,
President of the Senate.
CHARLES A. PLUMLEY,
Speaker of the House of Representatives.

Approved December 18, 1912.

ALLEN M. FLETCHER, *Governor.*

STATE OF VERMONT,
Office of the Secretary of State.

I hereby certify that the foregoing is a true copy of "A joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited." Approved December 18, 1912, as appears by the files and records of this office.

Witness my signature and the seal of this office, at Montpelier, this 10th day of January, 1913.

[SEAL.]

GUY W. BAILEY,
Secretary of State.

Mr. BRANDEGEE presented a memorial of members of the German-American Alliance, of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. FLETCHER presented a petition of the United States Live Stock Sanitary Association, praying that an increased appropriation be made for use of the Bureau of Animal Industry, Department of Agriculture, in its work toward tick eradication and control and eradication of hog cholera, which was referred to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES.

Mr. WARREN. I am directed by the Committee on Appropriations, to which was referred the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, to report it with amendments, and

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

I submit a report (No. 1104) thereon. I give notice that, if agreeable to the Senate, I will ask consideration of the bill on Wednesday morning next.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (H. R. 25878) granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes, reported it without amendment and submitted a report (No. 1105) thereon.

JOSEPH W. M'CALL.

Mr. SANDERS. From the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 20339) for the relief of Joseph W. McCall, and I submit a report (No. 1101) thereon. It is a bill with reference to the term of service of Surg. McCall, and I ask unanimous consent for its immediate consideration.

Mr. SMOOT. Let it be read.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that in the administration of laws conferring rights, privileges, and benefits upon officers of the Volunteer Army in the Civil War, Joseph W. McCall shall hereafter be held and considered to have been in the military service of the United States as assistant surgeon of the Second Regiment West Tennessee Volunteer Cavalry (subsequently known as the Seventh Regiment Tennessee Volunteer Cavalry) from the 15th day of September, 1862, to the 15th day of October, 1862, and as assistant surgeon of the same regiment (Seventh Regiment Tennessee Volunteer Cavalry) from the 1st day of March, 1864, to the 15th day of March, 1864, and to have been honorably discharged from said service on the date hereinbefore last named. But no pay or other allowances shall become due or payable by reason of the passage of this act.

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

PUBLICITY OF EVIDENCE.

Mr. NELSON. I am directed by the Committee on the Judiciary, to which was referred the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890, to report it favorably with an amendment, and I ask for its immediate consideration.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The bill is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That in the taking of depositions of witnesses for use in any suit in equity brought by the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and in the hearings before any examiner or special master appointed to take testimony therein, the proceedings shall be open to the public as freely as are trials in open court; and no order heretofore or hereafter made by any court excluding the public from attendance on any such proceedings shall be valid or enforceable.

The amendment was, in lines 10 and 11, to strike out the words "heretofore or hereafter made by any court."

Mr. CLARKE of Arkansas. Mr. President, I do not care to object, but I should like to have the Senator from Minnesota who has charge of the bill state what particular exigency requires its passage.

Mr. NELSON. The object of the bill is this, Mr. President: In a suit instituted by the Department of Justice against the so-called Boot Machinery Trust in Massachusetts, the judge ordered that the testimony should be taken behind closed doors and refused to take it in public, as has always been done in court heretofore. This is to compel such testimony to be taken in open court, and not behind closed doors.

Mr. CLARKE of Arkansas. I believe I will object until I have an opportunity to look into it.

The PRESIDENT pro tempore. Objection is made, and the bill goes to the calendar.

Mr. CLARKE of Arkansas subsequently said: I have now had an opportunity to examine Senate bill 8000, reported by the Senator from Minnesota from the Committee on the Judiciary. I ask permission to withdraw the objection I interposed to the present consideration of the bill.

Mr. NELSON. Then, at the instance of the committee, I renew my request for its present consideration.

I wish to state to the Senate that it is important that this bill should pass immediately. It relates to a matter of this kind: A suit was instituted by the Department of Justice under the antitrust law against the Boot Machinery Trust of Boston, and the judge ordered the testimony in that case to be taken behind closed doors. The purpose of the bill is to get rid of the situation and provide that the testimony shall be taken in public. It is important that the law should be passed immediately.

The PRESIDENT pro tempore. The Senator from Minnesota asks for the present consideration of the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. NELSON. There is an amendment of the committee.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In lines 10 and 11 strike out the words "heretofore or hereafter made by any court."

The amendment was agreed to.

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

Mr. BORAH. I should like to know more about what this bill is, if the Senator will state it. I did not get the drift of it. A special bill to enable the publicity of testimony is rather an interesting proposition.

Mr. NELSON. A suit was instituted against the Boot Machinery Trust in Massachusetts in the United States court, and the judge of that court ordered that the testimony before the master be taken behind closed doors, not open to the public. The bill provides in all such cases, under the antitrust law, the testimony shall be taken publicly as in open court. It is a bill recommended by the Department of Justice, and the Committee on the Judiciary were unanimously in favor of it. The Senator from Idaho did not happen to be in the committee at the time it was acted on.

Mr. BORAH. Does it appear why the judge ordered the testimony to be taken behind closed doors?

Mr. NELSON. The Attorney General states that fact.

Mr. BORAH. And why was it?

Mr. NELSON. It was in the district court of Massachusetts.

Mr. BORAH. But what I want to know is why the testimony was taken behind closed doors.

Mr. NELSON. That I am unable to say.

Mr. LODGE. The case was before the circuit court in Massachusetts, Judge Putnam presiding, and the testimony was ordered to be taken before a master in the ordinary way. The question arose whether it should be open to the public or not, and the court ruled that it should not be open.

Mr. NELSON. But that it should be taken behind closed doors.

Mr. BORAH. I am still at a loss to know why he did it.

Mr. LODGE. The only ground was that it was not usual.

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.

ABATEMENT OF NUISANCES.

Mr. CURTIS. From the Committee on the District of Columbia I report back favorably, with an amendment, the bill (S. 5861) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, and I submit a report (No. 1102) thereon. I ask unanimous consent for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read.

Mr. REED. What is the title of this bill?

The PRESIDENT pro tempore. The title will be read.

The Secretary read the bill by title.

Mr. REED. Is the request for unanimous consent?

The PRESIDENT pro tempore. It is.

Mr. REED. Has it been granted?

The PRESIDENT pro tempore. It has been granted.

Mr. REED. For immediate consideration?

The PRESIDENT pro tempore. For immediate consideration.

Mr. REED. How long has the bill been on the calendar?

The PRESIDENT pro tempore. It was reported this morning. It has not been on the calendar.

Mr. REED. Mr. President, I was a moment late in coming to the Chamber. I am heartily in sympathy with many of the objects of the bill, but there are provisions in it revolutionary in character, if the copy which I received through the mails printed on pink paper and sent out by some gentlemen who are interested is correct. I should like to have time to examine the bill, and I hope that the proposer of it will give me time to look into it.

Mr. CURTIS. Mr. President, I have no objection to the Senator from Missouri taking all the time he desires. I want to say that the committee did not report the bill until after very careful consideration and numerous hearings, and it is a unanimous report from the Committee on the District of Columbia, with an amendment.

Mr. REED. Is the Senator willing to have it go over until to-morrow?

Mr. CURTIS. I am perfectly willing, if the Senator desires. I do not, of course, wish to have it considered until every Senator is satisfied about the bill.

Mr. REED. I thank the Senator. I ask that it go to the calendar.

Mr. CURTIS. I understand that the Senator will examine the bill. If there is no objection, I should like to call it up to-morrow.

The PRESIDENT pro tempore. The bill will go to the calendar, but still it can be called up to-morrow.

COLVILLE INDIAN RESERVATION LANDS.

Mr. ASHURST. From the Committee on Indian Affairs I report back favorably with an amendment the bill (S. 5379) granting certain lands of the diminished Colville Indian Reservation, in the State of Washington, to the Washington Historical Society, and I submit a report (No. 1103) thereon.

Mr. JONES. That is a short bill, and is a matter of some urgency. I ask unanimous consent for its present consideration.

Mr. CRAWFORD. I do not like to object, but I think it is rather a bad practice to act on bills as reported, when we have had no opportunity to see the report and it has not been printed, and where no serious harm can follow having the report printed and the bill placed on the calendar so that we may have an opportunity to examine it. I object to its immediate consideration.

The PRESIDENT pro tempore. The Senator from South Dakota objects, and the bill will be placed on the calendar.

EXPENSES OF INVESTIGATIONS.

Mr. WARREN. From the Committee on Appropriations I report back favorably the joint resolution (S. J. Res. 150) appropriating $40,000 for the expenses of inquiries and investigations ordered by the Senate. The joint resolution relates to the contingent fund of the Senate, and I ask for its present consideration.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It appropriates $40,000 for expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, to be immediately available.

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

BILLS INTRODUCED.

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

By Mr. MARTINE of New Jersey:

A bill (S. 8082) to amend section 1440 of the Revised Statutes (with accompanying paper); to the Committee on Naval Affairs.

By Mr. CHAMBERLAIN:

A bill (S. 8083) to appoint Brig. Gen. Thomas M. Anderson, United States Army, retired, to the grade of major general on the retired list of the Army; to the Committee on Military Affairs.

A bill (S. 8084) granting to the State of Oregon certain lands, claimed by the State of Oregon under the act of Congress approved September 28, 1850, and an act of Congress approved March 12, 1860; to the Committee on Public Lands.

By Mr. BRISTOW:

A bill (S. 8085) granting a pension to Martha Benner; and

A bill (S. 8086) granting a pension to Hiram Strayer (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 8087) granting authority to sell certain real property in Des Moines, Iowa, authorizing the acquisition of a new site and the erection of a building thereon, and making an appropriation therefor; to the Committee on Public Buildings and Grounds.

By Mr. GRONNA:

A bill (S. 8088) authorizing the Secretary of War, in his discretion, to deliver to the State of North Dakota, for use at the Fort Rice Memorial Park, two condemned cannon, with their carriages and outfits of cannon balls; to the Committee on Military Affairs.

A bill (S. 8089) permitting the building of a railroad bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north of range 104 west of the fifth principal meridian, in McKenzie County, N. Dak.; and

A bill (S. 8090) permitting the building of a railroad bridge across the Missouri River from a point on the east bank in section 14, Mountrail County, N. Dak., to a point on the west bank of said river in section 15 in McKenzie County, N. Dak., in township 152 north of range 93 west of the fifth principal meridian; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 8091) authorizing the Secretary of War to make certain donations of cannon; to the Committee on Military Affairs.

By Mr. SMOOT:

A bill (S. 8092) granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah; to the Committee on Public Lands.

By Mr. BRANDEGEE:

A bill (S. 8093) granting an increase of pension to Josephine Roth; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8094) granting an increase of pension to Charles R. Bunnell (with accompanying papers); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 8095) granting an increase of pension to George W. Seymour; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 8096) for the relief of the heirs of Isaac Whitaker, deceased; to the Committee on Claims.

By Mr. TILLMAN:

A bill (S. 8097) for the relief of St. John's Episcopal Church, at Winnsboro, S. C.; to the Committee on Claims.

By Mr. JOHNSON of Maine (for Mr. GARDNER):

A bill (S. 8098) granting an increase of pension to Horace C. Webber;

A bill (S. 8099) granting an increase of pension to Porter E. Nash;

A bill (S. 8100) granting an increase of pension to Joseph M. Davis; and

A bill (S. 8101) granting a pension to Mary J. Gooding (with accompanying paper); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8102) granting an increase of pension to Edward Hearin (with accompanying papers);

A bill (S. 8103) granting an increase of pension to John W. Nash (with accompanying papers);

A bill (S. 8104) granting an increase of pension to Joel H. Grout (with accompanying paper);

A bill (S. 8105) granting an increase of pension to John M. Mower (with accompanying papers); and

A bill (S. 8106) granting a pension to William McFadzen (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment proposing to appropriate $10,000 for the survey of Nespelem and Omak Townships, on the Colville Indian Reservation, Wash., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $5,000 for the survey of the Klaxta Township, on the abandoned Spokane Military Reservation, now the Spokane Indian Reservation, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for survey of public lands in the State of Washington, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

MEDALS TO SURVIVORS OF BATTLE OF GETTYSBURG.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the bill (S. 8031) providing for the presentation of medals to all surviving soldiers of the Battle of Gettysburg, which was referred to the Committee on Military Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—MICHAEL O'BRIEN.

On motion of Mr. LA FOLLETTE, it was

Ordered, That the papers accompanying the bill (S. 4449) granting an increase of pension to Michael O'Brien, Sixty-second Congress, second session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

THE MONEY TRUST INQUIRY (S. DOC. NO. 1003).

Mr. BURTON. I ask to have printed as a Senate document copies of letters to the New York Evening Post, by A. Piatt Andrew, containing some facts and findings relating to the Money Trust inquiry.

The PRESIDENT pro tempore. Without objection, an order for the printing of the letters is entered.

MEMORIAL ADDRESSES.

Mr. SMOOT. Mr. President, I desire to state that during the Sixty-second Congress there died 16 Representatives, 5 Senators, and our Vice President. The eulogies on the lives and public services of the departed have not been delivered in the Senate, with the exception of those in relation to the late Senator Frye, of Maine. If the eulogies are to be printed at this session of Congress, memorial services should be held at an early date, and arrangements for that purpose should be made, because there are some twenty or more of them. I simply call attention to this fact so that Senators who may be interested may arrange a time at a very early date for the delivery of those eulogies.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Mr. President, I ask that the Senate resume the consideration of what is know as the omnibus claims bill, House bill 19115.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, the pending question is upon the amendment which I proposed to the amendment offered by the Senator from Massachusetts [Mr. LODGE], seeking to incorporate into the bill what are known as the French spoliation claims. I now ask that the vote be taken upon the amendment offered by me to the amendment proposed by the Senator from Massachusetts.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New Hampshire?

Mr. CRAWFORD. Certainly.

Mr. GALLINGER. Is the Senator through for the present?

Mr. CRAWFORD. Yes; and I yield to the Senator.

Mr. GALLINGER. Mr. President, I am going to occupy a very few moments in a discussion of this matter. On one or two previous occasions I spoke at some length in favor of the so-called French spoliation claims. I have not changed my mind on the subject at all, and I only desire to briefly restate my position.

These claims are very old; they are sometimes called stale; but I believe a claim never becomes stale that is pressed from time to time before the Congress; it becomes old but not stale, and the fact that these claims are very old is, to my mind, an added reason why they should be paid, provided they are honest claims.

Mr. President, I am not going to weary the Senate in going over the facts concerning these claims, the facts being well known to the Members of the Senate and to the country at large. From my point of view, the Government, in honor and in fairness, is bound to pay them.

In looking over the RECORD a few days ago I found that there have been 63 favorable reports made by committees of Congress on these claims. In three of those instances there was an adverse minority report, and there have been three adverse reports made during this more than 100 years. The total amount of the claims, as I recall, was between $4,000,000 and $5,000,000 of which between three and four million dollars have been paid, and there remain unpaid somewhere from six to eight hundred thousand dollars. If the payment of $3,000,000 or $4,000,000 was a correct payment, the payment of the six or eight hundred thousand dollars remaining must be equally correct; and I have been unable to discover any difference between the claims that have been paid and the claims that remain unpaid.

The first time I ever heard this matter discussed was in the House of Representatives in 1888. The Senator now occupying the chair [Mr. SHIVELY], as I recall, was a colleague of mine in the House at that time. Mr. Hooker, of Mississippi, a very able Representative, made a speech of some considerable length on the question, and I want to quote very briefly from what Mr. Hooker said. It impressed me then. I had not examined the matter very carefully up to that time, and it led me to take a very great interest in the matter, and, as some of these claims were from my own section of the country, I studied the subject as well as I could, and came to the conclusion then, which I still hold, that it is a great injustice to refuse to pay the remnant of these claims. Mr. Hooker said:

> If we have allowed decade after decade to pass, from 1801 down to the present time, if we have allowed generation after generation to pass away who were entitled to these claims, the original claimants and their descendants, is it any argument to the enlightened conscience and to the just sense of right of an American Congress to say that because we have persisted in wrong for nearly 100 years therefore we should persist in it for another 100 years? I say to these gentlemen whose names are recorded in favor of the law giving the Court of Claims the right of jurisdiction upon this question, if you did not intend to make a promise to the ear which was to be broken to the hope, if you did not intend that, then you ought to have raised all these objections when that bill was pending in this House, and you ought to have voted down the proposition to refer these matters to the Court of Claims, because, if the gentleman from Pennsylvania is correct, you were referring to that court claims the subject matter of which had no value, and the assumed beneficiaries of which were nefarious claimants of something to which they had no right.
>
> Yet the finding of your court answers him. Your tribunal, composed of five enlightened and able jurists, sitting for long weeks and months upon these cases, taking proof for the claimants and proof for the Government, tell you that certain of these claims which they have investigated are just, valid, subsisting claims against the Government of the United States.

Mr. President, I recall that speech to-day as vividly as it came to me at the time it was uttered in the House of Representatives; the discussion was one of great interest; and I was then persuaded that the Government was in honor bound to pay these claimants, and, as I said a moment ago, I have not been able to divest my mind of that feeling from that day to this. We referred the claims to the Court of Claims; the Court of Claims investigated them and reported them back to Congress as being just claims; and yet we have haggled over them year after year and decade after decade, and a portion of the claims remain unpaid to the present time, which is not to our credit from any point of view.

I trust, Mr. President, that as the Court of Claims found the full amount due as recognized in the amendment of the Senator from Massachusetts, the motion made by the Senator from South Dakota [Mr. CRAWFORD] to reduce the amount may not prevail, and that the amendment of the Senator from Massachusetts may receive the sanction of the Senate. As I said a moment ago, if the three or four million dollars that we have paid has been justly and honestly and honorably paid, we are equally in duty bound to pay the six or eight hundred thousand dollars that remain unpaid, and it is time that the Senate did its full duty in this matter. That is all I care to say, Mr. President.

Mr. ROOT. Mr. President, when this bill was before the Senate several days ago I put a question to the chairman of the committee when he was cut off by the arrival of the hour of 1 o'clock. That question I will repeat, in order that what he may say shall be understood.

As I understand, several million dollars of these French spoliation claims have been paid.

Mr. LODGE. Between $3,000,000 and $4,000,000.

Mr. ROOT. Between three and four million dollars, the Senator from Massachusetts says. That payment seems to me, coming as it did at different times, the judgments of successive Congresses upon the principle. It seemed to me that no one was at liberty to dispute the soundness and the equity of these claims in the face of the repeated decisions leading to those payments, unless he had himself made a thorough and exhaustive study of the subject and had come to a different conclusion. I think failing that, we are all bound to accept the decision already reached by Congress as stating the principle. That would leave nothing but the question of the amount, and the amount in the cases now before us has been settled by the judgments of the Court of Claims.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. ROOT. Certainly.

Mr. LODGE. Settled on exactly the same basis on which the previous claims were settled.

Mr. ROOT. I so understand. Now, my question to the chairman of the committee was whether the principle has not been settled in favor of these claimants so that we can proceed to act according to our conscience in regard to payments of the amounts which have been fixed upon by the Court of Claims.

Mr. CRAWFORD. These French spoliation claims have met with favorable action on the part of Congress in three several appropriations.

Mr. LODGE. Four.

Mr. CRAWFORD. One approved by President Harrison; one by President McKinley—possibly two by President McKinley—and one by President Roosevelt; I am not sure; possibly three or four. They came before Congress as items in general appropriation bills of some sort, and were not presented as independent propositions resting alone and discussed alone.

Before that time there had been bills presented for their allowance which were vetoed. President Cleveland vetoed one of these bills, and he placed his objection largely upon the ground that the claims contained what he thought were excessive amounts which they asked to be reimbursed on account of what they had paid as insurance premiums for insurance to cover this property and profits in the nature of freight earnings.

Now, we had the same question up two years ago in an omnibus claims bill, and it was discussed for several weeks in the Senate. The bill containing the French spoliation claims passed the Senate and went to the House, and there it was defeated. The entire bill was defeated on account of the very decided hostility to the items in that bill appropriating money for French spoliation claims. When the subject of presenting the present bill, which passed the House without the French spoliation claims in it, came up before the Committee on Claims the whole question was discussed whether or not the French spoliation claims should be incorporated in this bill.

As is well known, upon the general principle of obligation to satisfy these claims my own judgment was in recognition of the principle of payment. But I was only one member of the committee. The hostility to the claims on the question of incorporating them into the bill which passed the House was so marked and so decided that it looked like utter failure for the whole bill from the beginning if what are known as the French spoliation claims were incorporated in it. The matter was submitted to the committee, and after very careful consideration and on account of the situation—the sharp difference of opinion, the positive, agressive opposition to these claims—the majority of the committee decided that it was inexpedient and unwise to attempt to incorporate those claims as an amendment upon the House bill. I am trying in good faith to execute the instructions which I received from this committee.

Now, as to the merits of the case, speaking particularly in regard to the amendment which I have proposed to the amendment offered by the Senator from Massachusetts, I wish to say this: It is undoubtedly true that in conventions and under previous adjudications that have occurred, items such as these claims for freight earnings and insurance premiums have been allowed. I do not think, however, that the situations are exactly similar, because in most of those instances we were dealing directly with a foreign nation and it was a matter of settlement and adjustment between the Government of the United States and a foreign power direct; and in one of the instances which the Senator from Massachusetts presented the other day, as he said, a lump sum was paid over to the United States much in excess of the amount of these individual claims, and the Government had this fund at its disposal and it was quite liberal in paying out to the claimants and reimbursing them for items such as insurance premiums, no matter how large, and freight earnings, and things of that kind.

I do not believe that there has been established any binding precedent which in any way ties the hands of the Congress of the United States in the matter of simply doing what it may decide is fair and reasonable justice in this particular case. These findings that come here from the Court of Claims are not judgments. The cases were sent over there for them to report findings simply for the advisory use that might be made of them by the Congress of the United States. That is all. They are findings which come to us in an advisory way.

So, while I recognize from my standpoint that a great many very just claims are here, can it be said because we have this finding we must in honor pay these claims? Let me call attention to the case of the brig *Sally*, John V. Villett, master. Here was a brig engaged in the slave trade. She purchased a cargo of slaves on the Gold Coast. Her master purchased a cargo of slaves and set sail for Savannah, Ga., intending to stop at St. Thomas, West Indies, for supplies. On March 6, 1797, she was seized by a French privateer and taken to Guadeloupe, where both vessel and cargo were condemned by a French prize tribunal and became a total loss to the owner. The governor of this island took possession of these slaves, 167 of them, and put them to work on government plantations there.

Now, here more than 100 years after, in the twentieth century, we are asked to pay descendants for their loss on freight earnings on 167 negroes—to reimburse them the freight earnings for the loss, because they were seized by the government of those islands in the West Indies. Is there any moral obligation, is there any obligation whatever, resting upon us of this time to pay the descendants of that old slaver for what was lost on the freight on human beings from the west coast of Africa?

Mr. LODGE. That slave case is becoming quite familiar, but is that——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Massachusetts?

Mr. CRAWFORD. I do.

Mr. LODGE. But does that apply to many cases?

Mr. CRAWFORD. Oh, no.

Mr. LODGE. The Senator knows, as I said to him the other day, that the Senator from Massachusetts does not advocate any such claim.

Mr. CRAWFORD. I understand that very well.

Here is another man who had a cargo of freight, and he paid 30 per cent premium for insurance on it. It was on its way to the West Indies, and was seized by a privateer. The cargo and the vessel were taken. Through some adjustment with the insurance company he got back every dollar of his loss. They paid him for the merchandise. They paid him for the vessel itself.

Now, if that was a transaction with the insurance company, he could not make them pay back the premium he had paid for his protection, could he? No; that is what he paid for his protection, and he got his loss absolutely repaid. But a hundred years later his children or his grandchildren want us to pay back that premium of 30 per cent.

I do not care anything about the Geneva award or some convention between this country and Spain or any other foreign power. I say as a matter of simple justice between the United States and its own citizens, are we obliged, in order to do justice, to pay the grandchildren of those losers of insurance premiums? Here is a company of underwriters that took 60 per cent premium for insuring this property, and when the loss occurred they paid the loss. My amendment would allow the claimants to be repaid the amount they paid in insurance, but not allow them to retain the enormous premium of 60 per cent that they exacted at the time they insured the property.

I thought under the circumstances it was no more than fair to at least submit this amendment of mine, which seeks to cut out freight earnings and insurance premiums, and confine the losses to actual property losses—I thought it was no more than fair to the Senate to segregate those items and give the Senate an opportunity to say whether or not in its judgment the insurance premiums and the prospective profits, or the freight earnings should be included in the amount that these people should receive; and that is what the pending amendment provides.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Oklahoma?

Mr. CRAWFORD. I do, but I desire to say again that if we are ever to have a vote on this proposition we ought to have it soon, because the appropriation bills are coming in and they will have the right of way.

Mr. OWEN. I wanted to ask how long these people have waited for a settlement——

Mr. CRAWFORD. That appears on the face of the record.

Mr. OWEN. I know, but how long——

Mr. CRAWFORD. Since the early part of the last century; and I am bound to say they have been diligent. That is all I care to say. Can we not have a vote, Mr. President?

Mr. LODGE. Upon the matter of the precedents in Congress, the Senator said three. There are four, as I thought, and I want to put them into the RECORD at a convenient point. Congress has heretofore by appropriation allowed the following amounts:

March 3, 1891 (Fifty-first Congress), $1,304,095.37. The bill was signed by President Harrison.

March 3, 1899 (Fifty-sixth Congress), $1,055,473.04. The bill was signed by President McKinley.

May 27, 1902 (Fifty-seventh Congress), $798,631.27.

February 24, 1905 (Fifty-eighth Congress), $752,660.93.

Total, $3,910,860.61.

That makes four payments on these claims already made by previous Congresses and made on the same basis as those now presented; made on findings of the Court of Claims, which differs in no respects of which I am aware from the findings here.

For that reason I object to the amendment of the Senator from South Dakota. If the claims are to be paid, this amendment differentiates this vast group from all the others that have gone before.

Now, Mr. President, there is one case of a slaver that I think should be omitted. I do not believe, even if it is technically correct, that we need pay old claims for the transportation of

slaves. But, Mr. President, that is but one case. The total amount is not large, and it is only one case among a great many. I desire to say just a word in regard to that matter of premiums. It is not possible for me to say it now, although I shall not take three minutes. But I want to say a word about the question of premiums which the Senator from South Dakota raised, and I hope the Senator will allow the bill to go over, as we only have two minutes now before the impeachment case comes up.

Mr. CRAWFORD. I am very anxious to get a vote on the bill.

Mr. LODGE. The Senator must see it is impossible to get a vote now.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting for the consideration of the articles of impeachment.

The Journal of the Senate sitting as a Court of Impeachment on Saturday last was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. ROOT. Mr. President, I offer an order which I have handed to the Secretary.

The PRESIDENT pro tempore. The Senator from New York proposes the following order, which will be read to the Senate.

The Secretary read as follows:

Ordered, That upon the final vote in the pending impeachment the Secretary shall read the articles of impeachment successively, and when the reading of each article is concluded the Presiding Officer shall state the question thereon as follows:

"Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article?"

Thereupon the roll of the Senate shall be called and each Senator, as his name is called, shall arise in his place and answer "guilty" or "not guilty."

The PRESIDENT pro tempore. The question is on the adoption of the order. [Putting the question.] The ayes have it, and the order is unanimously adopted. The Secretary will read the first article of impeachment.

Mr. KERN. Mr. President, if I may do so properly, I desire at this time to ask to be excused from voting upon the articles of impeachment. I was unavoidably detained from the Senate until the adjournment for the Christmas holidays, so that I did not see or hear the witnesses who were examined up to that time. While I have read the testimony and statement of counsel and heard the arguments, I do not feel that I can vote without at least taking the judgment of the Senate upon the question as to whether I may properly do so.

The PRESIDENT pro tempore. The Senator from Indiana asks that the Senate will excuse him from voting upon the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator from Indiana is excused.

Mr. DILLINGHAM. Mr. President, owing to a protracted illness I was detained at my home in Vermont throughout the entire month of December. I heard none of the testimony that was offered in support of the articles of impeachment, nor have I been able by reason of other engagements to read the same since that time. I count myself as entirely disqualified to pass upon any question involved here to-day. For this reason I ask to be excused from voting on any one of the articles of impeachment.

The PRESIDENT pro tempore. The Senator from Vermont asks that he be excused from voting on the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. BRADLEY. Mr. President, during the session up to the holiday adjournment I was, unfortunately, ill and not able to be here. I have not had time since I came back to read the testimony with that care with which I think it ought to be read, and I ask the Senate to excuse me from voting.

The PRESIDENT pro tempore. The Senator from Kentucky asks to be excused from voting on the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

The Chair will state that two other Senators have previously had practically the consent of the Senate to be excused from voting, the Senator from Arkansas [Mr. HEISKELL] and the Senator from Texas [Mr. JOHNSTON], both of whom came into the Senate near the close of the impeachment proceedings.

Mr. CLARKE of Arkansas. Mr. President, I believe I will ask the Senate to excuse me from voting on the counts which involve incriminating facts alleged to have occurred during the term of the respondent as United States district judge. I have not had sufficient time to convince my own mind that I ought to vote on those counts. I feel definitely well advised as to what I shall do with reference to the matters which transpired while he was judge of the Commerce Court. I think it is proper at this time to ask to be excused from voting on those counts which relate to the conduct of the respondent as judge of the district court, and I prefer that request now.

The PRESIDENT pro tempore. The Senator from Arkansas asks that the Senate excuse him from voting upon the articles indicated by him for the reason he has stated. Is there objection? The Chair hears none, and it is so ordered.

Mr. TILLMAN. Mr. President, as is known to Senators, I have been unable to attend the sessions of the Senate as I should like to have done. I am not prepared to vote on any article but the first one, and I ask to be excused from voting on all the rest.

The PRESIDENT pro tempore. The Senator from South Carolina asks that he be excused from voting upon all the articles of impeachment save only the first one, for the reason stated by him. Is there objection? The Chair hears none, and the Senator from South Carolina is excused as requested.

Mr. JACKSON. Mr. President, owing to the fact that I came into the Senate very recently and have been very busy with the details of my office, having heard practically none of the evidence or arguments in the case, I should like to be excused from voting.

The PRESIDENT pro tempore. The Senator from Maryland asks that he may be excused from voting upon the articles of impeachment, for the reason which he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the first article.

The Secretary read as follows:

ARTICLE 1.

That the said Robert W. Archbald, at Scranton, in the State of Pennsylvania, being a United States circuit judge, and having been duly designated as one of the judges of the United States Commerce Court, and being then and there a judge of the said court, on March 31, 1911, entered into an agreement with one Edward J. Williams whereby the said Robert W. Archbald and the said Edward J. Williams agreed to become partners in the purchase of a certain culm dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson, for the purpose of disposing of said property at a profit. That pursuant to said agreement, and in furtherance thereof, the said Robert W. Archbald, on the 31st day of March, 1911, and at divers other times and at different places, did undertake by correspondence, by personal conferences, and otherwise, to induce and influence, and did induce and influence, the officers of the said Hillside Coal & Iron Co., and of the Erie Railroad Co., a corporation, which owned all of the stock of said coal company, to enter into an agreement with the said Robert W. Archbald and the said Edward J. Williams to sell the interest of the said Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500. That during the period covering the several negotiations and transactions leading up to the aforesaid agreement the said Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting as such judge; and at the time aforesaid and during the time the aforesaid negotiations were in progress the said Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 39, then pending in the United States Commerce Court; and the said Robert W. Archbald, judge as aforesaid, well knowing these facts, willfully, unlawfully, and corruptly took advantage of his official position as such judge to induce and influence the officials of the said Erie Railroad Co. and the said Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and the said Edward J. Williams, as aforesaid, for profit to themselves, and that the said Robert W. Archbald then and there, through the influence exerted by reason of his position as such judge, willfully, unlawfully, and corruptly did induce the officers of said Erie Railroad Co. and of the said Hillside Coal & Iron Co. to enter into said contract for the consideration aforesaid.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

The PRESIDENT pro tempore. Before putting the vote on this article the Chair would request the Senate to excuse the present occupant of the Chair from voting for reasons which will readily occur to Senators, and which attach to him as the Presiding Officer during the trial, except in the case of an article where his vote may affect the result. Is there objection? The Chair hears none, and the Chair will exercise that privilege, with the permission of the Senate.

The Chair now submits article 1 to the judgment of the Senate.

Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of illness.

Mr. BANKHEAD. I wish to announce that my colleague [Mr. JOHNSTON of Alabama] is absent on account of illness.

Mr. KERN. I desire again to announce the absence of the Senator from South Carolina [Mr. SMITH] on account of illness and of death in his family.

Mr. MARTINE of New Jersey. I desire to state that my colleague [Mr. BRIGGS] is also absent on account of illness.

Mr. WILLIAMS. I wish to announce that my colleague [Mr. PERCY] is necessarily detained from the city.

Mr. JOHNSON of Maine. I desire to announce that my colleague [Mr. GARDNER] is necessarily detained from the Chamber.

Mr. O'GORMAN. I desire to announce that the Senator from West Virginia [Mr. CHILTON] is absent owing to illness in his family.

Mr. SANDERS. I wish to announce that my colleague [Mr. LEA] is unavoidably absent from the city.

Mr. CATRON. I desire to state that my colleague [Mr. FALL] is absent on business of the Senate.

Mr. TOWNSEND. I received a telegram from my colleague [Mr. SMITH of Michigan], dated New Orleans, Saturday, stating that he was there on the Mexican investigation and could not therefore be present in the Senate at this time.

Mr. SMOOT. I desire to state that the junior Senator from Nevada [Mr. MASSEY] is out of the city.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—68.

Ashurst	Cummins	McLean	Shively
Bankhead	Curtis	Martin, Va.	Simmons
Borah	Dixon	Martine, N. J.	Smith, Ariz.
Bourne	du Pont	Myers	Smith, Ga.
Brandegee	Fletcher	Nelson	Smith, Md.
Bristow	Foster	Newlands	Smoot
Brown	Gallinger	O'Gorman	Stephenson
Bryan	Gore	Owen	Stone
Burton	Gronna	Page	Sutherland
Chamberlain	Hitchcock	Perkins	Swanson
Clapp	Johnson, Me.	Perky	Thornton
Clark, Wyo.	Jones	Poindexter	Tillman
Clarke, Ark.	Kenyon	Pomerene	Townsend
Crane	La Follette	Reed	Warren
Crawford	Lippitt	Richardson	Wetmore
Culberson	Lodge	Root	Williams
Cullom	McCumber	Sanders	Works

NOT GUILTY—5.

Burnham	Oliver	Paynter	Penrose
Catron			

ABSENT OR NOT VOTING—21.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Watson
Chilton	Heiskell	Massey	
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. It appears from the responses given by Senators that 68 Senators have voted "guilty" and 5 Senators have voted "not guilty." More than two-thirds of the Senators having voted "guilty," the Senate adjudges the respondent, Robert W. Archbald, guilty as charged in the first article of impeachment.

The Secretary will now read the second article of impeachment.

The Secretary proceeded to read article 2.

Mr. SMITH of Georgia. I move that the Senate close the doors and go into secret session.

The PRESIDENT pro tempore. The Senator from Georgia moves that——

Mr. CULBERSON. Mr. President, a point of order. The Senate has already decided to vote at this hour on the articles of impeachment.

The PRESIDENT pro tempore. That is true, and in the absence of any order to the contrary that order would undoubtedly be carried out. It is, however, for the Senate to determine whether it will at any time suspend that order. It is not a matter of unanimous consent, but it is an order which can be changed or not changed, as the Senate may see proper to do.

Mr. WORTHINGTON. Mr. President, before the question is put, I ask, if the motion be carried, whether it will result in excluding counsel for the respondent from the Senate Chamber?

The PRESIDENT pro tempore. Yes; it would, while the Senate was in secret deliberation, exclude everybody except Senators and those who are privileged under such circumstances.

Mr. WORTHINGTON. I trust that nothing will be done which will exclude counsel for the respondent while the vote is being taken.

The PRESIDENT pro tempore. There will be no vote taken in secret session; there can not be. The question is on the motion of the Senator from Georgia [Mr. SMITH] to now close the doors.

Mr. CLARKE of Arkansas. A parliamentary inquiry, Mr. President. Could voting continue in secret session upon counts or issues raised?

The PRESIDENT pro tempore. There can be no vote except in open session.

Mr. POINDEXTER. Mr. President, I rise to a point of order. Has the Chair just stated that the Senate could not vote upon these articles in secret session?

The PRESIDENT pro tempore. It could not.

Mr. POINDEXTER. The Senate has, I believe, by unanimous consent, fixed this hour for voting?

The PRESIDENT pro tempore. It has done so by order, not by unanimous consent.

Mr. POINDEXTER. It was by order that the Senate met in open session. My understanding was that there was a unanimous-consent agreement that we should vote at 1 o'clock to-day.

SEVERAL SENATORS. Question!

The PRESIDENT pro tempore. The question is on the motion of the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I understand that all we could do in secret session would be to consider the question as to whether it is worth while to go on with the vote on these other charges, and it was only with a view of saving time in that way, we having disposed of the matter by a vote on one article, that I made the suggestion. If the Senate is willing, I will withdraw the suggestion.

The PRESIDENT pro tempore. The Senator from Georgia withdraws the motion. The Secretary will read the second article of impeachment.

Mr. LODGE. Mr. President, I ask that there be order in the Chamber and in the galleries during this proceeding, which is a solemn and very serious one, indeed. Those who are here by the courtesy of the Senate, I think, while the articles are being read and voted on, should maintain the strictest order.

The PRESIDENT pro tempore. The suggestion of the Senator from Massachusetts is eminently proper. The Chair particularly requests visitors not by any conversation or otherwise to disturb the entire quietude and solemnity of these proceedings.

The Secretary will proceed with the reading of the second article.

The Secretary read as follows:

ARTICLE 2.

That the said Robert W. Archbald, on the 1st day of August, 1911, was a United States circuit judge, and, having been duly designated as one of the judges of the United States Commerce Court, was then and there a judge of said court.

That at the time aforesaid the Marian Coal Co., a corporation, was the owner of a certain culm bank at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies as defendants, charging said defendants with discrimination in rates and with excessive charges for the transportation of coal shipped by the said Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce. That the decision of the said case by the Interstate Commerce Commission at the instance of either party thereto was subject to a review, under the law, by the United States Commerce Court; that one Christopher G. Boland and one William P. Boland were then the principal stockholders of the said Marian Coal Co. and controlled the operation of the same, and they, the said Christopher G. Boland and the said William P. Boland, employed one George M. Watson as an attorney to settle the case then pending as aforesaid in the Interstate Commerce Commission and to sell to the Delaware, Lackawanna & Western Railroad Co. two-thirds of the stock of the said Marian Coal Co.; and at the time aforesaid there was pending in the United States Commerce Court a certain suit entitled "The Baltimore & Ohio Railroad Co. et al. *v.* The Interstate Commerce Commission, No. 38," to which suit the said Delaware, Lackawanna & Western Railroad Co. was a party litigant.

That the said Robert W. Archbald, being judge as aforesaid and well knowing these facts, did then and there engage for a consideration to assist the said George M. Watson to settle the aforesaid case then pending before the Interstate Commerce Commission and to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the said Marian Coal Co., and in pursuance of said engagement the said Robert W. Archbald, on or about the 10th day of August, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise to induce and influence the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with the said George M. Watson for the settlement of the aforesaid case and the sale of said stock of the Marian Coal Co.; and the said Robert W. Archbald thereby willfully, unlawfully, and corruptly did use his influence as such judge in the attempt to settle said case and to sell said stock of the said Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. SMITH of Georgia (when his name was called). I ask to be excused from voting, for I have not reached a conclusion satisfactory to myself.

The PRESIDENT pro tempore. Is there objection to excusing the Senator from Georgia? The Chair hears none, and he stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the vote.

The Secretary recapitulated the vote, which was as follows:

GUILTY—46.

Ashurst	Cummins	Martine, N. J.	Sanders
Bankhead	Curtis	Myers	Shively
Borah	Dixon	Nelson	Simmons
Bourne	Fletcher	Newlands	Smith, Ariz.
Bristow	Gronna	O'Gorman	Smith, Md.
Brown	Johnson, Me.	Owen	Stone
Bryan	Kenyon	Perkins	Sutherland
Burton	La Follette	Poindexter	Swanson
Clapp	Lippitt	Pomerene	Williams
Clarke, Ark.	Lodge	Reed	Works
Crawford	McLean	Richardson	
Cullom	Martin, Va.	Root	

NOT GUILTY—25.

Brandegee	du Pont	Oliver	Thornton
Burnham	Foster	Page	Townsend
Catron	Gallinger	Paynter	Warren
Chamberlain	Gore	Penrose	Wetmore
Clark, Wyo.	Hitchcock	Perky	
Crane	Jones	Smoot	
Culberson	McCumber	Stephenson	

ABSENT OR NOT VOTING—23.

Bacon	Gamble	Johnston, Tex.	Smith, Ga.
Bradley	Gardner	Kern	Smith, Mich.
Briggs	Guggenheim	Lea	Smith, S. C.
Chilton	Heiskell	Massey	Tillman
Dillingham	Jackson	Overman	Watson
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. On the call of the roll of the Senate upon the question whether the respondent is guilty or not guilty under the charge in this article, those voting guilty number 46 and those voting not guilty number 25. Forty-eight would be the number necessary to make two-thirds. Less than two-thirds having voted in favor of the guilt of the respondent, the Senate adjudges that he is not guilty as charged in this article.

The Secretary will proceed to read the third article of impeachment.

The Secretary read as follows:

ARTICLE 3.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about October 1, 1911, did secure from the Lehigh Valley Coal Co., a corporation, which coal company was then and there owned by the Lehigh Valley Railroad Co., a common carrier engaged in interstate commerce, and which railroad company was at that time a party litigant in certain suits then pending in the United States Commerce Court, to wit: The Baltimore & Ohio Railroad Co. et al. *v.* Interstate Commerce Commission et al., No. 38, and the Lehigh Valley Railroad Co. *v.* Interstate Commerce Commission et al., No. 49, all of which was well known to said Robert W. Archbald, an agreement which permitted said Robert W. Archbald and his associates to lease a culm dump, known as Packer No. 3, near Shenandoah, in the State of Pennsylvania, which said culm dump contained a large amount of coal, to wit, 472,670 tons, and which said culm dump the said Robert W. Archbald and his associates agreed to operate and to ship the product of the same exclusively over the lines of the Lehigh Valley Railroad Co.; and that the said Robert W. Archbald unlawfully and corruptly did use his official position and influence as such judge to secure from the said coal company the said agreement.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a misdemeanor in such office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. FOSTER (when his name was called). Mr. President, I ask to be excused from voting on this article, as I have not been able to reach a conclusion satisfactory to myself.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting on this article for the reasons stated by him. Is there objection? The Chair hears none, and the Senator stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—60.

Ashurst	Burton	Cummins	Gronna
Bankhead	Chamberlain	Curtis	Hitchcock
Borah	Clapp	Dixon	Johnson, Me.
Bourne	Clarke, Ark.	du Pont	Jones
Bristow	Crawford	Fletcher	Kenyon
Brown	Culberson	Gallinger	La Follette
Bryan	Cullom	Gore	Lippitt
Lodge	O'Gorman	Richardson	Stone
McCumber	Owen	Root	Sutherland
McLean	Page	Sanders	Swanson
Martin, Va.	Perkins	Shively	Townsend
Martine, N. J.	Perky	Simmons	Warren
Myers	Poindexter	Smith, Ariz.	Wetmore
Nelson	Pomerene	Smith, Ga.	Williams
Newlands	Reed	Smith, Md.	Works

NOT GUILTY—11.

Brandegee	Clark, Wyo.	Paynter	Stephenson
Burnham	Crane	Penrose	Thornton
Catron	Oliver	Smoot	

ABSENT OR NOT VOTING—23.

Bacon	Foster	Johnston, Ala.	Percy
Bradley	Gamble	Johnston, Tex.	Smith, Mich.
Briggs	Gardner	Kern	Smith, S. C.
Chilton	Guggenheim	Lea	Tillman
Dillingham	Heiskell	Massey	Watson
Fall	Jackson	Overman	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 60 Senators have voted that the respondent is guilty as charged in this article and 11 Senators have responded that he is not guilty as charged in this article. More than two-thirds of the Senate having responded that he is guilty, the Senate adjudges that the respondent, Robert W. Archbald, is guilty as charged in this article.

The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 4.

That the said Robert W. Archbald, while holding the office of United States circuit judge and being a member of the United States Commerce Court, was and is guilty of gross and improper conduct, and was and is guilty of a misdemeanor as said circuit judge and as a member of said Commerce Court in manner and form as follows, to wit: Prior to and on the 4th day of April, 1911, there was pending in said United States Commerce Court the suit of Louisville & Nashville Railroad Co. *v.* The Interstate Commerce Commission. Said suit was argued and submitted to said United States Commerce Court on the 4th day of April, 1911; that afterwards, to wit, on the 22d day of August, 1911, while said suit was still pending in said court, and before the same had been decided, the said Robert W. Archbald, as a member of said United States Commerce Court, secretly, wrongfully, and unlawfully did write a letter to the attorney for the said Louisville & Nashville Railroad Co. requesting said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that the said witness had given in said suit, and communicate the same to the said Robert W. Archbald, which request was complied with by said attorney; that afterwards, to wit, on the 10th day of January, 1912, while said suit was still pending, and before the same had been decided by said court, the said Robert W. Archbald, as judge of said court, secretly, wrongfully, and unlawfully again did write to the said attorney that other members of said United States Commerce Court had discovered evidence on file in said suit detrimental to the said railroad company and contrary to the statements and contentions made by the said attorney; and the said Robert W. Archbald, judge of said United States Commerce Court as aforesaid, in said letter requested the said attorney to make to him, the said Robert W. Archbald, an explanation and an answer thereto; and he, the said Robert W. Archbald, as a member of said United States Commerce Court aforesaid, did then and there request and solicit the said attorney for the said railroad company to make and deliver to the said Robert W. Archbald a further argument in support of the contentions of the said attorney so representing the said railroad company, which request was complied with by said attorney, all of which on the part of said Robert W. Archbald was done secretly, wrongfully, and unlawfully, and which was without the knowledge or consent of the said Interstate Commerce Commission or its attorneys.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—52.

Ashurst	Curtis	Martin, Va.	Richardson
Bankhead	Dixon	Martine, N. J.	Sanders
Borah	Fletcher	Myers	Shively
Bourne	Foster	Nelson	Simmons
Bristow	Gore	Newlands	Smith, Ariz.
Brown	Gronna	O'Gorman	Smith, Ga.
Bryan	Hitchcock	Owen	Smith, Md.
Chamberlain	Johnson, Me.	Page	Smoot
Clapp	Jones	Perkins	Stone
Clarke, Ark.	Kenyon	Perky	Thornton
Crawford	La Follette	Poindexter	Townsend
Culberson	Lodge	Pomerene	Williams
Cummins	McLean	Reed	Works

NOT GUILTY—20.

Brandegee	Crane	McCumber	Stephenson
Burnham	Cullom	Oliver	Sutherland
Burton	du Pont	Paynter	Swanson
Catron	Gallinger	Penrose	Warren
Clark, Wyo.	Lippitt	Root	Wetmore

ABSENT OR NOT VOTING—22.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Tillman
Chilton	Heiskell	Massey	Watson
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 52 Senators have voted that the respondent is guilty and 20 Senators have voted that he is not guilty. More than two-thirds having voted that he is guilty, the Senate decides that Robert W. Archbald is guilty as charged in this article.

The Secretary will read the next article.

The Secretary read as follows:

ARTICLE 5.

That in the year 1904 one Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by the Philadelphia & Reading Coal & Iron Co., located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated a culm dump located on said property for several years thereafter; that operations were carried on at a loss; that said Frederick Warnke thereupon applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the said land covered by the said lease, and was informed that the lease under which he claimed had been forfeited two years before it was assigned to him, and his application for said maps was therefore denied; that said Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under the said lease, provided that the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what was known as the Lincoln culm bank, located near Lorberry; that said George F. Baer referred said proposition to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that the general policy of the said coal company being adverse to the lease of any of its culm banks, the said George F. Baer and the said W. J. Richards declined to make the lease, and the said Frederick Warnke was so advised; that the said Frederick Warnke then made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; that on or about November 1, 1911, the said Frederick Warnke called upon Robert W. Archbald, who was then and now is a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court, and asked him, the said Robert W. Archbald, to intercede in his behalf with the said W. J. Richards; that on November 24, 1911, the said Robert W. Archbald, judge as aforesaid, pursuant to said request, did write a letter to the said W. J. Richards requesting an appointment with the said W. J. Richards; that several days thereafter the said Robert W. Archbald called at the office of the said W. J. Richards to intercede for the said Frederick Warnke; that the said W. J. Richards then and there informed the said Robert W. Archbald that the decision which he had given to the said Warnke must be considered as final, and the said Archbald so informed the said Warnke; that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which also owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a common carrier engaged in interstate business.

That the said Robert W. Archbald, judge as aforesaid, well knowing all the aforesaid facts, did wrongfully attempt to use his influence as such judge to aid and assist the said Frederick Warnke to secure an operating lease of the said Lincoln culm dump, owned by the Philadelphia & Reading Coal & Iron Co., as aforesaid, which lease the officials of the said Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to the said Robert W. Archbald.

That the said Robert W. Archbald, judge as aforesaid, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co., aforesaid, in behalf of the said Frederick Warnke, and on or about the 31st day of March, 1912, willfully, unlawfully, and corruptly did accept, as a gift, reward, or present, from the said Frederick Warnke, tendered in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and the said coal company, and for other favors shown by said judge to the said Frederick Warnke, a certain promissory note for $500 executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as a judge and high crimes and misdemeanors in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary read the recapitulation of the vote, which was as follows:

GUILTY—66.

Ashurst	Curtis	Martin, Va.	Simmons
Bankhead	Dixon	Martine, N. J.	Smith, Ariz.
Borah	du Pont	Myers	Smith, Ga.
Bourne	Fletcher	Nelson	Smith, Md.
Brandegee	Foster	Newlands	Smoot
Bristow	Gallinger	O'Gorman	Stephenson
Brown	Gore	Owen	Stone
Bryan	Gronna	Page	Sutherland
Burton	Hitchcock	Perkins	Swanson
Chamberlain	Johnson, Me.	Perky	Thornton
Clapp	Jones	Poindexter	Townsend
Clarke, Ark.	Kenyon	Pomerene	Warren
Crane	La Follette	Reed	Wetmore
Crawford	Lippitt	Richardson	Williams
Culberson	Lodge	Root	Works
Cullom	McCumber	Sanders	
Cummins	McLean	Shively	

NOT GUILTY—6.

Burnham	Clark, Wyo.	Paynter	Penrose
Catron	Oliver		

ABSENT OR NOT VOTING—22.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Tillman
Chilton	Heiskell	Massey	Watson
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

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The PRESIDENT pro tempore. Upon the call of the Senate, 66 Senators have upon this article voted that the respondent is guilty and 6 Senators have voted that he is not guilty. More than two-thirds of the Senators having voted that the respondent is guilty, the Senate has decided that he is guilty as charged in this article.

Mr. PAYNTER. Mr. President, I have been advised that occupants of the galleries wish to retire, and I would suggest that they be permitted to do so, even if not permitted to return.

The PRESIDENT pro tempore. Permission will be given as suggested by the Senator from Kentucky for those who wish to retire to do so in an orderly way without confusion.

Mr. CRAWFORD. Mr. President, we have been here for a good while and we are not half through these article. The occupants of the galleries may be restless, and some of us are getting pretty hungry. I wish to suggest that we suspend the calling of the roll for half an hour that we may get our lunch and then come back again. I move that the Senate take a recess until a quarter of 3 o'clock.

The PRESIDENT pro tempore. To what hour?

Mr. CRAWFORD. Until 15 minutes before 3.

Mr. CLARKE of Arkansas and others. Regular order!

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate take a recess until 2 o'clock and 45 minutes.

The motion was not agreed to.

The PRESIDENT pro tempore. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 6.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about the 1st day of December, 1911, did unlawfully, improperly, and corruptly attempt to use his influence as such judge with the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to induce the officers of said companies to purchase a certain interest in a tract of coal land containing 800 acres, which interest at said time belonged to certain persons known as the Everhardt heirs.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. POINDEXTER (when his name was called). I ask to be excused from voting on this article. I have not been able to examine the evidence so as to reach a satisfactory conclusion upon it.

The PRESIDENT pro tempore. The Senator from Washington asks that he be excused, for the reason indicated by him, from voting on this article. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WILLIAMS (when his name was called). Upon this article my mind is not clear and I have reached no satisfactory conclusion. I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Mississippi asks to be excused from voting, for the reason assigned by him. Is there objection? The Chair hears none, and he stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—24.

Ashurst	Burton	McCumber	Root
Bankhead	Clapp	McLean	Smoot
Bourne	Curtis	Martine, N. J.	Stone
Brandegee	Jones	Myers	Thornton
Bristow	La Follette	Newlands	Townsend
Brown	Lodge	O'Gorman	Works

NOT GUILTY—45.

Borah	Dixon	Nelson	Shively
Bryan	du Pont	Oliver	Simmons
Burnham	Fletcher	Owen	Smith, Ariz.
Catron	Foster	Page	Smith, Ga.
Chamberlain	Gallinger	Paynter	Smith, Md.
Clark, Wyo.	Gore	Penrose	Sutherland
Clarke, Ark.	Gronna	Perkins	Swanson
Crane	Hitchcock	Perky	Warren
Crawford	Johnson, Me.	Pomerene	Wetmore
Culberson	Kenyon	Reed	
Cullom	Lippitt	Richardson	
Cummins	Martin, Va.	Sanders	

ABSENT OR NOT VOTING—25.

Bacon	Gardner	Lea	Stephenson
Bradley	Guggenheim	Massey	Tillman
Briggs	Heiskell	Overman	Watson
Chilton	Jackson	Percy	Williams
Dillingham	Johnston, Ala.	Poindexter	
Fall	Johnston, Tex.	Smith, Mich.	
Gamble	Kern	Smith, S. C.	

The PRESIDENT pro tempore. Upon the call of the roll, 24 Senators have voted that the respondent is guilty under the charges in this article and 45 Senators have voted that he is not guilty. Less than two-thirds having voted in favor of his guilt, the Senate adjudges that the respondent, Robert W. Archbald, is not guilty as charged in the article.

Mr. STONE. Articles 7, 8, 9, 10, 11, and 12 relate to charges of misbehavior alleged against the respondent while he was district judge. Some time ago he left that office, and he is not now holding it. I therefore ask to be excused from voting on those articles.

The PRESIDENT pro tempore. The Senator from Missouri asks to be excused from voting on the articles named by him for the reasons he has assigned.

Mr. KENYON. I inquire what are the reasons? We could not hear the Senator.

The PRESIDENT pro tempore. The Senator from Missouri will please restate his reasons.

Mr. STONE. I say, I have not reached a conclusion satisfactory to myself as to whether these alleged offenses could be reached by impeachment. I therefore ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Missouri asks to be excused from voting upon the articles he has enumerated for the reasons assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SWANSON. Mr. President, I am similarly situated as the Senator from Missouri [Mr. STONE]. I have not been able to reach a conclusion satisfactory to myself as to whether charges specifying offenses prior to the appointment of the respondent as a circuit judge can be tried under this impeachment. Consequently I ask to be excused from voting on articles 7, 8, and 9.

The PRESIDENT pro tempore. The Senator from Virginia asks to be excused from voting on the articles enumerated by him for the reasons he has assigned. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the next article of impeachment.

The Secretary read as follows:

ARTICLE 7.

That during the months of October and November, A. D. 1908, there was pending in the United States district court, in the city of Scranton, State of Pennsylvania, over which court Robert W. Archbald was then presiding as the duly appointed judge thereof, a suit or action at law, wherein the Old Plymouth Coal Co. was plaintiff and the Equitable Fire & Marine Insurance Co. was defendant. That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit; that in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsuit, and, after extended argument by attorneys for both plaintiff and defendant, the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence, before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,129,63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused, and which was later discounted by a bank and has never been paid.

All of which acts on the part of said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed with the call of the roll of Senators for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BORAH (when his name was called). Upon this article I vote "not guilty," and I file, to be printed in the RECORD, my reasons for so doing.

The PRESIDENT pro tempore. Under the order, the Senator has that privilege.

Mr. BRYAN (when his name was called). I file a statement of my views on this and succeeding articles down to and including article 12. On this article I vote "not guilty."

Mr. CRAWFORD (when his name was called). I vote "guilty," and I desire to say——

The PRESIDENT pro tempore. The Senator is not permitted under the rule to make any statement.

Mr. CRAWFORD. I thought we could make a statement of one minute.

The PRESIDENT pro tempore. No.

Mr. CRAWFORD. Very well. Then, I ask the privilege of filing my reasons hereafter.

The PRESIDENT pro tempore. That privilege has already been granted.

Mr. FOSTER (when his name was called). I am going to ask to be excused from voting on this article and the remainder of the articles.

The PRESIDENT pro tempore. The Senator will limit his present request to this article, as the roll is now being called on that.

Mr. FOSTER. I have not been able to reach a conclusion satisfactory to myself regarding this article.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting upon this article for the reason stated by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SIMMONS. I vote "not guilty," but I desire to inquire whether, under the order adopted by the Senate, I can file my reasons hereafter?

The PRESIDENT pro tempore. There is an order to that effect.

Mr. SMITH of Georgia (when his name was called). I ask to be excused from voting upon this article, as I have not reached a conclusion as to whether these acts done prior to the occupancy of the defendant of a seat on the Commerce Court can now be the subject of impeachment.

The PRESIDENT pro tempore. The Senator from Georgia asks to be excused from voting upon this article for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SMITH of Maryland (when his name was called). As I am undecided in my own mind in regard to this article, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Maryland asks to be excused, for the reason assigned by him, from voting upon this article. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WORKS (when his name was called). I vote "not guilty," and, as provided for by the order of the Senate, I now file my reasons for my vote.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—29.

Ashurst	Dixon	Martine, N. J.	Shively
Bourne	Fletcher	Myers	Smith, Ariz.
Bristow	Gore	O'Gorman	Thornton
Brown	Gronna	Owen	Wetmore
Clapp	Jones	Perky	Williams
Crawford	Kenyon	Poindexter	
Culberson	La Follette	Pomerene	
Cummins	Martin, Va.	Reed	

NOT GUILTY—36.

Bankhead	Crane	McCumber	Richardson
Borah	Cullom	McLean	Root
Brandegee	Curtis	Nelson	Sanders
Bryan	du Pont	Newlands	Simmons
Burnham	Gallinger	Oliver	Smoot
Burton	Hitchcock	Page	Sutherland
Catron	Johnson, Me.	Paynter	Townsend
Chamberlain	Lippitt	Penrose	Warren
Clark, Wyo.	Lodge	Perkins	Works

ABSENT AND NOT VOTING—29.

Bacon	Gamble	Lea	Stephenson
Bradley	Gardner	Massey	Stone
Briggs	Guggenheim	Overman	Swanson
Chilton	Heiskell	Percy	Tillman
Clarke, Ark.	Jackson	Smith, Ga.	Watson
Dillingham	Johnston. Ala.	Smith, Md.	
Fall.	Johnston, Tex.	Smith, Mich.	
Foster	Kern	Smith, S. C.	

The PRESIDENT pro tempore. On the call of the roll, 29 Senators have voted that the respondent is guilty as charged in this article and 36 Senators have voted that the respondent is not guilty as charged in this article. Less than two-thirds having voted in favor of guilt, the Senate has adjudged that the respondent is not guilty as charged in this article.

During the roll call the following statements were filed:

By Mr. BORAH: In voting not guilty upon those counts which charge misconduct at a time when said R. W. Archbald was district judge, an office which he no longer holds, I do so because of a doubt I entertain as to the law. I am not prepared to say we can not impeach a man for offenses or acts committed while holding an office which he no longer holds. But the legal proposition, to my mind, is involved in doubt. Furthermore, if we had a clear and undoubted right as a legal proposition to do so, I would hesitate to establish the precedent except upon a peculiar and extraordinary necessity. I am not willing under the circumstances of this case, the object of the impeachment being fully accomplished, to establish that precedent. I prefer to leave it open until expediency demands that the matter be definitely decided. I have not, therefore, undertaken to pass upon the facts supporting the counts, but determine the matter solely upon the doubt which I entertain as to the law and as to the propriety of exercising the power, even if we have it under such conditions as exist in this case.

By Mr. BRYAN: I am convinced that articles of impeachment lie only for conduct during the term of office then being filled, and that the "good behavior" required by the Constitution relates to the future and not to the past; to what the officer does after and not to what the citizen had done before he is nominated and confirmed.

Both the President when he nominates and the Senate when it advises and consents ought to be satisfied, it seems to me, with the character and qualifications of the citizen.

The primary object of an impeachment is removal from office, but this could not be attained if before that the office became vacant.

Taking this view, I vote to acquit the respondent on articles 7, 8, 9, 10, 11, and 12.

Mr. SMITH of Georgia. Mr. President, I desire to ask to be excused from voting on each of the other articles where they involve acts prior to the respondent's appointment to the Commerce Court.

The PRESIDENT pro tempore. The Senator will please indicate the numbers of the articles.

Mr. SMITH of Georgia. They are the ones immediately following down to article 13. I ask to be excused from voting for the reason that I gave a few moments ago on the seventh article.

The PRESIDENT pro tempore. The Senator from Georgia asks to be excused from voting on the articles indicated by him for the reason he has given. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. NEWLANDS. Mr. President, I ask to be excused from voting upon the same articles as those indicated by the Senator from Georgia [Mr. SMITH] for the same reason.

The PRESIDENT pro tempore. The Senator from Nevada asks to be excused from voting upon the articles indicated for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. FOSTER. Mr. President, I make a similar request.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting upon the articles indicated for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 8.

That during the summer and fall of the year 1909 there was pending in the United States District Court for the Middle District of Pennsylvania, in the city of Scranton, over which court the said Robert W. Archbald was then and there presiding as the duly appointed judge thereof, a civil action wherein the Marian Coal Co. was defendant, which action involved a large sum of money, and which defendant coal company was principally owned and controlled by one Christopher G. Boland and one William P. Boland, all of which was well known to said Robert W. Archbald; and while said suit was so pending the said Robert W. Archbald drew a note for $500 payable to himself, and which note was signed by one John Henry Jones and indorsed by the said Robert W. Archbald, and then and there during the pendency of said suit as aforesaid the said Robert W. Archbald wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland, or one of them, for the purpose of having the said note discounted, corruptly intending that his name on said note would coerce and induce the said Christopher G. Boland and the said William P. Boland, or one of them, to discount the same because of the said Robert W. Archbald's position as judge and because the said Bolands were at that time litigants in his said court.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his office as judge, and was and is guilty of a misdemeanor in his said office as judge.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the vote.

The Secretary recapitulated the vote, which was as follows:

GUILTY—22.

Ashurst	Crawford	Martine, N. J.	Pomerene
Bourne	Culberson	Myers	Reed
Bristow	Dixon	O'Gorman	Smith, Ariz.
Brown	Gronna	Owen	Williams
Chamberlain	Kenyon	Perky	
Clapp	La Follette	Poindexter	

NOT GUILTY—42.

Bankhead	du Pont	Nelson	Smith, Md.
Brandegee	Fletcher	Oliver	Smoot
Bryan	Gallinger	Page	Stephenson
Burnham	Hitchcock	Paynter	Sutherland
Burton	Johnson, Me.	Penrose	Thornton
Catron	Jones	Perkins	Townsend
Clark, Wyo.	Lippitt	Richardson	Warren
Crane	Lodge	Root	Wetmore
Cullom	McCumber	Sanders	Works
Cummins	McLean	Shively	
Curtis	Martin, Va.	Simmons	

ABSENT OR NOT VOTING—30.

Bacon	Foster	Johnston, Tex.	Smith, Mich.
Borah	Gamble	Kern	Smith, S. C.
Bradley	Gardner	Lea	Stone
Briggs	Gore	Massey	Swanson
Chilton	Guggenheim	Newlands	Tillman
Clarke, Ark.	Heiskell	Overman	Watson
Dillingham	Jackson	Percy	
Fall	Johnston, Ala.	Smith, Ga.	

The PRESIDENT pro tempore. On the call of the roll of the Senate, 22 Senators have voted that the respondent is guilty as charged in this article and 42 Senators have voted that he is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 9.

That the said Robert W. Archbald, of the city of Scranton and State of Pennsylvania, on or about November 1, 1909, being then and there a United States district judge in and for the middle district of Pennsylvania, in the city of Scranton and State aforesaid, did draw a note in his own proper handwriting, payable to himself, in the sum of $500, which said note was signed by one John Henry Jones, which said note the said Robert W. Archbald indorsed for the purpose of securing the sum of $500, and the said Robert W. Archbald, well knowing that his indorsement would not secure money in the usual commercial channels, then and there wrongfully did permit the said John Henry Jones to present said note for discount, at his law office, to one C. H. Von Storch, attorney at law and practitioner in said district court, which said Von Storch, a short time prior thereto, was a party defendant in a suit in the said district court presided over by the said Robert W. Archbald, which said suit was decided in favor of the said Von Storch upon a ruling by the said Robert W. Archbald; and when the said note was presented to the said Von Storch for discount, as aforesaid, the said Robert W. Archbald wrongfully and improperly used his influence as such judge to induce the said Von Storch to discount same; that the said note was then and there discounted by the said Von Storch, and the same has never been paid but is still due and owing.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his said office, and was and is guilty of a misdemeanor in his said office as judge.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the names of Senators for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I vote "not guilty" on this article, and take this opportunity of filing my reasons under the rule.

The PRESIDENT pro tempore. The views filed by the Senator from Connecticut will be printed in the RECORD.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of the Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—23.

Ashurst	Crawford	La Follette	Poindexter
Bourne	Culberson	Martine, N. J.	Pomerene
Bristow	Cullom	Myers	Reed
Brown	Dixon	O'Gorman	Shively
Chamberlain	Gronna	Owen	Smith, Ariz.
Clapp	Kenyon	Perky	

NOT GUILTY—39.

Bankhead	du Pont	Nelson	Smoot
Brandegee	Fletcher	Oliver	Stephenson
Bryan	Gallinger	Page	Sutherland
Burnham	Johnson, Me.	Paynter	Thornton
Burton	Jones	Penrose	Townsend
Catron	Lippitt	Perkins	Warren
Clark, Wyo.	Lodge	Richardson	Wetmore
Crane	McCumber	Root	Williams
Cummins	McLean	Sanders	Works
Curtis	Martin, Va.	Simmons	

ABSENT OR NOT VOTING—32.

Bacon	Foster	Johnston, Ala.	Smith, Ga.
Borah	Gamble	Johnston, Tex.	Smith, Md.
Bradley	Gardner	Kern	Smith, Mich.
Briggs	Gore	Lea	Smith, S. C.
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell,	Newlands	Swanson
Dillingham	Hitchcock	Overman	Tillman
Fall	Jackson	Percy	Watson

The PRESIDENT pro tempore. On the call of the roll of the Senate, 23 Senators have voted that the respondent is guilty as charged in this article and 39 Senators have voted that he is not guilty as charged in this article. The Senate therefore has adjudged that the respondent is not guilty as charged in this article.

During the calling of the roll the following statement was filed:

By Mr. BRANDEGEE: I vote "not guilty" on articles 7 to 12, inclusive, because I do not think that impeachment will lie for offenses alleged to have been committed by the respondent while holding an office which he does not now hold and did not hold at the time the articles of impeachment were adopted by the House of Representatives.

The PRESIDENT pro tempore. The Secretary will proceed to the next article.

The Secretary read as follows:

ARTICLE 10.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, on or about the 1st day of May, 1910, wrongfully and unlawfully did accept and receive a large sum of money, the exact amount of which is unknown to the House of Representatives, from one Henry W. Cannon; that said money so given by the said Henry W. Cannon and so unlawfully and wrongfully received and accepted by the said Robert W. Archbald, judge as aforesaid, was for the purpose of defraying the expenses of a pleasure trip of the said Robert W. Archbald to Europe; that the said Henry W. Cannon, at the time of the giving of said money and the receipt thereof by the said Robert W. Archbald, was a stockholder and officer in various and divers interstate railway corporations, to wit: A director in the Great Northern Railway; a director in the Lake Erie & Western Railroad Co.; and a director in the Fort Wayne, Cincinnati & Louisville Railroad Co.; that the said Henry W. Cannon was president and chairman of the board of directors of the Pacific Coast Co., a corporation which owned the entire capital stock of the Columbia & Puget Sound Railroad Co., the Pacific Coast Railway Co., the Pacific Coast Steamship Co., and various other corporations engaged in the mining of coal and in the development of agricultural and timber land in various parts of the United States; that the acceptance by the said Robert W. Archbald, while holding said office of United States district judge, of said favors from an officer and official of the said corporations, any of which in the due course of business was liable to be interested in litigation pending in the said court over which he presided as such judge, was improper and had a tendency to and did bring his said office of district judge into disrepute.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article?

The Secretary will proceed to call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. REED (when his name was called). Availing myself of the rule, I send to the Clerk's desk my reasons for the vote I am about to cast. I vote "not guilty."

The roll call was concluded.

Mr. SWANSON. Mr. President, I asked to be excused from voting on certain articles, but I am not quite sure just what articles the request included. I have no desire to be excused from voting on articles 10, 11, 12, or 13.

Mr. SWANSON's name was thereupon called, and he voted "not guilty."

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—1.

Ashurst

NOT GUILTY—65.

Bankhead	Curtis	Martine, N. J.	Shively
Bourne	Dixon	Myers	Simmons
Brandegee	du Pont	Nelson	Smith, Ariz.
Bristow	Fletcher	O'Gorman	Smith, Md.
Brown	Gallinger	Oliver	Smoot
Bryan	Gore	Owen	Stephenson
Burnham	Gronna	Page	Sutherland
Burton	Hitchcock	Paynter	Swanson
Catron	Johnson, Me.	Penrose	Thornton
Chamberlain	Jones	Perkins	Townsend
Clapp	Kenyon	Perky	Warren
Clark, Wyo.	La Follette	Poindexter	Wetmore
Crane	Lippitt	Pomerene	Williams
Crawford	Lodge	Reed	Works
Culberson	McCumber	Richardson	
Cullom	McLean	Root	
Cummins	Martin, Va.	Sanders	

ABSENT OR NOT VOTING—28.

Bacon	Fall	Johnston, Ala.	Percy
Borah	Foster	Johnston, Tex.	Smith, Ga.
Bradley	Gamble	Kern	Smith, Mich.
Briggs	Gardner	Lea	Smith, S. C.
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Tillman
Dillingham	Jackson	Overman	Watson

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 1 Senator has voted that the respondent is guilty as charged in this article and 65 Senators have voted that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

The reasons filed by Mr. REED for his vote on the roll call are as follows:

By Mr. REED: In my opinion, article 10 is not sustained by the evidence. It is shown that Henry W. Cannon is a relative of the wife of the respondent, and that on other occasions the respondent and his wife had been the guests of Henry W. Cannon. The relationship existing between the families affords a proper reason for the invitation referred to in the article, and its acceptance. Under these conditions it is my opinion that the action of the respondent ought to receive that construction which accords with innocence.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the next article.

The Secretary read as follows:

ARTICLE 11.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, did, on or about the 1st day of May, 1910, wrongfully and unlawfully accept and receive a sum of money in excess of $500, which sum of money was contributed and given to the said Robert W. Archbald by various attorneys who were practitioners in the said court presided over by the said Robert W. Archbald; that said money was raised by subscription and solicitation from said attorneys by two of the officers of said court, to wit, Edward R. W. Searle, clerk of said court, and J. B. Woodward, jury commissioner of said court, both the said Edward R. W. Searle and the said J. B. Woodward having been appointed to the said positions by the said Robert W. Archbald, judge aforesaid.

Wherefore said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. POINDEXTER (when his name was called). Under the rule, I desire to file a statement of the reasons for my vote. I vote "not guilty."

Mr. REED (when his name was called). I vote "not guilty" and, under the rule, I file my reasons.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—11.

Ashurst	Brown	La Follette	Owen
Bourne	Clapp	Lippitt	Perky
Bristow	Dixon	Myers	

NOT GUILTY—51.

Bankhead	du Pont	Nelson	Shively
Brandegee	Fletcher	O'Gorman	Simmons
Bryan	Gallinger	Oliver	Smith, Ariz.
Burnham	Gore	Page	Smith, Md.
Burton	Gronna	Paynter	Smoot
Catron	Johnson, Me.	Penrose	Sutherland
Chamberlain	Jones	Perkins	Thornton
Clark, Wyo.	Kenyon	Poindexter	Townsend
Crane	Lodge	Pomerene	Warren
Culberson	McCumber	Reed	Wetmore
Cullom	McLean	Richardson	Williams
Cummins	Martin, Va.	Root	Works
Curtis	Martine, N. J.	Sanders	

ABSENT OR NOT VOTING—32.

Bacon	Fall	Johnston, Ala.	Smith, Ga.
Borah	Foster	Johnston, Tex.	Smith, Mich.
Bradley	Gamble	Kern	Smith, S. C.
Briggs	Gardner	Lea	Stephenson
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Swanson
Crawford	Hitchcock	Overman	Tillman
Dillingham	Jackson	Percy	Watson

The PRESIDENT pro tempore. Upon the call of the roll, 11 Senators have voted that the respondent is guilty as charged in this article and 51 Senators have voted that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

During the roll call the following statements were filed:

By Mr. POINDEXTER: As to articles 10, 11, and 12, while I regard the acts charged therein, and partly admitted by the

respondent, as reprehensible and justly subject to censure and objection, I do not regard them, standing alone, as sufficient cause for impeachment.

By Mr. REED: In explanation of my vote upon this article, I desire to state that I regard the practice sometimes indulged in by judges of courts, of accepting gifts of moneys contributed by attorneys practicing before them, as one which should not only be discountenanced but absolutely discontinued. Indeed, it is my opinion that it should be prohibited by positive statute. Nevertheless, it is my opinion that the evidence in this case does not go far enough to show that the money was contributed or accepted because of any sinister reason. Under these circumstances I do not think the act of sufficient gravity to warrant a finding of guilty. If the evidence had shown by direct testimony or by circumstances that the money was contributed for the purpose of promoting favoritism, and that it was accepted in such a manner as to create an obligation, a different case would have been presented.

The PRESIDENT pro tempore. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 12.

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district, and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United State district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to the call of the roll for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses.

The Secretary recapitulated the vote, which was as follows:

GUILTY—19.

Ashurst	Clapp	Gore	Perky
Bourne	Crawford	Gronna	Reed
Bristow	Culberson	Kenyon	Shively
Brown	Cummins	La Follette	Smith, Ariz.
Chamberlain	Dixon	Myers	

NOT GUILTY—46.

Bankhead	Gallinger	Oliver	Smith, Md.
Brandegee	Hitchcock	Owen	Smoot
Bryan	Johnson, Me.	Page	Stephenson
Burnham	Jones	Paynter	Sutherland
Burton	Lippitt	Penrose	Thornton
Catron	Lodge	Perkins	Townsend
Clark, Wyo.	McCumber	Poindexter	Warren
Crane	McLean	Pomerene	Wetmore
Cullom	Martin, Va.	Richardson	Williams
Curtis	Martine, N. J.	Root	Works
du Pont	Nelson	Sanders	
Fletcher	O'Gorman	Simmons	

ABSENT OR NOT VOTING—29.

Bacon	Foster	Kern	Smith, S. C.
Borah	Gamble	Lea	Stone
Bradley	Gardner	Massey	Swanson
Briggs	Guggenheim	Newlands	Tillman
Chilton	Heikell	Overman	Watson
Clarke, Ark.	Jackson	Percy	
Dillingham	Johnston, Ala.	Smith, Ga.	
Fall	Johnston, Tex.	Smith, Mich.	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 19 Senators have responded that the respondent is guilty as charged in this article and 46 Senators have responded that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

Mr. SUTHERLAND. Mr. President, the remaining article, 13, includes, in general terms, as I understand, the various articles which have preceded it and I find it exceedingly difficult to vote upon it one way or the other, because if I vote "guilty"——

The PRESIDENT pro tempore. Has the Senator a request to make?

Mr. SUTHERLAND. I desire to make this statement, because if I am not permitted to make a certain motion I want to ask to be excused from voting. This is preliminary to asking to be excused.

The PRESIDENT pro tempore. The Senator can give his reasons for wishing to be excused.

Mr. HITCHCOCK. Will the Senator please speak a little louder?

Mr. SUTHERLAND. I say that I find myself embarrassed to vote upon this question either way—guilty or not guilty.

The PRESIDENT pro tempore. The Senator can not enter into an argument upon the subject. He can state his reasons.

Mr. SUTHERLAND. Mr. President, I understand that I am stating my reasons.

The PRESIDENT pro tempore. With the permission of the Senate, the Senator may proceed.

Mr. SUTHERLAND. I was giving the reason why I think I should be excused from voting, and that is that I have voted upon some of these articles "guilty" and upon some of them "not guilty," and, as it occurs to me, I can not consistently vote upon this one article one way or the other. I desire to be excused, and before that request is put I desire to make a parliamentary inquiry. Would it be in order now to move to indefinitely postpone the consideration of article 13?

The PRESIDENT pro tempore. The Chair does not know that that is strictly a parliamentary question, as it is controlled by the rule of the Senate that the Senators shall vote upon it. It is a matter upon which the Chair would not take the responsibility of ruling, but will submit it to the Senate if the Senator desires it.

Mr. SUTHERLAND. Then, Mr. President, I move that the further consideration of article 13 be indefinitely postponed.

The PRESIDENT pro tempore. The Chair submits to the Senate the question of order.

Mr. WILLIAMS. Is that subject to debate?

The PRESIDENT pro tempore. There is nothing open to debate under the rule.

Mr. WILLIAMS. Then I want to submit this point of order to the Chair. I submit that it is the duty of the Chair to decide the point, for the simple reason that——

The PRESIDENT pro tempore. The Chair will decide it, then, and rule the motion to be out of order.

Mr. WILLIAMS. Yes; because the order under which we are working forbids debate.

Mr. SUTHERLAND. Then I ask to have my request put. I ask to be excused from voting upon this article for the reasons I have stated.

The PRESIDENT pro tempore. The Senator from Utah asks that he be excused from voting on article 13 for the reasons indicated by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. CHAMBERLAIN. I make the same request, and for the same reasons as those given by the Senator from Utah.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. CHAMBERLAIN] makes the request that he be excused for the reasons indicated by the Senator from Utah. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. CLARK of Wyoming. For the same reasons I ask to be excused.

The PRESIDENT pro tempore. The Senator from Wyoming asks to be excused for reasons already given. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. JOHNSON of Maine. I ask to be excused for the same reasons as those assigned by the several Senators.

The PRESIDENT pro tempore. The Senator from Maine asks to be excused. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WARREN. This article seems to be an omnium gatherum, including all the other charges, and for the same reasons expressed by the Senator from Utah I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Wyoming asks to be excused from voting. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. DU PONT. For the same reason which was so well stated a few moments ago by the Senator from Utah [Mr. SUTHERLAND], I ask to be excused from voting.

Mr. CLAPP. Mr. President, I shall have to object to these requests. They will leave us where we will not have a quorum.

The PRESIDENT pro tempore. The Senator from Minnesota objects.

Mr. LIPPITT. For the reason that I can not consistently with my other votes vote on this article, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Rhode Island asks to be excused from voting on this article. Is there

objection? The Chair hears none, and the Senator stands excused.

Mr. SIMMONS. For the reasons given by other Senators, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from North Carolina, for the reasons indicated, asks to be excused from voting. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. GRONNA. I do not believe that I can consistently vote on this article, and therefore I ask to be excused.

The PRESIDENT pro tempore. The Senator from North Dakota asks to be excused from voting on this article.

Mr. REED. If it is in order, I should like to make a motion with reference to this matter for the action of the Senate.

The PRESIDENT pro tempore. The Chair is now putting the request of the Senator from North Dakota.

Mr. REED. Ah.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota? The Chair hears none, and the Senator stands excused. The Senator from Missouri.

Mr. REED. Mr. President, this presents a peculiar question, and I therefore move that the doors of the Senate be closed.

The PRESIDENT pro tempore. The Senator from Missouri moves that the doors of the Senate be closed for deliberation.

Mr. DU PONT. I renew my request, for the reason stated, that I may be excused from voting.

The PRESIDENT pro tempore. There is a motion pending, made by the Senator from Missouri. The motion is that the doors of the Senate shall be closed for private conference.

Mr. O'GORMAN. I hope the motion will not prevail.

Mr. LODGE. I make the point that no debate is in order.

Mr. O'GORMAN. There are 13 articles on which Senators are prepared to render judgment. We have passed on 12 of those articles, and I assume that Senators will not be embarrassed in passing on the thirteenth; and that, I assume, is the regular order.

Mr. LODGE. I make the point that no debate is in order.

The PRESIDENT pro tempore. There is no rule on the subject that the Chair can find.

Mr. LODGE. It is the rule of the Senate that we shall vote without debate.

The PRESIDENT pro tempore. But the question is on the motion to go into private conference.

Mr. LODGE. That must be voted on without debate, like everything else.

Mr. ASHURST. On the motion of the Senator from Missouri [Mr. REED] I demand the yeas and nays.

Mr. POINDEXTER. It seems the Chair has ruled that it is open to debate, and I want to say only one word.

The PRESIDENT pro tempore. The Chair, on reflection, thinks the point of order made by the Senator from Massachusetts is correct. The Chair will rule that debate is not in order.

Mr. OLIVER. I call for the regular order.

The PRESIDENT pro tempore. The regular order is the demand for the yeas and nays made by the Senator from Arizona on the motion of the Senator from Missouri.

The yeas and nays were not ordered.

Mr. JONES. Mr. President, I rise to a point of order. Under the rule we have to determine all these questions by a roll call.

The PRESIDENT pro tempore. Not unless one-fifth of the Senators present demand it. The Senator will find that the rule is explicit on that subject.

Mr. JONES. I understood the rule did not require any second when the Senate is sitting as a Court of Impeachment.

Mr. CRAWFORD. I ask for the regular order.

The PRESIDENT pro tempore. The Senator from Washington has made a point of order, and it is proper to rule on it.

Mr. REED. When I made the motion I thought it would save time. If there is no objection, I will withdraw it.

The PRESIDENT pro tempore. The Senator from Missouri withdraws the motion, but the Chair will state to the Senator from Washington that if he will refer to the rules he will find explicit provision that the question shall be decided without division unless the yeas and nays are demanded. The Senator from Missouri withdraws the motion for the closing of the doors, and the Secretary will read article 13.

Mr. GALLINGER. I ask unanimous consent that the consideration of article 13 be indefinitely postponed.

Mr. POINDEXTER. I object.

The PRESIDENT pro tempore. Objection is made.

Mr. McCUMBER. Mr. President, I rise to a point of order. We are, under the rule, compelled to vote on the article. It can not be withdrawn.

Mr. CULBERSON, Mr. LA FOLLETTE, and others. Regular order!

The PRESIDENT pro tempore. The article will be read. The article has not yet been read.

The Secretary read as follows:

ARTICLE 13.

That Robert W. Archbald, on the 29th day of March, 1901, was duly appointed United States district judge for the middle district of Pennsylvania and held such office until the 31st day of January, 1911, on which last-named date he was duly appointed a United States circuit judge and designated as a judge of the United States Commerce Court.

That during the time in which the said Robert W. Archbald has acted as such United States district judge and judge of the United States Commerce Court he, the said Robert W. Archbald, at divers times and places, has sought wrongfully to obtain credit from and through certain persons who were interested in the result of suits then pending and suits that had been pending in the court over which he presided as judge of the district court, and in suits pending in the United States Commerce Court, of which the said Robert W. Archbald is a member.

That the said Robert W. Archbald, being United States circuit judge and being then and there a judge of the United States Commerce Court, at Scranton, in the State of Pennsylvania, on the 31st day of March, 1911, and at divers other times and places, did undertake to carry on a general business for speculation and profit in the purchase and sale of culm dumps, coal lands, and other coal properties, and for a valuable consideration to compromise litigation pending before the Interstate Commerce Commission, and in the furtherance of his efforts to compromise such litigation and of his speculations in coal properties, willfully, unlawfully, and corruptly did use his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., the Lackawanna & Wyoming Valley Railroad Co., and other railroad companies engaged in interstate commerce, respectively, to enter into various and divers contracts and agreements in which he was then and there financially interested with divers persons, to wit, Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, and others, without disclosing his said interest therein on the face of the contract, but which interest was well known to the officers and agents of said railroad companies.

That the said Robert W. Archbald did not invest any money or other thing of value in consideration of any interest acquired or sought to be acquired by him in securing or in attempting to secure such contracts or agreements or properties as aforesaid, but used his influence as such judge with the contracting parties thereto, and received an interest in said contracts, agreements, and properties in consideration of such influence in aiding and assisting in securing same.

That the said several railroad companies were and are engaged in interstate commerce, and at the time of the execution of the several contracts and agreements aforesaid and of entering into negotiations looking to such agreements had divers suits pending in the United States Commerce Court, and that the conduct and efforts of the said Robert W. Archbald in endeavoring to secure and in securing such contracts and agreements from said railroad companies was continuous and persistent from the said 31st day of March, 1911, to about the 15th day of April, 1912.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I take this opportunity to file my reasons.

Mr. POINDEXTER (when his name was called). Under the rule I desire to file the following statement.

The roll call was concluded.

Mr. SIMMONS. I will withdraw my request to be excused and will vote and will file my reasons. I vote "guilty."

Mr. DU PONT. I withdraw my request to be excused and file my reasons. I vote "not guilty."

The PRESIDENT pro tempore. The Secretary will proceed to recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—42.

Ashurst	Dixon	Martine, N. J.	Simmons
Bourne	Foster	Myers	Smith, Ariz.
Bristow	Gore	O'Gorman	Smith, Ga.
Brown	Hitchcock	Owen	Smith, Md.
Burton	Jones	Perky	Stone
Clapp	Kenyon	Poindexter	Swanson
Crawford	La Follette	Pomerene	Townsend
Culberson	Lodge	Reed	Williams
Cullom	McCumber	Root	Works.
Cummins	McLean	Sanders	
Curtis	Martin, Va.	Shively	

NOT GUILTY—20.

Bankhead	Crane	Oliver	Richardson
Brandegee	du Pont	Page	Smoot
Bryan	Fletcher	Paynter	Stephenson
Burnham	Gallinger	Pearose	Thornton
Catron	Nelson	Perkins	Wetmore

ABSENT OR NOT VOTING—32.

Bacon	Dillingham	Johnson, Me.	Overman
Borah	Fall	Johnston, Ala.	Percy
Bradley	Gamble	Johnston, Tex.	Smith, Mich.
Briggs	Gardner	Kern	Smith, S. C.
Chamberlain	Gronna	Lea	Sutherland
Chilton	Guggenheim	Lippitt	Tillman
Clark, Wyo.	Heiskell	Massey	Warren
Clarke, Ark.	Jackson	Newlands	Watson

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The PRESIDENT pro tempore. On the call of the roll of the Senate, 42 Senators have responded that the respondent is

guilty as charged in this article and 20 Senators have responded that he is not guilty as charged in this article. More than two-thirds having voted that the respondent is guilty, the Senate has adjudged that the respondent is guilty as charged in the article.

The reasons filed by Senators are as follows:

By Mr. BRANDEGEE: I vote "not guilty" on article 13 because it alleges offenses some of which are alleged to have been committed by the respondent while he was a judge of the United States district court, which office he does not hold at present and did not hold at the time the articles were adopted by the House of Representatives; and also because it is impossible to separate the offenses alleged to have been committed as district judge from those alleged to have been committed as circuit judge and because I do not think all the allegations have been proved.

By Mr. POINDEXTER: Mr. POINDEXTER stated, as to article 13, that while it includes particular acts charged in other articles it, nevertheless, charges a distinct offense, in that it charges that the respondent made a regular business for profit of such acts.

By Mr. DU PONT: Reasons filed by Senator DU PONT with respect to certain votes cast by him during this session:

My vote of "not guilty" upon the articles of impeachment against Judge R. W. Archbald numbered 7, 8, 9, 10, 11, 12, and 13 was based, in the main, upon the fact that the offenses therein charged were alleged to have been committed prior to January 31, 1911, when he was not holding his present office. In my judgment, the legality of the impeachment, so far as such offenses are concerned, is questionable, and, in any event, a precedent fraught with danger is created.

By Mr. OWEN: Views of Mr. OWEN on articles 7, 8, 9, etc.:

Impeachment is the exercise of political power and not the exercise of mere judicial authority under a criminal code. Impeachment is the only mode of removing from office those persons proven to be unfit because of treason or high crimes or misdemeanors.

Whether these crimes be committed during the holding of a present office or a preceding office is immaterial, if such crimes demonstrate the gross unfitness of such official to hold the great offices and dignities of the people.

A wise public policy forbids the precedent to be set that promotion in office of a criminal precludes his impeachment on the ground of his discovered high crimes and misdemeanors in a previous office, from which he has just been promoted.

For these reasons, it is my judgment that articles 7, 8, 9, etc., in so far as they charge crimes committed by R. W. Archbald while United States district judge comprise impeachable offenses and may be alleged against him as judge of the Commerce Court.

Mr. O'GORMAN. I offer the following resolution.

The PRESIDENT pro tempore. The Senator from New York offers an order, which will be read to the Senate.

Mr. JONES. Before that order is presented, I wish to make a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Washington will state it.

Mr. JONES. My inquiry is whether those who asked to be excused from voting will be considered as present on the roll call? The Constitution requires that a vote of two-thirds of those present will sustain the article, and the inquiry is if the vote announced by the Chair of the number voting guilty was two-thirds of those present?

The PRESIDENT pro tempore. The Chair knows of no way of determining the presence of Senators except by the recorded vote.

Mr. JONES. A number of Senators were excused from this roll call, and it seems to me that they should be counted as present.

The PRESIDENT pro tempore. The Chair has no right to count anyone who has not voted.

Mr. ROOT. I call for the regular order.

The PRESIDENT pro tempore. The Senator from New York [Mr. O'GORMAN] presents a resolution in the nature of an order, which will be read.

The Secretary read as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Mr. ROOT. Mr. President, I move that the doors be closed for deliberation upon the sentence to be imposed by the Senate.

Mr. POINDEXTER. Will the Senator from New York yield to me just a moment that I may file a brief statement?

Mr. ROOT. That can be done at any time. It is not necessary that it be filed now.

Mr. WARREN. At any time within two days.

By Mr. POINDEXTER: The statement submitted by Mr. POINDEXTER is as follows: As to articles 7, 8, and 9, although the offenses charged were committed while the respondent was district judge and before he was appointed circuit judge, yet, since the penalty for impeachable offenses is not only forfeiture of office but disqualification to hold office thereafter, I am of opinion that the offenses charged in these articles, although committed before respondent's appointment as circuit judge, nevertheless disqualify him, on impeachment therefor, from holding office as such circuit judge or as judge of the Commerce Court. There is no statute of limitations nor law of limitations in impeachment proceedings.

The PRESIDENT pro tempore. The Senator from New York [Mr. ROOT] moves that the doors be closed in order that the Senate may deliberate in private. The question is on the motion of the Senator from New York.

The motion was agreed to.

The managers on the part of the House and the counsel for the respondent withdrew from the Chamber.

The galleries having been cleared, the Senate (at 3 o'clock and 50 minutes p. m.) proceeded to deliberate with closed doors.

At 4 o'clock and 20 minutes p. m. the doors were reopened.

Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared in the seats provided for them.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. What is the pleasure of the Senate?

Mr. O'GORMAN. Mr. President, I should like to have the order which I presented read, and then I shall ask for a vote upon it.

The PRESIDENT pro tempore. The Senator from New York asks that the order which he presents be read.

The Secretary read the order, as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office, and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Mr. OLIVER. I ask for a division of the question.

The PRESIDENT pro tempore. The Senator from Pennsylvania desires a division of the question. The Chair will direct that the first part of the proposed order, beginning with the word "*Ordered*" and concluding with the word "office," be first submitted to the Senate. That portion will now be stated by the Secretary.

The Secretary read as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office.

The PRESIDENT pro tempore. The question is on the adoption of the first portion of the proposed order, which has just been read.

The first portion of the order was agreed to.

The PRESIDENT pro tempore. The question now is upon the concluding portion of the order, which the Secretary will read.

The Secretary read as follows:

And be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

The PRESIDENT pro tempore. The question is upon agreeing to the portion of the order just read by the Secretary.

Mr. PENROSE and Mr. LA FOLLETTE called for the yeas and yeas.

The yeas and nays were ordered; and, having been taken, resulted—yeas 39, nays 35, as follows:

YEAS—39.

Ashurst	Culberson	La Follette	Reed
Borah	Cummins	Martin, Va.	Shively
Bourne	Dixon	Martine, N. J.	Simmons
Bristow	Fletcher	Newlands	Smith, Ariz.
Brown	Gore	O'Gorman	Smith, Md.
Bryan	Gronna	Owen	Stone
Chamberlain	Hitchcock	Page	Swanson
Clapp	Johnson, Me.	Perky	Tillman
Clarke, Ark.	Kenyon	Poindexter	Williams
Crawford	Kern	Pomerene	

NAYS—35.

Bacon	Curtis	Nelson	Smoot
Bankhead	du Pont	Oliver	Stephenson
Brandegee	Foster	Paynter	Sutherland
Burnham	Gallinger	Penrose	Thornton
Burton	Jones	Perkins	Townsend
Catron	Lippitt	Richardson	Warren
Clark, Wyo.	Lodge	Root	Wetmore
Crane	McCumber	Sanders	Works
Cullom	McLean	Smith, Ga.	

NOT VOTING—20.

Bradley	Gamble	Johnston, Ala.	Overman
Briggs	Gardner	Johnston, Tex.	Percy
Chilton	Guggenheim	Lea	Smith, Mich.
Dillingham	Heiskell	Massey	Smith, S. C.
Fall	Jackson	Myers	Watson

The PRESIDENT pro tempore. Upon the question of the adoption of the latter part of the order, which has just been read, the "yeas" are 39 and the "nays" 35. The "yeas" have it, and the latter part of the order is adopted, as well as the first, and the entire order is adopted. Is it the pleasure of the Senate that the Presiding Officer shall now pronounce the judgment of the Senate?

Mr. Manager CLAYTON. Mr. President, I desire that the Senate take appropriate action to communicate its judgment to the House of Representatives and the Executive Department.

The PRESIDENT pro tempore. The Senate has not yet pronounced judgment. That will be for the Senate to do.

JUDGMENT OF THE SENATE.

The PRESIDENT pro tempore (Mr. BACON) thereupon pronounced the judgment of the Senate as follows:

The Senate therefore do order and decree, and it is hereby adjudged, that the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be, and he is hereby, removed from office; and that he be, and is hereby, forever disqualified to hold and enjoy any office of honor, trust, or profit under the United States.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINIONS OF SENATOR ROOT AND SENATOR LODGE.

In the impeachment of Robert W. Archbald, January 13, 1913:

I have voted that the respondent is guilty under articles 1, 2, 3, 5, 6, and 13, because I find that he used the power and influence of his office as judge of the Court of Commerce to secure favors of money value for himself and his friends from railroad companies, some of which were litigants in his court and all of which were under the regulation of the Interstate Commerce Commission, subject to the review of the Court of Commerce.

I consider this course of conduct, and each instance of it, to be a high crime and misdemeanor.

I have voted "not guilty," upon the other articles, because, while most of them involve improper conduct, I do not consider that the acts proved are high crimes and misdemeanors.

I have no doubt that the respondent is liable to impeachment for acts done while he was a judge of the district court and that the Senate has jurisdiction to try him for such acts.

ELIHU ROOT.

I concur in the foregoing, except as to article 4, upon which I voted the respondent guilty.

H. C. LODGE.

The PRESIDENT pro tempore. What is the further pleasure of the Senate?

Mr. ROOT. I move that the Senate, sitting in the impeachment of Robert W. Archbald, do now adjourn without day.

Mr. GALLINGER. Would it not be proper, before that is done, to direct that the action of the Senate be communicated to the House of Representatives?

The PRESIDENT pro tempore. That is for the Senate.

Mr. GALLINGER. I would then move, Mr. President, that the action of the Senate in the case of the impeachment of Robert W. Archbald be communicated to the House of Representatives and to the President of the United States.

The motion was reduced to writing and agreed to, as follows:

Resolved, That the Secretary be directed to communicate to the President of the United States and to the House of Representatives the foregoing order and judgment of the Senate and transmit a certified copy of the same to each.

The PRESIDENT pro tempore. The question now is on the motion of the Senator from New York [Mr. ROOT] that the Senate sitting for the consideration of the articles of impeachment presented against Robert W. Archbald do now adjourn sine die.

The motion was agreed to.

The managers on the part of the House of Representatives, and Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, thereupon withdrew.

The PRESIDENT pro tempore. The Senate is now in legislative session.

Mr. CURTIS. I move that the Senate adjourn.

Mr. SMOOT. If we adjourn now, without the unfinished business being temporarily laid aside, will it displace the unfinished business?

Mr. CRAWFORD. I did not suppose the unfinished business would be affected in its status by an adjournment.

Mr. BORAH. The matter of adjournment does not affect the status of the unfinished business.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Kansas that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 14, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 13, 1913.*

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

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We come to Thee, O God, our heavenly Father, to renew our allegiance to Thee, to add to our spiritual strength, for we realize that the crowning glory of each man's life is character. Strengthen us that we may resist evil and make us strong to overcome temptation, that we may fulfill the obligations of this day, and keep our character free from the contamination of sin by doing all things in accordance with Thy will. Hear us, and thus bless us, in the name of Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, January 11, 1913, was read and approved.

MEMORIAL SERVICES.

The SPEAKER. In connection with setting the date for the memorial services for the late Representative WEDEMEYER, the Chair desires to make a suggestion to the House so that Members may take it under consideration. It has always appeared to the Chair that 12 o'clock on Sunday is a very inconvenient hour at which to have these services. The suggestion of the Chair is that they be set for 2 or 3 o'clock on that day. The Chair would be glad to have the Members consider this matter among themselves.

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. 27148, the Post Office appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill, with Mr. GARRETT in the chair.

The Clerk read as follows:

Office of the Second Assistant Postmaster General.

Mr. MADDEN. Mr. Speaker, has the item with relation to the pay and arrangement for substitute carriers and clerks been passed over?

The CHAIRMAN. That was passed over, to be called up at the suggestion of the Chair.

The Clerk read as follows:

For inland transportation by star routes in Alaska, $450,000: *Provided*, That out of this appropriation the Postmaster General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor.

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

The Clerk read as follows:

Page 16, line 7, after the word "stations," insert the words "and the transportation of mail by aeroplane or other air craft."

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order on that.

Mr. SHARP. Mr. Chairman, will the gentleman from Tennessee reserve his point of order for a few minutes?

Mr. MOON of Tennessee. Mr. Chairman, I will reserve the point of order for five minutes.

Mr. SHARP. Mr. Chairman, I very much hope that the chairman of this important committee will not insist upon his point of order. Nearly a year ago, when this same committee reported out its bill for appropriations to take care of the post-office service, I offered an amendment appropriating $50,000 for carrying mail by aeroplane or other air craft. There was no point of order made at that time, which, of course, while it serves no precedent, still called for an extra appropriation.

At the present time, and in this amendment which I offer, there is no money called for, and the language of the provision itself leaves a large amount of discretion and latitude with the Postmaster General, because it covers, as it plainly recites, cases of emergency. I took this matter up the other day with the Second Assistant Postmaster General, Mr. Stewart, and I asked him why he had not presented this phase of the subject at the hearings at this time. He said he had met with such discouragement before that he thought it was out of the question to get any extra appropriation.

Mr. MOON of Tennessee. Does not the gentleman think it better that all of these aeroplane projects be left to the War and Navy Departments rather than to the Post Office Department?

Mr. SHARP. Mr. Chairman, I am very glad to answer that question. I am glad the gentleman has asked that question, because having given no little thought to this whole subject myself, I wish to say that one difficulty that has confronted the development of aerial navigation in the United States, as far as the Government patronage is concerned, has been due to the fact that we have fortunately no war upon us, and we have for that purpose no present existing urgent need of the adoption of this kind of defense; but we have every day in the year an opportunity for testing this new method of carrying mail, especially with the inauguration of the parcel post. I wish to impress—and I want to use such earnestness as lies in my power—upon this House the opportunity which it now has of beginning, I will not say experiments, because the matter has passed beyond experiments, but beginning a transportation system that will revolutionize and work wonders in this country in the next few years if we can obtain Government recognition and patronage.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN (Mr. GARNER). Does the gentleman from Ohio yield to the gentleman from Illinois?

Mr. SHARP. Certainly.

Mr. FOSTER. Is it the gentleman's idea that this will facilitate the transportation of first-class mail or parcel post?

Mr. SHARP. Mr. Chairman, I thank the gentleman for that question, and I will ask the indulgence of the House, if my time expires, for a few moments in which to read some extracts from an article bearing upon this subject to the House. In the hearings upon this question of general transportation of mail in Alaska, either by water or by rail, the Second Assistant Postmaster General said that there is an accumulation of about 25,000 pounds of mail that lasts through the winter, because it has been impossible to transport that mail through the winter months.

Mr. FOSTER. Has any experiments been made in aerial navigation in the cold climate of Alaska?

Mr. SHARP. Not in Alaska, but they have repeatedly in the Alps and Pyrenees and over other high altitudes, and I only wish I had not been pledged to secrecy and could tell the details of the wonderful experiments which have been made within the last 18 hours over our broad Potomac, right here at our doors, where at a height at times of 80 feet a hydroplane traveled 70 miles an hour. These birdmen are doing it under our very eyes. They carried the mail down the Mississippi River, a distance of 400 miles, last year, and I wish I might have time to read an extract from what one of the experts has said upon the use of the hydroplanes, which he contributes to the National Waterways in the November issue.

Mr. FOSTER. The gentleman does not think that hydroplanes would be very useful in Alaska?

Mr. SHARP. That is the place preeminently above all others where they would be useful. They can traverse the Yukon River and traverse it whether frozen or not. Nine out of ten of the populous towns in Alaska are upon the rivers. May I take the time briefly to read from the remarks to which I refer?

Mr. WILLIS. I desire to ask the gentleman if it is not a fact that there are many places in Alaska where it is desirable to deliver the mail, where it could be delivered in this way at little expense, and where under the ordinary method it could not be delivered during several months in the year?

Mr. SHARP. There is no question about it at all. Mr. Jerome Fanciulli, in his essay on "A New Use for Waterways," uses this language:

> It has been through the construction of the hydroaeroplane, however, that the field for marine aviation has really opened up. Robinson's flight down the Mississippi River from Minneapolis to Rock Island, a distance of nearly 400 miles, demonstrated the practicability of the marine aeroplane. On this occasion the aviator delivered and received mail at the various important towns along the river. Traveling at a speed that averaged over 70 miles an hour, the hydroaeroplane on that occasion demonstrated in a very practical manner a new use to which the waterways of the country will be put.

This gentleman is vice president of the Curtiss Aeroplane Co., which makes hundreds of test flights a year. He says further:

> To my mind this carrying of the mails offers the most practical application of the marine flying craft in its present stage of development. Many places situated on watercourses suffer serious loss through poor railroad service. This means poor mail service, which is detrimental to any community.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. Mr. Chairman, I ask unanimous consent that I may have a short time in which to conclude my remarks.

Mr. MOON of Tennessee. I want to say to the gentleman that I have no objection to his talking, but I shall insist upon the point of order, for the simple reason that we are having very great difficulty now in handling this mail matter on land and water, and I am hardly able to consent to getting into the air with it.

Mr. SHARP. My idea is to get rid of these difficulties.

Mr. MOON of Tennessee. I do not think we ought to take up this matter without consideration by the committee.

Mr. SHARP. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. MOON of Tennessee. I have no objection to the gentleman proceeding for five minutes longer.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHARP. Mr. Fanciulli says further:

> Aeroplane manufacturers can now build machines that can carry nearly a ton of weight for long distances at a speed of 60 miles an hour. Aerial mail delivery service with such machines on those waterways reaching towns that have little or no railroad service would be of incalculable value.
>
> Aerial mail service along watercourses would afford the fastest transportation of the mail at a minimum expense. A route 200 miles long could be covered twice a day with a thousand pounds of mail matter at a total annual expense of $18,000, including the cost of equipment. These machines, used for aerial mail service, could do a double duty in that the operators could discover breaks in the river banks during high-water periods.

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

Mr. SHARP. Just for a question. I would like to have more time. The time allowed to me is very short, but I will yield.

Mr. MANN. Does the gentleman think that the science of navigating the air has progressed yet so that with weather way below zero, with very tempestuous winds, we can carry mails by aeroplane in Alaska?

Mr. SHARP. In answer to that question I will say the temperature has nothing whatever to do with the flying of these machines as far as successful operation is concerned. It is a well-known fact that the hydroaeroplane is of great value and that there is less variation of wind and temperature on sea than on land. Yesterday we witnessed one of the greatest gales we have had for months, but I can on authority say to you that a gentleman flew over the Potomac in the face of that gale at the rate of 60 miles an hour.

Mr. MANN. But this transportation is over mountains and over frozen rivers in the wintertime. The only proposition the gentleman has in regard to transportation prevails in Alaska. The gentleman says the temperature has nothing to do with it. Has the temperature nothing to do with the operation of these motors?

Mr. SHARP. The temperature may affect them somewhat, but I wish to inform the gentleman that they have already attained altitudes of 18,000 feet, where the temperature is as cold as in any season of the year in Alaska. They have ascended and surmounted all the mountain peaks in Europe.

Thanking the gentleman for his question, I wish to proceed further by saying it was only last week that the President of the United States, upon the recommendation of the Secretary of the Navy, appointed a commission—so important did he consider this subject of aero navigation—to inquire into the needs, requirements, and uses of an aerodynamic laboratory, and I hope that the Smithsonian Institution, that splendid institution with which my friend from Illinois, Mr. MANN, is connected as a Regent, I believe, will have it under its exclusive charge and will resume the work that Prof. Langley took up before his death. But these objections as to the expeditious delivery of mail in Alaska only emphasize the reason why we should depart from the well-beaten path of transportation and at this time not calling for extra money, not calling for a dollar to use beyond the appropriation, but to give the Postmaster General the opportunity, in his discretion, not to build aeroplanes, not to construct them, but to let out the contract and allow somebody else at his risk and his expense, when those rivers are frozen up or when the mail trains can not do the work, to deliver this mail expeditiously at the rate of 60 or 70 miles an hour. I will say

to the gentleman that it is an accomplished fact. We have exclusive jurisdiction over Alaska. Let us give one of the departments of this Government enough latitude to so use some of the funds, if he thinks best, for the initiation, I was going to say, of this new method of carrying the mail, but I can better say, for the permanent establishment of this very satisfactory and superior method of carrying mail.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SHARP. Now, if I may speak upon this point of order, I would like to be heard. I have not the parliamentary knowledge and skill of the gentleman who has made the point of order, but it seems to me this is not new legislation. This section itself provides for it. If it means anything at all, it means what it says, "That out of this appropriation the Postmaster General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations," and so forth. It does not seem to me, if that is the point the gentleman raises, that it is in the form of new legislation. It simply pertains to the method of carrying the mails.

Mr. MOON of Tennessee. The law provides the method of carrying the mail and does not provide this method, and therefore this would be new law.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

For regulation screen or other wagon service, $2,000,000.

Mr. TILSON. Mr. Chairman, may I ask the chairman of the Committee on the Post Office and Post Roads a question as to the increase of this amount?

Mr. MOON of Tennessee. Yes.

Mr. TILSON. Has there been a considerable increase in order to take care of the parcel-post service?

Mr. MOON of Tennessee. Which item is that?

Mr. TILSON. The screen-wagon service.

Mr. MOON of Tennessee. Yes.

Mr. TILSON. It is a fact that the service has been largely increased?

Mr. MOON of Tennessee. Yes. The gentleman will notice in the last report that there was an unexpended balance on June 30, 1912, of $111,841. The appropriation this year is $2,000,000.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For rent, light, fuel, electric power, and incidental expenses pertaining to the maintenance of a subworkshop for the repair of mail equipment at Chicago, Ill., $2,400.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I was temporarily out of the Chamber when the item was passed, commencing on line 19, page 16, "For mail bags, cord fasteners, label cases, and material necessary for manufacture and repairing of equipment," and so forth. I wanted to ask the gentleman whether this item ought not to include equipment for the transportation of parcels that go by parcel post, such as mail baskets, mail chests, or boxes?

Mr. MOON of Tennessee. I do not think it is particularly necessary to do that, because the parcel-post proposition is not made a separate one. It is covered into and involves the whole question of the transportation of fourth-class mail matter in each branch of the service.

Mr. MANN. I understand.

Mr. MOON of Tennessee. It is made under the particular branch, and not under the specific head of the parcel post.

Mr. MANN. I was not suggesting any increase in the appropriation, but inquiring whether in handling the parcel post it will not be necessary to provide baskets or chests in place of mail bags. This provision says:

For mail bags, metal for mail-bag attachments, cord fasteners, label cases, and material necessary for manufacture and repairing of equipment.

And it might be held not to permit them to handle baskets or boxes or chests.

Mr. MOON of Tennessee. The department has not asked for anything of the kind, and I take it that the general language here will be held by the department to cover all things that are used in connection with transportation. I doubt the wisdom of specifically defining baskets and crates and things of that sort, because there might be other means that we would not include, and that might be held to be an exclusion of them.

Mr. MANN. The enumeration that we have given seems to me to be an exclusion of anything else.

Mr. LLOYD. At the present time, Mr. Chairman, the Post Office Department is making regulations with reference to the parcels that may be presented for carriage, and if a particular thing is presented for carriage it must be presented in a certain way. For example, eggs can not be put in a sack, loosely. They must be packed in some proper kind of shape.

Mr. MANN. If the gentleman will remember, under the old law everything was mailable as fourth-class matter which could be transported through the mails without injury to the equipment, and some other provision, but under that the department make regulations which would exclude a great many articles on the ground that they could not be transported in mail bags without danger of injury to the equipment. I take it that it goes without saying that in the handling of parcels it will be necessary to have baskets or chests of some kind, apart from what are called mail bags.

Mr. MOON of Tennessee. Would not that be covered by the general term equipment?

Mr. MANN. This provision is "material necessary for the manufacture and repairing of equipment."

Mr. MOON of Tennessee. Yes.

Mr. MANN. Well, they might not desire to manufacture mail bags or mail chests. It might not be an economical method of getting them. I do not know. I am sure the gentleman and I will agree that it is necessary to give them authority to provide such equipment as may be desirable for the transportation of this mail matter. I call it to the gentleman's attention and to the attention of the House because I am satisfied that under this provision of the law it is doubtful if they now have authority to provide the equipment that will be most convenient and safe in the handling of parcels.

Mr. MOON of Tennessee. I am uncertain, in view of what the gentleman has said, whether this language is broad enough to cover every class of equipment; but it seems from the construction that has been given by the department that they are making arrangements to carry everything that is covered by fourth-class mail.

Mr. MANN. I do not know how they construe it, whether they can provide anything except something in the form of a mail bag.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For inland transportation by railroad routes, $49,000,000: *Provided*, That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

Mr. RODENBERG. Mr. Chairman, I make a point of order against that proviso.

The CHAIRMAN. Will the gentleman from Illinois suspend for just a moment? The present occupant of the chair is not the designated chairman for the consideration of the Post Office appropriation bill. The gentleman from Tennessee, Mr. GARRETT, the chairman, told me a moment ago, when he asked me to occupy the chair temporarily, that he was satisfied that a point of order would be made against this paragraph, and that he had looked the matter up and prepared an opinion on it, as I understood him to say. I will ask the gentleman from Illinois to let this point of order go over temporarily until the gentleman from Tennessee returns. Without objection, the point of order will be passed over temporarily.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Railway Mail Service: For 15 division superintendents, at $3,000 each; 4 assistant superintendents, at $2,200 each; 15 assistant division superintendents, at $2,000 each; 112 chief clerks, at not exceeding $2,000 each; 32 clerks, grade 10, at not exceeding $1,800 each; 304 clerks, grade 9, at not exceeding $1,700 each; 1,527 clerks, grade 8, at not exceeding $1,600 each; 1,168 clerks, grade 7, at not exceeding $1,500 each; 4,201 clerks, grade 6, at not exceeding $1,400 each, 5,292 clerks, grade 5, at not exceeding $1,300 each; 3,656 clerks, grade 4, at not exceeding $1,200 each; 405 clerks, grade 3, at not exceeding $1,100 each; 1,695 clerks, grade 2, at not exceeding $1,000 each; 1,750 clerks, grade 1, at not exceeding $900 each; in all, $24,360,000; and, to enable the Postmaster General to reclassify the salaries of railway postal clerks, he may exceed the number of clerks in such of the grades as may be necessary: *Provided*, That the number of clerks in the aggregate as herein authorized be not exceeded.

Mr. MOON of Tennessee. Mr. Chairman, right there I want to offer an amendment:

That the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater expenditure than this sum.

This is subject to a point of order, unquestionably. It has been made heretofore. But the differences in the calculations between the Treasury Department under this bill and the actual figures are very great. In other words, the Treasury gives a credit for very large sums of money to the Post Office Department that the department does not ask for, and ought not to have, in view of the fact that these clerks, many of them, do not go in on the first day of the fiscal year, but are distributed through different parts of the year, while the Treasury Department calculates the whole sum from the initial day. It makes quite a difference in the amounts available for the department,

It is not intended to make available any more than that which is provided in this bill.

The CHAIRMAN. The gentleman from Tennessee offers an amendment. Will he again state his amendment?

Mr. MOON of Tennessee. In line 8, page 19, add the words:

And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum.

The CHAIRMAN. Will the gentleman send up his amendment so that the Clerk can report it?

The Clerk read as follows:

Page 19, line 8, after the word "exceeded," insert the following: "And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum."

Mr. MANN. I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

Mr. MOON of Tennessee. I concede that the point of order is well taken.

Mr. MANN. I reserve the point of order. As I understand, the law that we passed last year provided that clerks in charge should receive a higher rate of compensation, or at least be promoted to a higher grade than the other clerks, after three years' continuous and satisfactory service. I notice in the bill that there are 32 clerks of grade 10, not exceeding $1,800 each, which is the same number as are carried in the current law.

Mr. LLOYD. In that connection the question has been raised since the estimates were submitted, and since the hearing before the committee, as to whether this provides in a proper way for the promotion of these clerks. The department, as we have learned in the last few days, holds that an individual is not eligible to be promoted until he has served at least three years.

Mr. MURDOCK. At least three years in a given place.

Mr. LLOYD. At least three years in a given place, and the result of that has made considerable confusion, and the railway clerks are not satisfied with the provision as it now presents itself. After consultation with the chairman and other members of the committee, it is understood that this matter shall be investigated and a statement obtained from the Post Office Department as to what will be the effect of the suggested change, and what is the effect of this provision as it now stands; and we expect the matter to be threshed out in the Senate, and an accurate statement given by that time, so that we will have information as to what should be done.

Mr. MANN. The law now provides that these clerks shall receive promotions under certain conditions. That is a matter of construction of the law which may be decided by the Court of Claims if it becomes necessary. If a proper construction of the law is not given, and if a man does not receive proper promotion, he may be able to go into the Court of Claims and have the Court of Claims construe the law; but if the amendment now offered is agreed to and becomes a part of the law, such a man will have no right in the Court of Claims at all, because, however much right of promotion he may have under existing law, that right is cut off by the amendment offered by the gentleman in charge of the bill. I had understood that these railway-mail clerks were entitled to certain classification and promotion under the law that we adopted last year. There is a controversy as to whether they have received that promotion. It does not seem to me that we ought to construe the law contrary to what we thought it was when we adopted it last year.

Mr. LLOYD. We are not aiming to construe it that way at all, and the committee quite fully agree with the gentleman's view of the matter, I think. The gentleman has not gone far enough to explain his view fully, but I am quite sure it is the purpose of the committee to get the information that is necessary with reference to this matter. The estimate was submitted by the department in accordance with the classification. The appropriation is made in accordance with that estimate, and it was supposed by the department, I imagine, and certainly it was supposed by the committee, that we were carrying out the classification law and making the necessary appropriation for it; but since the bill came to the House certain representatives of the Railway Mail Service have said that the construction that is placed upon the law by the department is not the construction which they believe the committee and the Congress intended.

Mr. MANN. I believe the question is, where the law now provides that the appropriation shall be made after three years of continuous and satisfactory service, whether that means service after this law took effect, on the 1st of October last, or whether it means three years' service including the service prior to that. I think when the bill was passed everyone here understood that it meant what it said—three years' continuous and satisfactory service.

Mr. LLOYD. That is the way we understand it.

Mr. MANN. I think it was not intended to say that the law should not be in effect until three years after it took effect. With the amendment offered by the gentleman from Tennessee [Mr. MOON] everything is foreclosed, because the department can not exceed the total of the appropriation, regardless of whether a man in the service is entitled to promotion under the existing law or not.

Mr. LLOYD. But if in the Senate this matter is changed, they will change the totals.

Mr. MANN. Does not the gentleman think that if in the Senate this matter is changed it will then be time enough to insert this limitation?

Mr. MOON of Tennessee. If the gentleman from Illinois insists on his point of order, of course, it is well taken. I think the amount, however, covers the changes.

Mr. MANN. I reserved the point of order. I think it is a matter of considerable interest.

Mr. BUCHANAN. I should like to ask my colleague, or the chairman of the committee, a question.

Mr. MANN. Certainly.

Mr. BUCHANAN. In regard to the increase of the railway postal clerks that is provided in the bill of last year, it seems to be operating very unsatisfactorily, as I have had many complaints from my district, and I have heard of complaints coming in from other places. I should like to know, if the information can be given me, whether it is due to the fact that they have not had sufficient money?

Mr. MOON of Tennessee. I did not catch the gentleman's question.

Mr. BUCHANAN. I said I had had many complaints from railway postal clerks in my district, and I have heard of many in other places, that they have not been promoted as they consider they are entitled to be. The law is not operating satisfactorily, as they consider the law should be applied which was passed last year. The information I want is whether that is due to any arbitrary position taken by the department, or whether it is because they have not had a sufficient amount of money to put it into effect?

Mr. MOON of Tennessee. I do not understand that there is any lack of money. The inquiry was made by me of the department, and the information was that it was due to the efficiency record of the clerks; they did not promote those that were not entitled to be promoted. They determine the degree of efficiency that will entitle them to promotion, and in instances where it has not been given they have uniformly advised me that it was on account of the want of efficiency. I have had half a dozen cases of that kind.

Mr. BUCHANAN. The chairman of the committee has had complaints in regard to it, I understand?

Mr. MOON of Tennessee. Yes.

Mr. BUCHANAN. I would like to ask whether the committee has considered it and whether it is necessary to make any further provision?

Mr. MOON of Tennessee. I do not know how Congress can make provision that promotion shall be given to clerks that are not efficient, and I know of no way that Congress can determine the efficiency of the clerk. It is a matter of discretion and judgment that must be left to the department.

Mr. BUCHANAN. Is there no way of avoiding discrimination by the department?

Mr. MOON of Tennessee. There is no way of avoiding discrimination by the party into whose hands the law puts the judgment and discretion.

Mr. BUCHANAN. I have had complaints from clerks that they have been discriminated against, and that if they got to a place where they could pass the examination and be promoted they have been changed to another part of the country, which made it impossible for them to qualify under this provision in the Post Office bill. To me this is not a light matter. There is a great deal of dissatisfaction among the clerks, and I am asking for information in regard to the matter.

Mr. MOON of Tennessee. I have given the gentleman all the information I have. If the gentleman has any amendment that will properly remove the situation, it will be accepted by the committee. I know of no way that we can control it.

Mr. MANN. If the gentleman will pardon me one more suggestion——

Mr. MOON of Tennessee. Certainly.

Mr. MANN. While the bill fixes the number of clerks in the different classes, it contains the catchall provision that the Postmaster General may exceed the number of clerks in such of the grades as may be necessary in order to make a reclassification, provided that the number of clerks in the aggregate as herein authorized be not exceeded.

That would authorize the Postmaster General, in order to carry out the classification, to increase the number of clerks in the grade of $1,800 and take those off from the $900 grade. But with the amendment now pending, restricting the total appropriation to the amount named in the bill, of course that could not be effective without reducing the number of clerks.

Mr. GILLETT. May I ask the chairman of the committee a question?

Mr. MOON of Tennessee. Certainly.

Mr. GILLETT. I notice this appropriation is between $300,000 and $400,000 less than the estimates. Does the chairman think it would be sufficient to provide for the promotion referred to by the gentleman from Illinois?

Mr. MOON of Tennessee. The department thought so.

Mr. GILLETT. But the department estimate was $400,000 more than the committee gives.

Mr. MOON of Tennessee. If the gentleman will turn to pages 58, 59, and 60 of the hearings, he will find the views of the Second Assistant Postmaster General on this question. But, Mr. Chairman, I do not care to prolong the discussion on this question. I think that the department can take care of itself. If the gentleman from Illinois makes the point of order, I will concede it.

Mr. MANN. As the matter stands now, Mr. Chairman, I shall feel compelled to make the point of order.

The CHAIRMAN. The point of order is sustained.

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

The Clerk read as follows:

On page 18, line 14, amend by striking out the words "thirty-two" and inserting the words "three hundred and twelve." Lines 15 and 16, strike out the words "three hundred and four" and insert the words "one thousand three hundred and sixty-six." In lines 16 and 17 strike out the words "one thousand five hundred and twenty-seven" and insert the words "three hundred and two." Lines 18 and 19, strike out the words "one thousand one hundred and sixty-eight" and insert the words "two thousand nine hundred and thirty-four." Line 20, strike out the words "four thousand two hundred and one" and insert the words "two thousand three hundred and eighteen."

Mr. REILLY. Mr. Chairman, the passage of this amendment——

Mr. LLOYD. Mr. Chairman, I make the point of order against that amendment. I will reserve the point of order.

Mr. MURDOCK. What is the point of order?

Mr. LLOYD. I have reserved it.

Mr. REILLY. Mr. Chairman, I do not believe that this is subject to a point of order. This does not increase in any way the number of employees, but it provides for carrying out the intention of the existing law, which was passed by this House last year, providing that after a service of three years clerks in charge should be given a certain promotion. This bill does not provide for that promotion, but this amendment is to make the promotions legal and in order.

Mr. LLOYD. Mr. Chairman, I am in full accord with the purpose of the amendment, but I have no information at the present time whether this accomplishes that purpose or not. I have had presented to me a statement similar to the one the gentleman from Connecticut had, handed me by one of the representatives of the railway mail clerks, but I do not know whether it is accurate. It is not my purpose to vote blindly on these questions. I do not believe at this time we could wisely, without any information from the Post Office Department, without knowledge ourselves, correct that which we do not know is correct or not. So I believe the best thing to do is to let the matter rest as it is, as it was presented by the Post Office Department and passed upon by the committee.

The CHAIRMAN. Does the gentleman from Missouri make the point of order?

Mr. LLOYD. No, Mr. Chairman; I will not make the point of order.

Mr. MURDOCK. Mr. Chairman, I was going to address myself to the point of order, if one was made by the gentleman from Missouri, but he has withdrawn it. But I want to say about this item that the clerks in charge of the Railway Mail Service are men who have charge of a car, with others under them, and of course these men draw under the present law from $1,400 to $1,800 a year. In our reclassification act, which we passed last year, it was provided that after a man had served three years in the capacity of a clerk in charge he would be entitled to another promotion. The department has held—and if the law passes as it is reported in the bill—a man will not get promotion from one of these grades to the grade succeeding until he shall have served another three years. If the amendment offered by the gentleman from Connecticut is adopted, then these promotions will come, where there is efficiency once a year to the men who are now in charge, provided they have been clerks in charge three years, and that is the real purpose of the amendment and what it would accomplish.

Mr. MANN. I did not quite catch the gentleman's statement. Class A is $1,300 to $1,400, is it not?

Mr. MURDOCK. Yes.

Mr. MANN. The clerk in charge is supposed to receive $1,400?

Mr. MURDOCK. One thousand four hundred dollars.

Mr. MANN. That is, after three years' service?

Mr. MURDOCK. After three years' service he gets this promotion.

Mr. MANN. The gentleman says that under the proposition that is now made he would be entitled to that promotion in one year. What does the gentleman mean by that?

Mr. MURDOCK. I mean that after he has become a clerk in charge the department is holding that he shall serve three years additional in that capacity at $1,300 before receiving a promotion to $1,400. If the gentleman's amendment passes, he can get that promotion within a year.

Mr. MANN. After he has served three years satisfactorily?

Mr. MURDOCK. Oh, yes; after he has had three years of service in the service as a clerk in charge.

Mr. MANN. Is he not entitled to the promotion at once under the existing law if he has served three years continuously satisfactorily, if he is placed in charge?

Mr. MURDOCK. My understanding is that he is, and he should be promoted after he has served three years, but I think the gentleman from Illinois [Mr. MANN] does not catch me on this, that after he has served in the $1,300 class for one year the department, under its interpretation of the law, does not give him a promotion if he is entitled to it, but holds that he must serve three years in each succeeding grade.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK. Surely.

Mr. MADDEN. Here is what happens, as I understand it. At present a great many in the Railway Mail Service have served anywhere from 3 to 25 years, but under the bill reported by the committee none of these men would be eligible to promotion immediately, if the bill were interpreted strictly; and the amendment of the gentleman from Connecticut [Mr. REILLY] is intended to clear up that doubt, and to permit the promotion of men to the next highest grade who have served creditably for more than three years after the enactment of this bill.

Mr. MURDOCK. And it will do that thing.

Mr. MADDEN. That is what it will do. Otherwise, it is altogether likely that the department will rule that an additional three years of service will be required before anyone of these men is entitled to promotion.

Mr. REILLY. Mr. Chairman, in answer to the suggestion of the gentleman from Missouri [Mr. LLOYD], a member of the committee, that this is a matter that should go to the Senate before it is put into the bill, I would state that the estimate of the increase in this reclassification has been quite carefully made.

Mr. LLOYD. By whom has it been made?

Mr. REILLY. By those in a position to do it, who are thoroughly familiar with it.

Mr. LLOYD. Has it been made by the department?

Mr. REILLY. It has not, so far as I know.

Mr. LLOYD. Has it been made by the Post Office Committee of the House?

Mr. REILLY. It has not, except by members——

Mr. LLOYD. Has any suggestion of this amendment been made to the Committee on the Post Office of the House?

Mr. REILLY. Not as a committee, so far as I know.

Mr. LLOYD. The information the gentleman has gathered is information that he obtained from the railway postal clerks, and I do not doubt that it may be correct; but the point with me is I do not know. The committee has not investigated it. The department has not passed upon it, and we are asked, at the instance of one or two men on the outside, to change this appropriation bill. We should be cautious about such a procedure.

Mr. COX. Mr. Chairman, the purpose of the amendment is to simply carry out what Congress intended to carry out when it enacted section 7 of the bill last year.

Mr. REILLY. Simply that.

Mr. LLOYD. Mr. Chairman, I said a moment ago that I was in full sympathy with the purpose of the gentleman from Connecticut [Mr. REILLY], but I do not know whether he accomplishes that purpose or not by the amendment. I want to carry out the law, as far as I am concerned, in good faith, and I want this appropriation bill to do it, and if it does not I will cheerfully support any amendment which does meet the provisions of

the law when I am convinced that such amendment will accomplish that result.

Mr. MOON of Tennessee. I want to inquire of the gentleman from Connecticut if his amendment increases a number of clerks or simply rearranges a different classification?

Mr. REILLY. It does not increase the number of clerks at all, but it rearranges the classification.

Mr. LOBECK. And it does not increase the amount?

Mr. LLOYD. It does.

Mr. COX. If it was the intention of Congress last year to provide an automatic increase in the postal clerks, then your amendment does not add one dollar to the appropriation.

Mr. REILLY. None whatever.

Mr. COX. It simply carries out the intention that Congress had when it enacted section 7.

Mr. LLOYD. Mr. Chairman, I beg the gentleman's pardon, but it does add to the appropriation now pending.

Mr. COX. That may be true; but it does not, if Congress had in view last year to provide for an automatic increase in this force. I think it does it, but that is what Congress wanted to do.

Mr. KENDALL. That was the intention?

Mr. REILLY. Yes.

Mr. FOWLER. As I understand it, this does not increase the number of clerks in the department.

Mr. REILLY. Not at all.

Mr. FOWLER. But I understand it may increase the appropriation.

Mr. REILLY. But not more than the correct interpretation of the law, as we passed it last year, would increase it.

Mr. FOWLER. It may increase the appropriation as the bill now stands.

Mr. REILLY. Yes.

Mr. FOWLER. But it does not conflict with the law that was passed at the last session of Congress?

Mr. REILLY. In no way whatever.

Mr. FOWLER. And it is intended to carry out the provisions of that law in spirit and in fact?

Mr. REILLY. In spirit and in fact.

Mr. FOWLER. And if this amendment passes, it will do that?

Mr. REILLY. Yes.

Mr. FOWLER. And will be perfectly satisfactory to the railway postal clerks.

Mr. REILLY. And everybody else who believes in fair treatment and the carrying out of the law as intended.

Mr. FOWLER. And will be not only a substantial but a complete compliance with the law?

Mr. BUCHANAN. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. REILLY] has expired.

Mr. LLOYD. Mr. Chairman, I ask that the time of the gentleman from Connecticut be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. REILLY. I yield to the gentleman from Illinois [Mr. BUCHANAN].

Mr. BUCHANAN. I would like to ask the gentleman if he knows why, under the circumstances, the committee did not take up this question and try to make the provision under this law apply as was intended by Congress one year ago. The gentleman from Missouri [Mr. LLOYD] says the committee has not considered the matter. There has been complaint about this law not being in effect, and that is why I would like to know why the committee did not consider it.

Mr. REILLY. It did not come before the committee.

Mr. BARTHOLDT. And I would like to ask if the amendment of the gentleman from Connecticut is adopted by this House it will make possible the promotion of those clerks in accordance with the law passed by Congress?

Mr. REILLY. Those clerks who will have served three years.

Mr. BARTHOLDT. Then if the bill passes without the gentleman's amendment it will make a delay of the promotions Congress has provided for?

Mr. REILLY. If this amendment is not passed, there will be no promotion among clerks in charge who previous to last October have served more than three years as such.

The CHAIRMAN. The question is on the amendment of the gentleman from Connecticut [Mr. REILLY]. The Chair will state that the entire amendment includes several propositions. Without objection, they will be put as a whole.

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

The CHAIRMAN. The Clerk will read.

Mr. GILLETT. Mr. Chairman, I move to amend by striking out "24,360,000" of the figures and inserting instead the figures "25,941,100."

The CHAIRMAN. The gentleman from Massachusetts [Mr. GILLETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 19, line 4, by striking out the figures "24,360,000" and insert in lieu thereof "25,941,100."

Mr. LLOYD. If I understand this amendment, it is subject to a point of order.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. LLOYD. I make the point of order, but withhold it if the gentleman wishes to be heard.

Mr. GILLETT. All right. I do not see how it is in the slightest degree subject to a point of order, for it only changes a total. I made this amendment merely to point out what I think is an error, not only in this paragraph but in other paragraphs of the bill, because the payments to the clerks which precede this gross sum, multiplied by the number of clerks, will amount not to the figure which is in the bill but the figure which I have named.

Mr. LLOYD. Mr. Chairman, the trouble is that the gentleman's statement is based on two things.

Mr. GILLETT. I will be glad to have it explained.

Mr. LLOYD. You base your statement upon what you suppose to be the fact, that all these clerks will be employed during the whole of the year.

Mr. GILLETT. Oh, no.

Mr. LLOYD. There is added to the force in this provision quite a number of clerks. Some of these will be added in three months and some of them in six months and others in nine months, and they will not serve during the whole of the year. Now, the effect of the bill is to provide for promotion from time to time, but it does not provide for all promotions at the beginning of the year, and hence if we make an appropriation which provides for the full number of clerks with full pay we provide far more money than the department asks or it is intended to carry in this bill, and the reason these are carried in this bill is to permit the department to make promotions from one class to another and also during the year to add to the force, and it is not intended to secure a full force at the beginning and keep it to the end, nor is it intended that all promotions shall be made on the 1st day of July.

Mr. GILLETT. Now, Mr. Chairman, I appreciate fully the facts that the gentleman has stated. I appreciate it is true here, as it is true in other departments of the Government, that in appropriating for a certain number of clerks we appropriate more than is expended, because clerks may die and there may be vacancies, as there always are. But it does not seem to me that that excuses the committee from making a statement which does not correspond to the facts.

Now, the gentleman from Tennessee [Mr. MOON] offered his amendment, to which the gentleman from Illinois [Mr. MANN] made the point of order. If that amendment had prevailed, I recognize that then it would have been perfectly proper to have left this total amount as it is, because that would have limited the expense to the amount which you think is all that would be spent. And I think the gentleman is correct about it, and if that amendment had been adopted, then I think it would have been proper that the figures should remain as they are. But inasmuch as that amendment was not adopted, it seems to me that the committee is falling into this error, that we are appropriating for a certain number of clerks a certain amount, and then at the end we are pretending that we do not appropriate that amount, although we do, and that is the way the bill was reported from the committee. And although I recognize that the full amount of what we appropriate is never spent in any of the departments or bureaus, yet to pretend that we are not appropriating so much is cutting down the apparent appropriation a million and a half below what we really are appropriating, because we are really apropriating in this twenty-five and a half millions and not really appropriating the twenty-four millions, and it seems to me it is a deception to say that we are appropriating only twenty-four millions, and makes an unreal and delusive appearance of economy.

Mr. MOON of Tennessee. Will the gentleman permit an interruption for just a moment? He will notice there is an unexpended balance on this appropriation of more than half a million in the last year?

Mr. GILLETT. I appreciate that.

Mr. MOON of Tennessee. We have cut the appropriation less than five hundred. The gentleman will notice, further, that there is an increase of salaries in the recommendation here

which the committee has not allowed. There is ample money to take care of these men.

Mr. GILLETT. Certainly; but when the department made this estimate they had in it the clause which the gentleman offered as an amendment, and that has gone out on a point of order. If that clause were in, this amount would be proper; but as it is, although it makes no practical difference in the amount of money the department will expend, yet the difference it makes is that the gentleman here is saying in his bill that he only appropriates $24,360,000, when he really appropriates $25,500,000, so that the appropriation bill is a million and a half in appearance less than it really is; and I do not think that is proper finance.

Mr. MOON of Tennessee. Oh, no; not at all.

Mr. MANN. Upon what basis does the gentleman arrive at the figures he offers—the bill as reported to the House or the bill as perfected by the gentleman from Connecticut [Mr. REILLY]?

Mr. GILLETT. I recognize that they can not be absolutely correct, because——

Mr. MANN. We have just added very materially to the total appropriation by items, and the gentleman from Massachusetts [Mr. GILLETT] says that it is not exactly a fraud, but intimates that we are not appropriating, in fact, what we apparently are appropriating, and he offers an amendment which is subject to precisely the same criticism that he makes against the original bill.

Mr. GILLETT. I admit that. But my amendment was prepared before the amendment of the gentleman from Connecticut [Mr. REILLY] was offered.

Mr. MOON of Tennessee. We do not wholly adopt, I may say to the gentleman, the recommendation of the department, because we declined to raise some positions and raise some salaries; for instance, three division superintendents at $3,500 each. We put them at only $3,000 each.

Mr. GILLETT. My amendment was prepared before the introduction of this amendment. The gentleman is mistaken in saying that my amendment was prepared in accordance with the estimates of the department. Mine was prepared before the amendment of the gentleman from Connecticut [Mr. REILLY] was adopted. It is true that not only in this paragraph but that in other paragraphs we appropriate——

Mr. MOON of Tennessee. It is the same position that the gentleman from Massachusetts took on Saturday, when it was controverted.

Mr. GILLETT. The gentleman said then that when the paragraph was reached the correction would be made. Now it has been reached.

Mr. MOON of Tennessee. Mr. Chairman, I want to say to the gentleman from Massachusetts, in order to save time, that I think that amendment will go in yet.

Mr. GILLETT. It has not gone in in the House. I want to call attention to the fact that this bill really appropriates several million dollars more than the figures show. That is all.

Mr. LLOYD. Mr. Chairman, if the gentleman from Tennessee will permit, with reference to the statement that the gentleman from Massachusetts [Mr. GILLETT] made on Saturday, and which was concurred in by the gentleman's colleague on the Committee on Appropriations, Mr. FITZGERALD, of New York, I want to say that the gentleman from Massachusetts failed, in making his comparison between the estimate and the action of the committee, to take into account the fact that the department in making its estimates does not carry them out as the gentleman proposes to carry them out now; and when the gentleman said in his statement on Saturday that the committee had exceeded the estimates, the gentleman was mistaken, because the department had pursued exactly the same course with reference to these appropriations as the committee, or rather the committee had pursued exactly the same course as the department.

The estimates are made according to the amount of money that is supposed to be needed. The department has done that, and so has the committee, and when the gentleman from Massachusetts says that the bill carries more than was recommended by the department, I feel quite sure the gentleman is at fault in his statement.

Mr. GILLETT. Mr. Chairman, I differ with the gentleman from Missouri there, but that is not what I am discussing now, and I do not care to revert to it. What I say now—and apparently it is not controverted by the gentlemen on that side, and can not be—is that the amounts given in the summary are much less than the details really aggregate, and although I agree that probably no larger sum will be expended than is mentioned in the summary, yet I say it is misleading, because the appropriation bill really appropriates several million dollars more than the committee says it will amount to, and I do not think that is good legislation.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. GILLETT. Certainly.

Mr. MADDEN. This appropriation bill is based on the experience of the department, is it not——

Mr. GILLETT. Yes——

Mr. MADDEN. That a given percentage of the men in this service will be promoted, and that at a certain period of the year men will be getting $800, and that at a certain period of the year they will be getting $900?

Mr. GILLETT. I appreciate that.

Mr. MADDEN. And none of the grades contain the total number of men for the year?

Mr. GILLETT. Yes.

Mr. MADDEN. And, as a matter of fact, the appropriation covers the exact experience of the department, regardless of what the figures in the bill might lead one to conclude. Is not that true?

Mr. GILLETT. Well, that is what will be expended, but we are now appropriating what can be expended, not what will be. What the total of the bill holds is not the amount that will probably be expended, but the amount that the department has at its disposal to expend.

Mr. MADDEN. I grant that if you appointed every man on the 1st of January and kept him continuously employed until the 31st of next December, more will be expended than is appropriated.

Mr. GILLETT. Yes; and under this bill the department has the right to do that.

Mr. MADDEN. Without the limitation?

Mr. GILLETT. Yes; without the limitation, and the limitation has been struck out; and the figures in the bill purport to be not what amount will be expended, but the amount that will be in the power of the department to expend; and I say, in view of that, that the figures are misleading.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Connecticut [Mr. REILLY], whose amendment was adopted, considerably increasing the authorization of expenditures, whether he intends to propose an amendment increasing the total carried on line 4, page 19?

Mr. REILLY. I would be perfectly willing to see that amendment offered, increasing it $300,000.

Mr. MADDEN. $231,000. That is what it figures.

Mr. MANN. It will be more than $231,000. I apprehend that it will.

Mr. MADDEN. That is the way it figures in my mind.

Mr. MANN. The gentleman figured that probably by just adding $100 to the different grades, whereas in some grades $300 are added.

Mr. COX. I think it is about $300,000.

Mr. GILLETT. The department here has estimated nearly $420,000 more than this $24,360,000.

Mr. MANN. Now, Mr. Chairman, the criticism offered by the gentleman from Massachusetts [Mr. GILLETT] is in one sense correct and in another sense it is hardly justified. It is true that under the existing law, when the appropriation is made in the form in which it is made here, the Treasury Department takes the items instead of the total, and the items amount to more than the total.

On the other hand, the total is taken as a sort of guide at least by the Post Office Department, and I think it never has been exceeded. If it were exceeded, there would probably be criticism of it. But in view of the statement of the gentleman from Tennessee [Mr. MOON] that the limitation amendment which he offered a while ago, which was not agreed to because of a point of order which I made, would probably go in to the bill here or elsewhere, I do not know that I should make the point of order if this correction were made. Does not the gentleman from Connecticut [Mr. REILLY] think that the total here should be corrected at least to correspond with the correction of the item? If that be done, I shall have no objection to the limitation.

Mr. REILLY. I think it ought to be done.

Mr. MOON of Tennessee. I think we have money enough, in view of the fact that these clerks do not all go in at the beginning of the fiscal year and there is an unexpended balance.

Mr. KENDALL. Let it be passed over until it can be properly prepared.

Mr. MOON of Tennessee. I should rather take a vote on the gentleman's proposition. I think this bill has all the money that is needed. The gentleman has been complaining bitterly because it carried too much and now he wants to add to it.

Mr. MANN. I should like to have an amendment adopted which would actually carry the law into effect.

Mr. GILLETT. Mr. Chairman, I am willing to withdraw the amendment for the present.

The CHAIRMAN. If there be no objection, the amendment will be withdrawn.

Mr. MANN. Why not let the paragraph be passed over until the gentleman can see what the amount is that is to be added by this item? Then his limitation can be put in.

The CHAIRMAN. The gentleman from Illinois asks unanimouse consent that the paragraph be passed over without prejudice, to be recurred to later.

Mr. MOON of Tennessee. For the purpose of making a correction, if found necessary.

Mr. MANN. And you may want to offer your amendment.

Mr. MOON of Tennessee. And for the purpose of offering an amendment to limit the appropriation.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the paragraph be passed without prejudice, to be recurred to at the desire of the chairman of the committee. Without objection, it will be so ordered.

There was no objection.

Mr. RODENBERG. Before proceeding further with the bill, I ask that we return to page 17, lines 21–24, which were passed during the temporary absence of the Chairman of the Committee of the Whole.

The CHAIRMAN. The gentleman from Illinois [Mr. RODENBERG] asks unanimous consent to return to the last paragraph on page 17, which was passed during the temporary absence of the permanent Chairman of the Committee of the Whole House on the state of the Union.

Mr. MOON of Tennessee. I will ask the gentleman to wait until we finish the office of the Second Assistant Postmaster General.

Mr. RODENBERG. Very well.

The CHAIRMAN. Does the gentleman insist on his request?

Mr. RODENBERG. No; I will not insist on it.

Mr. MOON of Tennessee. There are two or three pages to be read under the Second Assistant Postmaster General.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For travel allowances to railway postal clerks, acting railway postal clerks, and substitute railway postal clerks, including substitute railway postal clerks for railway postal clerks granted leave with pay on account of sickness, $1,465,030.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER 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 passed the following joint resolution:

S. J. Res. 149. Extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the Post Office appropriation bill, H. R. 27148.

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

The CHAIRMAN. The gentleman from Nebraska [Mr. NORRIS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

After line 13, page 19, add the following:

"Hereafter railway postal clerks shall be allowed an annual leave of absence of 30 days with full pay."

Mr. MOON of Tennessee. Mr. Chairman, I believe that is subject to a point of order, and I make the point of order.

The CHAIRMAN. The gentleman from Tennessee makes the point of order.

Mr. NORRIS. I will ask the gentleman if he will reserve it for a moment or two?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. The gentleman reserves the point of order.

Mr. NORRIS. Mr. Chairman, I desire to have the attention particularly of the chairman of the committee. I understand that these clerks under the law now have an annual leave, with pay, of 15 days only, and that practically all other employees of the Government have an annual leave of 30 days with pay. Is that true?

Mr. MOON of Tennessee. I understand that is about the fact.

Mr. NORRIS. While I admit that this is legislation and is subject to the point of order that the chairman of the committee seems disposed to make, I have never been able to understand why this class of employees should not be allowed the 30 days' annual leave that practically all the other employees of the Government have. If there is a class of employees in the Government who are entitled to liberal treatment it seems to me it is the railway post-office clerks who are doing a work that is not only dangerous, but is difficult in every respect, and whose salaries are as low, in my judgment, for the amount of work they do and the labor they have to perform as any other class of employees. I understand that an ordinary clerk here in any of the offices in Washington gets 30 days' leave of absence with pay, and why these men who perform a service that is second to none in the entire Government service should not be given the same privileges is something that I never could understand. It seems to me it is hardly fair.

Mr. MOON of Tennessee. They only run about half the time.

Mr. KENDALL. But the other half of the time they are engaged in preparing themselves for their work.

Mr. NORRIS. While it is true that some of these employees are working only a portion of the time and are off the balance of the time, the time that they are off is necessary for their preparation to perform their duty properly when they are on. The routes are constantly changing, and it requires constant and almost daily study on the part of these men to keep up the efficiency that they have attained. There are some postal clerks who run every day. I think they, however, are perhaps a small proportion of the service, so far as number is concerned; but those who have difficult runs and make long distances can not, from the physical standpoint alone, perform that work every day, because it is too difficult.

In the next place, it is necessary, if I understand it, that they should retain the proficiency, and they must engage in study when they are not actually on trains doing the work.

Mr. HAMILL. Will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. HAMILL. Are these the only classes of post-office employees that are given 15 days leave of absence?

Mr. NORRIS. I do not know. As far as my information goes this particular class is the only class in the Government service, and yet I presume there are others.

Mr. MANN. Will the gentleman allow me a question?

Mr. NORRIS. I will.

Mr. MANN. How much vacation do the clerks and carriers in the post offices get?

Mr. NORRIS. Well, I think they get 15 days.

Mr. MANN. I think they all get the same, and if the gentleman's proposition to increase the vacation period of one is passed, we might as well increase them all.

Mr. NORRIS. We have already fixed the vacation of a majority of clerks in the employ of the Government at 30 days.

Mr. MANN. I think not outside of Washington.

Mr. NORRIS. Why should Washington be an exception?

Mr. MANN. I do not know that it should, although having been here a few summers I think there are some reasons that would apply to the clerks in Washington and not to clerks in other parts of the country.

Mr. NORRIS. Some of these railway postal clerks are doing work in a climate as bad as the city of Washington and some of it worse. Their work is of such a nature that it ought to appeal to every man to give them more of a vacation.

Mr. MOON of Tennessee. Mr. Chairman, I want to say in reference to this item that we have done a good deal for the railway postal clerks in the committee, in the House, and the Senate, and are trying to do more.

Mr. NORRIS. Well, here is a good opportunity.

Mr. MOON of Tennessee. But we must not be asked to do everything at once. These men are off one-half of their time, and while they do have to study their schedules when they are off the gentleman knows, as I do, that they do not apply themselves all the time to that duty while they are off. It is practically a vacation a part of each week.

Mr. NORRIS. Will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. NORRIS. Is it not true that they have to take an examination every six months?

Mr. MOON of Tennessee. Yes; but it does not take all of their time.

Mr. NORRIS. Is it not necessary that they should study the schedules?

Mr. MOON of Tennessee. Yes; but the gentleman knows that when a man is off with his wife and children and at home half of the time that it is practically a vacation, that he is not sitting down and studying his schedules all the time. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For actual and necessary expenses, general superintendents and assistant general superintendents, division superintendents, assistant division superintendents, and chief clerks, Railway Mail Service, and

railway postal clerks, while actually traveling on business of the Post Office Department and away from their several designated headquarters, $80,000.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, in line 4, by striking out the "s" in the word "superintendents," and also in the second word "superintendents," in the same line, strike out the letter "s."

The Clerk read as follows:

In line 4 strike out the letter "s" in the word "superintendents" where it first occurs, and also the "s" in the word "superintendents" where it next occurs, so that it will read "general superintendent" and "assistant general superintendent."

The amendment was agreed to.

The Clerk read as follows:

For rent, light, fuel, telegraph, and miscellaneous office expenses, schedules of mail trains, telephone service, and badges for railway postal clerks, $80,000, including rental of offices for division headquarters, Railway Mail Service, in Washington, D. C.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, line 10, by striking out the word "and" after the word "telegraph" and inserting the word "and" after the word "miscellaneous."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 20, line 10, strike out the word "and" before "miscellaneous" and insert the word "and" after the word "miscellaneous."

The amendment was agreed to.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, in line 13, after the word "headquarters," by inserting the words "and chief clerks."

The Clerk read as follows:

Page 20, line 13, insert after the word "headquarters" the words "and chief clerks."

The amendment was agreed to.

The Clerk read as follows:

For inland transportation of mail by electric and cable cars, $800,000: *Provided*, That the rate of compensation to be paid per mile shall not exceed the rate now paid to companies performing such service, except that the Postmaster General, in cases where the quantity of mail is large and the number of exchange points numerous, may, in his discretion, authorize payment for closed-pouch service at a rate per mile not to exceed one-third above the rate per mile now paid for closed-pouch service; and for mail cars and apartments carrying the mails, not to exceed the rate of 1 cent per linear foot per car-mile of travel: *Provided further*, That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads: *Provided, however*, That not to exceed $15,000 of the sum hereby appropriated may be expended, in the discretion of the Postmaster General, where unusual conditions exist or where such service will be more expeditious and efficient and at no greater cost than otherwise, and not to exceed $100,000 of this appropriation may be expended for regulation, screen, or motor screen wagon service which may be authorized in lieu of electric or cable car service.

Mr. FOWLER. Mr. Chairman, I offer the following amendment as an addition to that paragraph. Add after line 18 the words "*Provided*, That when such railway shall violate any part of such service according to its contract, then all pay for such carriage of mails shall cease."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add after line 18, page 20, the words "*Provided*, That when such railway shall violate any part of such service according to its contract, then all pay for such carriage of mails shall cease."

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

The CHAIRMAN. The gentleman from Tennessee makes the point of order. The Chair will hear the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, I do not think the amendment is subject to a point of order at all. It is in keeping with the limitation. Here is a provision for the purpose of giving employment to inland mail service carried by railways. This can only be done by contract with the United States, and that contract must be specific on its face. Its terms must be specific. The number of mails carried by the road during the day must be specified, the amount to be paid must be specified.

Now, Mr. Chairman, if that be true, then this amendment is simply in keeping with the provisions of this paragraph which seeks to carry out the contract which the Government makes with the railway. If the Government makes a contract with the railroad to carry for a specified sum a certain number of trips through a certain territory, then if that railway should fail to comply with the contract this amendment, of course, would stop the pay of the railroad as long as the violation continued. That is the object of the amendment. In my opinion, it could not be new legislation in any sense whatever. It is intended to carry out in good faith the objects of this paragraph.

Now, Mr. Chairman, I have heard from the distinguished chairman of this committee no reason for his point of order, and I can see no reason for it.

Mr. MOON of Tennessee. Will the gentleman let me state my point of order?

Mr. FOWLER. Certainly.

Mr. MOON of Tennessee. It is that this is new law and not a limitation on the appropriation, for which the gentleman might have a right to offer an amendment in proper language. This is an entirely new proposition respecting the contractual relations between the Government and the carrier.

Mr. FOWLER. Yes; but, Mr. Chairman, it does in its terms seek to lessen the appropriation and comes directly under the Holman rule.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Yes.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman of the committee a question. Beginning on line 7, page 21, we find this provision:

Provided further, That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads.

Now, if the gentleman's amendment is new legislation it applies to this provision in the paragraph, which is also new legislation, and the point of order made against the amendment of the gentleman from Illinois [Mr. FOWLER] would be carried back to that part of the paragraph, and if good as against his amendment must be good as against that.

Mr. MOON of Tennessee. Does the gentleman make the point of order against that amendment?

Mr. CULLOP. No, I am not making the point of order; but what I do insist upon as a matter of parliamentary practice is that if the point of order be made against this amendment and be insisted upon, that that point of order necessarily will be carried back and will strike out that provision. It is just like a demurrer to a complaint or answer in a case in court. It searches the whole paragraph to which it is directed, and must be so considered in ruling on the point of order.

The CHAIRMAN. Will the gentleman from Illinois permit the Chair to ask the gentleman from Tennessee a question?

Mr. FOWLER. Certainly.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] concede that that is all new law, beginning with line 8 and extending to the end of the paragraph?

Mr. MOON of Tennessee. Mr. Chairman, I do not recollect whether it is or not. It has been carried in the appropriation bills, but I do not know whether the general statute provides for it or not.

Mr. CULLOP. Does not the statute by which this contract is made with the railroad companies provide only for the carrying of mail on steam railroads, and was it not passed before the practice of carrying mail on electric railways had arisen?

Mr. MOON of Tennessee. That is the old statute. There is no question about that.

Mr. CULLOP. And it never has been amended upon that subject. I not only indorse this new legislation that is offered here, because I think it is appropriate, but I do insist that the amendment of the gentleman from Illinois [Mr. FOWLER] is germane to that part of the paragraph.

The CHAIRMAN. To which part of the paragraph?

Mr. CULLOP. To the part of the paragraph beginning with the word "*Provided*," in line 7, which I read to the Chair a moment ago.

The CHAIRMAN. The Chair calls attention to the fact that the amendment is not proposed at that point, but is proposed at the end of the paragraph.

Mr. CULLOP. It was proposed at the end of the paragraph because the gentleman from Illinois could not be recognized at that part of the paragraph where it specifically applies, because, under the rule, the whole paragraph must be read through before he could be recognized; but it is germane to that part of it.

The CHAIRMAN. If the gentleman from Illinois will permit, the Chair will suggest that, of course, at the conclusion of the paragraph the gentleman from Illinois, being recognized, could have proposed his amendment to any portion of the paragraph to which he desired to propose it. The Chair desires to get rid of the point of order as soon as possible. The Chair understands that when new legislation is proposed in an appropriation bill, and the point of order is not made, that then any amendment germane to that legislation is itself in order, even though it may be new legislation. The Chair understands that to be a well-settled proposition of parliamentary law.

Mr. MOON of Tennessee. Mr. Chairman, I would like to have the gentleman's amendment again reported. I think it is an independent section.

Mr. FOWLER. No; it is not.

Mr. MANN. Mr. Chairman, before the Chair rules——

The CHAIRMAN. The Chair has not ruled. He simply suggested a principle of parliamentary law.

Mr. MANN. It is upon that item that I desire to be heard.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] has the floor, if he desires to say anything further.

Mr. FOWLER. Mr. Chairman, I desire to say that this paragraph containing new legislation, a point of order to the whole paragraph would be sustained by the Chair, inasmuch as the paragraph carries that new legislation, conceded to be such by the chairman of the committee; but an amendment to the paragraph would be in order under the rule that when there is new legislation proposed in a paragraph an amendment which is germane to that is in order. Had a point of order been made against this paragraph, the Chair would have been compelled to sustain the point of order, and the paragraph would have gone out.

Mr. MOON of Tennessee. Mr. Chairman, I do not want to spend all of the day here discussing the point of order. I will submit the question to the judgment of the House and withdraw the point of order.

Mr. MANN. Mr. Chairman, I make the point of order. Mr. Chairman, while the rule is, as stated by the Chair a moment ago, in part, at least, that where an item in a bill subject to a point of order gets beyond the point of making it, it is subject to amendment; still such an amendment, in order to be considered germane under the rules of the House, is restricted to a narrower field than would ordinarily be so in reference to an amendment. The rule is well settled that when an amendment offered to a provision which was itself subject to the point of order can not introduce a new subject matter, the amendment may in a sense be germane, and it may be that the amendment would have been in order under the ordinary rules of the House, and yet the rulings in recent years have been consistent that if any amendment proposed introduced a new subject matter it was subject to the point of order, although offered to a provision which had gotten beyond the point of making the point of order.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. FOWLER. Is not the provision in this paragraph made for the purpose of paying for the transportation of inland mail over railroads, and is not that the subject, and the whole subject, of this paragraph?

Mr. MANN. As I understood the amendment of the gentleman, it purported to enforce a penalty in reference to contracts. There is no provision in this paragraph relative to contracts or relative to penalty for contracts, or for the failure to carry out contracts. And if under an amendment, on the ground that the original paragraph was subject to a point of order, you can offer now any amendment relating to any contract which the Government may make for carrying the mail, you can offer anything and hold that it is germane. It seems to me—and I do not even understand what the gentleman desires to accomplish—but it seems to me that it introduces an entirely new subject matter, which is not referred to at all in the proposition carried in the bill.

Mr. FOWLER. I will say that this amendment deals directly with the pay of railroads for carrying inland mail.

Mr. MOON of Tennessee. I will ask the gentleman from Illinois [Mr. FOWLER] for information: Suppose your amendment passed, would it add anything to the law as it now exists? The Government has the right to do what you want to do now.

Mr. FOWLER. It would be a limitation on the amount of money paid to the railroads who had violated their contracts.

Mr. MOON of Tennessee. Of course it would be a limitation under the law and under the contract. But you are attempting to add a thing they have a right to do now in the department. If carriers violate the law, they stop the pay.

Mr. FOWLER. Suppose that is not done; and I know it is not done——

Mr. MOON of Tennessee. The law requires it now to be done. What are you going to do about making it good hereafter by another law? Do you want to continue to pass laws every time they fail to execute the law?

Mr. FOWLER. Because of the fact if there is a law specifically requiring the pay to stop, I do not know of it.

Mr. MOON of Tennessee. Of course it is not specific. It is true of a contract made under the law for carrying the mail, if you take all the laws on the subject. If this law is violated the Government has a right to stop the pay.

Mr. FOWLER. If the rural-route carrier fails to carry the mail one day you stop his pay, but when a great corporation agrees to carry the mail twice a day and only makes one trip instead of two, you seek to prevent a reduction.

Mr. MOON of Tennessee. You do not do yourself or your interests any good, for the simple reason that you have somebody in the department that is there to administer the law. You could not strengthen the law by your amendment.

Mr. FOWLER. If your position is correct, then the point of order can not be maintained at all.

Mr. MOON of Tennessee. I do not think it can, but I withdrew my point of order in order to quit this debate, and ask the Chair to rule on the point of order; but the gentleman from Illinois renewed the point of order.

Mr. BARTLETT. May I ask that the amendment be again read?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 21, by inserting at the end of line 18 the following:
"*Provided*, That whenever any railway shall violate its contract for such service, then all pay for such contract shall cease."

Mr. MADDEN. Would my colleague want to have the carriage of mail cease at the same time the contract ceases?

Mr. FOWLER. Not at all.

Mr. MADDEN. That is what would happen.

Mr. FOWLER. My amendment is offered for the purpose of making its carriage more certain. If it can not be carried by the party who has contracted to do it, then it is high time that you find a man or a corporation who has sufficient honor and respect for contracts to carry them out in the spirit of the law, for the good of the mail service of this country.

Mr. MADDEN. While there might be a dispute about whether it was being carried out or not, it might be wise to let the man continue to carry it until you could ascertain the facts. I do not think it would be a wise provision of law to say that the contractor must discontinue his work while the Government discontinues the pay arbitrarily.

Mr. FOWLER. It is not intended to discontinue the carriers, but it is intended to make the party who contracts to do the work perform it according to the contract.

Mr. MADDEN. It just provides to discontinue the pay.

The CHAIRMAN. I would like to ask the gentleman from Illinois [Mr. MANN], who made the point of order, a question. Does this proposed amendment, in the form it is now, in the opinion of the gentleman from Illinois, change existing law?

Mr. MANN. Undoubtedly.

The CHAIRMAN. In what respect?

Mr. MANN. The department is now authorized, I take it, to make contracts and to provide for penalties in the contract. Here is a proposition now expressly directing that where a violation of the contract is made, that the pay under the contract shall cease, although the contract itself, under existing law, may provide and does provide for the penalties which should be invoked for violations of the contract. It absolutely changes existing law.

Mr. GARDNER of New Jersey. I just came in, and I want to ask the chairman of the committee if this is not the provision in the railway postal laws providing for the transportation of mail by electric cars?

Mr. MADDEN. Yes.

Mr. GARDNER of New Jersey. To emphasize, then, the statement of the gentleman from Illinois [Mr. MANN], Mr. Chairman, that this does change existing law, it may be necessary to state the history of this provision. It was found in certain instances in the country, but very few, that under the extension of the trolleys the mail could be delivered by trolley not only cheaper than by the star route, but more expeditiously. In other words, it was the difference between the speed of a trolley and the speed of a star-route wagon, and to meet those cases a provision was inserted in the law years ago that where the road was not over 20 miles in length the Postmaster General might cause the mail to be transported by trolley at no greater expense than otherwise. That was the original language. I have not the bill before me as it reads now.

Now, under this provision of law, renewed annually, as stated by the gentleman from Illinois [Mr. MADDEN], contracts have been made. I state this piece of history in order to emphasize the force of his statement that it does change existing law, because it applies to those contracts new law which did not apply to them heretofore, not being in existence.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Illinois [Mr. FOWLER] offers an amendment to insert certain language after the word "service," in line 18. It seems to the Chair that the proposition contained in the amendment proposed by the gentleman from Illinois is broader even than that part of the legislation contained in the bill which is proposed as new legislation; that at the place at which it is offered, construing the section as a whole, it would apply to more of the bill than that part which is conceded to be new legislation in the bill; and, following the precedents, which the Chair will not take time to quote, but which he has examined, the Chair is of opinion that this comes under the inhibition of

the rule, and the Chair sustains the point of order against the amendment of the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, does it not come under the Holman rule in that it is a limitation upon the appropriation?

The CHAIRMAN. The Chair thinks that the gentleman misconceives, or does not state accurately, what is called the Holman rule. That part of the Holman rule to which the gentleman refers provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Under the consistent rulings of various Chairmen and Speakers construing this rule, it has been held that it must clearly appear on the face of the amendment that it does propose to retrench expenditures in one of the ways suggested. The Chair holds that this does not so show, and therefore it does not come within the scope of the Holman rule.

Mr. FOWLER. Mr. Chairman, I offer the following amendment:

Whenever such railway violates its contract of carriage of such mail, then one-half of the salary paid to such railway shall cease until such contract is complied with by such railroad.

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order against that amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] offers an amendment, which the Clerk will report. Will the gentleman send his amendment to the desk? Has the gentleman his amendment prepared in writing?

Mr. FOWLER. No; I do not have it prepared in writing.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. I do not wish to be captious, but I have noticed on several occasions recently that amendments have been dictated from the floor. Is it not a standing rule of the House that the whole amendment shall be presented in writing?

The CHAIRMAN. That is the fact, but, of course, it is of very frequent occurrence that a number of amendments are offered otherwise.

Mr. MOORE of Pennsylvania. I have been trying to follow the gentleman's argument, but it is impossible to get the amendment at the Clerk's desk, so that the importance of having the amendment in writing is apparent.

The CHAIRMAN. The Chair is informed by the Clerk that in practice the matter is largely a matter of discretion with the Chair. The gentleman from Illinois [Mr. FOWLER] will now offer his amendment.

Mr. HAMILL. Mr. Chairman, I ask for a rereading of the gentleman's amendment.

The CHAIRMAN. The gentleman has not yet sent up his amendment.

Mr. FOWLER. Mr. Chairman, I am ready to present my amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER]:

The Clerk read as follows:

Amend, page 21, by inserting at the end of line 18 the following: "*Provided*, That whenever any railway shall violate its contract for such service then one-half of the pay for such service shall cease."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order against that.

The CHAIRMAN. The gentleman from Tennessee makes a point of order against the amendment. Does the gentleman make it at this time?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. The gentleman makes the point of order. The Chair thinks that this comes within the reasoning of the first part of his ruling just made, and sustains the point of order.

Mr. FOWLER. Mr. Chairman, is it not a reduction of the salary of the employee? Does it not come under that phase of the Holman rule?

The CHAIRMAN. The Chair does not think it is in the form that brings it under that rule, the Chair will state.

Mr. MOORE of Pennsylvania. Mr. Chairman, I now renew my request that the Chair will rule on the question as to whether it is not essential that an amendment offered from the floor shall be in writing.

The CHAIRMAN. The parliamentary clerk at the Speaker's table has just handed to the Chair the following rule:

RULE XVI.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and it shall be entered on the Journal in the name of the Member making it, unless it is withdrawn the same day.

It would seem that if a Member proposes an amendment it is within the power of any other Member to demand that it shall be reduced to writing. Otherwise it seems to be in the discretion of the Chair.

Mr. MURDOCK. Mr. Chairman, on the contrary, if no one does object to a verbal amendment the verbal amendment will stand?

The CHAIRMAN. It is a matter resting in the discretion of the Chair, evidently. The Clerk will read.

The Clerk read as follows:

For transportation of foreign mails, $3,900,000: *Provided*, That the Postmaster General shall be authorized to expend such sums as may be necessary, not exceeding $112,800, to cover one-half of the cost of transportation, compensation, and expenses of clerks to be employed in assorting and pouching mails in transit on steamships between the United States and other postal administrations in the International Postal Union, and not exceeding $88,100 for transferring the foreign mail from incoming steamships in New York Bay to the steamship and railway piers, and for transferring the foreign mail from incoming steamships in San Francisco Bay to the piers; also for transferring the mail from steamships performing service under contract for transporting United States mail: *Provided*, That acting clerks may be employed in place of clerks or substitutes injured while on duty who shall be granted leave of absence with full pay during the period of disability, but not exceeding one year, then at the rate of 50 per cent of the clerk's annual salary for the period of disability exceeding 1 year but not exceeding 12 months additional, and that the Postmaster General may pay the sum of $2,000, which shall be exempt from payment of debts of the deceased, to the legal representative of any sea-post clerk or substitute sea-post clerk who shall be killed while on duty, or who, being injured while on duty, shall die within one year thereafter as the result of such injury.

Mr. MOON of Tennessee. Mr. Chairman, I offer an amendment to come in after the word "cover," in line 22, page 21. I move to strike out the balance of that line, lines 23 and 24, and all of line 1 on page 22, and the word "union," which is the first word in line 2 on page 22, and insert in lieu thereof the following:

The cost to the United States of maintaining seaport service on steamships conveying the mails.

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

The Clerk read as follows:

Page 21, line 22, after the word "cover," strike out all the remainder of that line and all of lines 23 and 24 and all of line 1 on page 22, and the word "union" at the beginning of line 2, and insert the following: "The cost to the United States of maintaining seaport service on steamships conveying the mails."

Mr. MURDOCK. Mr. Chairman, what does that amendment do?

Mr. MANN. It makes it conform to existing law.

Mr. MOON of Tennessee. That is the recommendation of the department.

Mr. MANN. It accomplishes the same purpose.

The amendment was agreed to.

Mr. MOON of Tennessee. Mr. Chairman, in line 6 I move to strike out the word "piers" and insert the following:

And for transferring the foreign mails from incoming steamships at Honolulu from quarantine to the piers.

The CHAIRMAN. The gentleman from Tennessee offers a further amendment, which the Clerk will report.

The Clerk read as follows:

Page 22, line 6, strike out the word "piers" and insert the following: "And for transferring the foreign mails from incoming steamships at Honolulu from quarantine to the piers."

The amendment was agreed to.

Mr. BORLAND. I move to strike out the last word, for the purpose of asking unanimous consent to extend in the RECORD my remarks on the bill.

The CHAIRMAN. The gentleman from Missouri moves to strike out the last word and asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MANN. Reserving the right to object, does the gentleman from Missouri desire to insert in the RECORD at this point a speech upon some other subject, or will the gentleman get leave to insert it at the end of the RECORD?

Mr. BORLAND. I do not quite understand.

Mr. MANN. I am very much opposed to the getting of leave to extend, and then inserting in the actual proceedings of the House speeches relating to some other matter. If the gentleman will obtain leave to insert his remarks at the end of the RECORD if they do not relate to postal matters, I shall have no objection.

Mr. BORLAND. The matter I intend to insert relates to post roads. It relates to the bill in general, but does not belong at this particular point in the bill.

Mr. MANN. Then will the gentleman insert it in the RECORD at the end of the proceedings, where such insertions are usually made?

Mr. BORLAND. I have no objection to that.

Mr. MANN. To insert a long speech into the actual proceedings, which the Members read, makes it inconvenient.

Mr. MURDOCK. Mr. Chairman, I should like to ask if it is within the power of a Member of the House to designate the place in the RECORD where a printed speech may be placed? I appreciate the point of the gentleman's objection, that the continuity of the proceedings ought not to be broken by the insertion of matter that does not relate to the subject. Has the gentleman from Missouri any power to designate the place where his speech shall be printed?

Mr. MANN. He has. If he gets leave to print now and gives his remarks to the reporters, they may be put in at this place in the proceedings, or he can ask them to put it in the latter part of the RECORD, where speeches are printed that are held out for revision.

Mr. MOORE of Pennsylvania. Mr. Chairman, I have a similar request to make, but I make it with the understanding that I will withhold the copy until to-morrow.

Mr. BORLAND. I will make my request in the same way. I have no desire to print the speech at this particular point in the proceedings.

Mr. MANN. I did not suppose the gentleman had.

Mr. BORLAND. I make the request with the understanding that the speech be printed at the end of the proceedings.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] and the gentleman from Pennsylvania [Mr. MOORE] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, office of the Second Assistant Postmaster General, $1,000.

Mr. CULLOP. I offer the following amendment as a new paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 24, on page 22, insert the following: "That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 15, 1912, whereby postmasters of the fourth class were placed within the classified civil service, are hereby annulled and set aside."

Mr. MANN. Mr. Chairman, may I ask the gentleman just what will be accomplished by this amendment if it is agreed to? I did not quite catch its import. Do I understand from the amendment that it is proposed to take out of the classified service all of the clerks in first and second class post offices; and if so, would it include carriers as well?

Mr. CULLOP. No, sir; it does not. It only embraces the assistant postmasters and clerks in first and second class offices included in the Executive order of September 30, 1910, placing them in the classified civil service. The other relates to fourth-class postmasters, annulling the order of October 15, 1912, whereby they were placed under the classified civil service and given life positions. That is the object of it, and these are the only classes of officials which it affects.

Mr. MANN. Mr. Chairman, as I understand the amendment, it is proposed to take out of the classified service the assistant postmasters in the first and second class offices and also the postmasters in the fourth-class offices. In other words, to take out of the merit system these officers and return them to the spoils system of politics. I am quite willing to submit that to a vote of Congress. I shall watch with great interest to see how gentlemen are recorded upon it, not because it will make any difference to me, but just to see the squirming that will be done now and hereafter. We already have one proposition upon which we will get a roll call on the subject, and I would like to see one that is effective, for the first one will not amount to much, except to give an opportunity to express an opinion. I do not know whether the President would pay any attention to the provision or not.

Mr. CANNON. Will the gentleman allow me a question?

Mr. MANN. Certainly.

Mr. CANNON. I want to see what this applies to. It appears to apply to assistant postmasters and clerks at first and second class offices.

Mr. MANN. That is what I understood it applied to.

Mr. CANNON. It applies to the first and second class offices and clerks within the classified service in the Executive order of September 30, 1910, whereby assistant postmasters and clerks at first and second class offices, as well as to the order of 1912 as to the fourth-class postmasters. Does the gentleman know what clerks besides the assistant postmasters this would cover?

Mr. MANN. I do not. I inquired of the gentleman from Indiana, who offered the amendment, and was assured that it did not cover any clerks, as I understood it. Unless I misunderstood the gentleman, he stated that the first part of the order only covered, in fact, assistant postmasters.

Mr. CULLOP. And clerks.

Mr. MANN. I know that the gentleman did not intend to mislead me.

Mr. CANNON. The gentleman from Indiana says "and clerks under the order of 1910."

Mr. MANN. Whatever it may be, I regret that the gentleman is not willing to go the whole hog. If I wanted to put myself on record in advocacy of the spoils system, I would propose to take all of the employees of the postal service out of the merit system and give them to my party.

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

Mr. GARDNER of New Jersey. Mr. Chairman, I rise simply to ascertain gentlemen's opinion as to the effect of this amendment. What is it going to do? There is a civil-service law 20 or 35 years old which gives to the President such power. In 1910 and 1912 the President exercised the powers given him by that statute and issued two Executive orders placing two classes of employees in the civil service. This amendment, if I understand it, proposes to revoke those two orders, but not to change the statute by its terms. If the amendment does not change the statute, if it simply revokes the orders, the President might sign the act to-day and reissue the orders to-morrow. Indeed, the orders might be written and lie on the desk and be signed one minute or a half a minute after the bill itself was signed. Is that the purpose of the amendment? Is it the gentleman's construction that the revocation of these orders is an amendment to the civil-service law, a provision of permanent law that two classes of employees shall never, under that act, be placed in the civil service? Which is the construction of the gentleman's amendment?

Mr. CULLOP. Mr. Chairman, in response to the gentleman from Illinois and the gentleman from New Jersey, I have set out the language in this amendment just as it was given me by the First Assistant Postmaster General, and that is, by the Executive order of September 30, 1910, assistant postmasters and clerks in first and second class post offices were placed within the classified civil service, and that by the President's order of October 15, 1912, postmasters of the fourth class were also placed within the classified civil service.

Mr. HAMILL. Will the gentleman yield?

Mr. CULLOP. I will, although I have only five minutes.

Mr. HAMILL. Who appoints the clerks and assistant postmasters in the first-class offices?

Mr. CULLOP. As a rule the postmaster at the post office appoints, subject to approval, I think, in nearly every instance.

Now, Mr. Chairman, it has been stated by the gentleman from Illinois that this is one of the emanations growing out of the desire for spoils. Let me say in answer that these men were put in office under the spoils system, many of them appointed just before the order of September 30, 1910, went into effect. The fourth-class postmasters were selected under the spoils system, and now it is proposed by Executive order to fasten them upon the country for life as a result of the work of the spoilsmen of this country. Is it not better to annul those orders, and if you are to enforce this branch of the law in the selection of these officers, let them be selected according to merit and not according to their political affiliations, for their work in the party which is just going out of power? They were selected upon that theory; that is how they came into office; and it is proposed now by these Executive orders to put them in office and keep them for life. I am opposed to the policy and the country is opposed to it. A large number of the opposite party is opposed to it because they know the manner in which their selection was brought about and the manner in which it is proposed now to keep them in office. This Congress is not repealing any statute by this amendment, but simply annulling two of the Executive orders of the President of the United States in reference to these officers.

A man who gets an office for life does not have the ambition to improve the service that a man has who is dependent upon his good, efficient work in holding his office. The inducement for the improvement of the service is taken away. But the thing we are interested in is to revoke these orders and rebuke the attempt to foist the spoils system upon the country through the Executive orders, and thereby enable officials to be kept in office for life when the administration of this country is about to change, and when there is a great desire to improve the public service by inducting new blood in official circles.

Mr. HAMILL. Will the gentleman state how long since these orders have been made?

Mr. CULLOP. The one in reference to fourth-class postmasters, affecting over 40,000 officeholders, was made on the 15th of October, 1912, just 19 days before the election. The other one was made September 30, 1910, and between the issuance of the order and the taking effect, December 1, 1910, all over the country there were removals of assistant postmasters and new

assistant postmasters appointed to take their place, selected to go into the service after these orders were made and before they became operative. These, in many instances, were made in violation of good public service and as a reward for political activity, and all selected from the Republican Party. Selections were made from that party alone in all such instances, and it could not be contended it was solely for the good of the public service. It was a mere political action that was taken to reward political service by the changes that were made.

Mr. HAMILL. Assuming that it was and that these men have given satisfactory service and have shown evidences of their continuing to give satisfactory service, does not the gentleman think that the order should be allowed to stand?

Mr. CULLOP. No, I do not; and they have not in all cases given satisfactory service. The vote of the people on the 4th day of last November repudiated their service and demanded a change in the holding of the offices throughout the country.

Mr. HAMILL. As a general principle, does not the gentleman believe that life tenure should be the rule in Government service?

Mr. CULLOP. Never, in any service. It is a detriment rather than a benefit to good service. It takes from a man the inspiration to render good service, because he is fixed for life, and there is not any reason why he should be more active and diligent in the discharge of his official duties; and for that reason it is not in the interest of good service. But it is contended that this amendment is in furtherance of the "spoils system." I deny it. The Executive orders which it proposes to annul were in support of the spoils system, because each and every officer embraced under said orders were selected under the spoils system as a reward for political service and not because of superior qualifications.

If they were really in aid of good service, for the improvement of the discharge of public duties, why not make such an Executive order, but open all the places to selection anew, and select them from all applicants in competitive examinations? This would be fair and would then sustain the claim that the same was done for the purpose of improving the public service and for the good advantage of the discharge of official duties.

We are all for good civil service; we believe in the faithful and efficient discharge of official duties; but we can not, however, agree that these two Executive orders were calculated to improve the public service or inspire a better discharge of official duties. If so, fairness in this matter requires that these orders be annulled and the matter thrown open to competitive examinations, where all may participate, and the selections made on merit and not, as has been done in these cases, as reward for partisan political service.

For these reasons I hope the amendment will be adopted. It is against it more than in favor of it, and the sooner the policy is changed the better. I am opposed, I may say, to any life tenure of office, because fixed terms of office inspire the occupant of the office to better service and to greater activity.

It may be said "that to the victor belong the spoils," I indorse that doctrine. I believe any business can better be operated by its friends than its enemies; that the administration of public affairs can better be administered by those friendly to its policies than by those hostile to them. This, I take it, no one will deny, because we insist upon this doctrine does not mean we are opposed to good public service. It can not be so construed, but on the contrary it means we favor a good public service, and are desirous of securing only the best by placing the administration of the public business in the hands of competent officials in full sympathy with the policies of the incoming administration, which is charged with the responsibility thereof. It is with this object in view we advocate the adoption of this amendment.

Mr. HAMILL. Mr. Chairman, it is quite singular that the gentleman from Indiana [Mr. CULLOP] and I should draw opposite conclusions from the same facts. My contention is, and I believe it is borne out by all experience, that life service, assured tenure in public office, is one of the greatest inspirations we can have toward making public servants faithful and diligent. The curse of this country has been the old spoils system, which happily has been done away with by recent legislation. If we give a man an assurance that so long as he is faithful to his work his tenure will not be molested, then we have a man whose undivided attention and industry is given to his work; but if a man is working with the sword of Damocles hanging over his head every moment of his time, then we have a man who instead of attending with undivided industry and attention to his work, is always fearing the appointing authority, and he can not give faithful service to the Government. I think that any measure that would be a blow at civil service ought to be spurned by the Members of this House. I know that in taking a position whereby assistant postmasters could be removed I would be doing something which, from the point of view of patronage, would be very beneficial to myself. I believe, however, that since we have established civil service and recognized life tenure, this House would make a mistake at this time if it passed any legislation that would menace or imperil the continuance of that meritorious and experience-proven system. [Applause.]

Mr. ROBERTS of Massachusetts. Mr. Chairman, I would like to ask the gentleman from Indiana [Mr. CULLOP] what class of clerks was placed under civil service in the first and second class post office by the Executive order of 1910, and how many of them were embraced in that class or classes?

Mr. CULLOP. Mr. Chairman, I have not that information. I wrote to the First Assistant Postmaster General, but he did not give me a detailed statement of it; but it applies to deputy postmasters and clerks in the first and second class offices, the assistants and the clerks in the offices, and not the carriers. I only wish that the amendment applied to them as well.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I had understood that the clerks in the postal service were all under civil service prior to 1910.

Mr. CULLOP. Not in these offices.

Mr. ROBERTS of Massachusetts. In the first and second class offices?

Mr. CULLOP. That is my understanding from the Postmaster General. It was true of the third class.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Indiana.

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

Mr. CULLOP. Mr. Chairman, I demand a division.

The committee divided.

The CHAIRMAN. Upon this vote the ayes are 15 and the noes 11——

Mr. ALLEN. Mr. Chairman, I demand tellers.

Mr. HAMILL. Mr. Chairman, I demand tellers.

Mr. CULLOP. Mr. Chairman, I make the point of order that the Chair had announced the result and that the demand for tellers came too late.

Mr. FOSTER. Mr. Chairman, I submit to the Chair that the Members could not tell how the vote went until the Chair had announced it.

The CHAIRMAN. The Chair had stated that the ayes were 15 and the noes 11, and upon that came the demand for tellers. The gentleman from New Jersey was in time. As many as favor ordering tellers will rise and stand until counted. [After counting.] Fourteen Members have risen, not a sufficient number, and tellers are refused. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Fifty-four Members are present; not a quorum, and the Clerk will call the roll.

Mr. REILLY. Mr. Chairman, I would like to inquire if that amendment is agreed to?

The CHAIRMAN. The Chair announced that the ayes were 15 and the noes 11. It was at this stage that the point of order of no quorum was made. The Chair has held there is no quorum present, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Davis, Minn.	Harrison, N. Y.	Littleton
Aiken, S. C.	Davis, W. Va.	Hart	Lobeck
Ames	De Forest	Hartman	Longworth
Anderson	Denver	Haugen	Loud
Ansberry	Difenderfer	Hawley	McCall
Anthony	Donohoe	Hayden	McCoy
Ashbrook	Driscoll, D. A.	Hayes	McCreary
Ayres	Driscoll, M. E.	Heald	McGillicuddy
Barchfeld	Dupré	Helgesen	McKellar
Bartholdt	Dyer	Henry, Conn.	McMorran
Bartlett	Ellerbe	Higgins	Martin, Colo.
Bates	Estopinal	Hill	Merritt
Booher	Evans	Holland	Moon, Pa.
Broussard	Fairchild	Howard	Moore, Pa.
Brown	Fergusson	Howland	Moore, Tex.
Browning	Fields	Hull	Morgan, La.
Bulkley	Fitzgerald	Humphreys, Miss.	Mott
Burke, Pa.	Floyd, Ark.	Jacoway	Murray
Burnett	Focht	Johnson, Ky.	Needham
Butler	Francis	Jones	Norris
Calder	Fuller	Kahn	Nye
Campbell	George	Kent	Oldfield
Clark, Fla.	Goldfogle	Kitchin	Olmsted
Claypool	Gould	Kopp	O'Shaunessy
Clayton	Graham	Lafean	Palmer
Conry	Greene, Vt.	Lafferty	Parran
Cooper	Griest	Legare	Patten, N. Y.
Covington	Gudger	Lenroot	Peters
Crago	Hamilton, W. Va.	Langley	Pickett
Curley	Hamlin	Lawrence	Post
Danforth	Hardwick	Levy	Powers
Davidson	Harris	Lindsay	Prouty

Pujo	Scott	Sweet	Webb
Randell, Tex.	Scully	Taylor, Ala.	Weeks
Redfield	Sells	Taylor, Colo.	Whitacre
Reyburn	Slayden	Thomas	White
Richardson	Sloan	Turnbull	Wilson, N. Y.
Riordan	Smith, J. M. C.	Underhill	Wood, N. J.
Robinson	Smith, S. W.	Underwood	Woods, Iowa
Rubey	Smith, Cal.	Vare	Young, Tex.
Rucker, Colo.	Stack	Vreeland	
Rucker, Mo.	Sterling	Warburton	
Sabath	Sulloway	Watkins	

The committee rose; and the Speaker having taken the chair, Mr. GARRETT, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had found itself without a quorum; that he had directed the roll to be called; that 216 Members had answered to their names, a quorum; and he reported the list of absentees.

The committee resumed its session.

The CHAIRMAN (Mr. GARRETT). The question is upon the amendment offered by the gentleman from Indiana [Mr. CULLOP].

Mr. HAY. I make the point of order that the question is on the demand for tellers.

The CHAIRMAN. The point of order made by the gentleman from Virginia [Mr. HAY] is well taken.

Mr. MANN. Mr. Chairman, may we have order so that we may know what the point of order is?

The CHAIRMAN. The Chair had stated that the question is on the amendment proposed by the gentleman from Indiana [Mr. CULLOP]. Thereupon the gentleman from Virginia [Mr. HAY] made the point of order that the question was upon the demand for tellers on that amendment. It seems to the Chair that the point of order made by the gentleman from Virginia [Mr. HAY] is well taken.

Mr. CULLOP. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CULLOP. The motion for tellers had been voted down, and the Chair so declared as I understood it. Then the Chair announced that the amendment was adopted, and not until then was the point of no quorum made by the gentleman from New Jersey [Mr. HAMILL]. Now, what I inquire of the Chair is, the proceedings having gone that far, was not the amendment already adopted before the point of no quorum was raised?

The CHAIRMAN. The Chair will state that the situation is this: The gentleman from Indiana [Mr. CULLOP] proposed an amendment, which was discussed for some 15 or 20 minutes, and the vote was then had viva voce. The Chair stated that "The noes seemed to have it," whereupon a division was demanded, and the House divided. The minutes show that the Chair stated:

Upon this vote the ayes are 15, and the noes 11.

Whereupon the gentleman from Ohio [Mr. ALLEN] demanded tellers, and the gentleman from New Jersey [Mr. HAMILL] demanded tellers.

Then the following occurred:

Mr. CULLOP. Mr. Chairman, I make the point of order that the Chair had announced the result and that the demand for tellers came too late.

Mr. FOSTER. Mr. Chairman, I submit to the Chair that the Members could not tell how the vote went until the Chair had announced it.

The CHAIRMAN. The Chair had stated that the ayes were 15 and the noes 11, and upon that came the demand for tellers. The gentleman from New Jersey was in time. As many as favor ordering tellers will rise and stand until counted. [After counting.] Fourteen Members have arisen—not a sufficient number—and tellers are refused. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Mr. Chairman, I make the point of order that there is no quorum present.

Now, it seems perfectly apparent to the Chair that, under the constitutional provision as to a quorum, had these proceedings been in the House, upon the point of no quorum coming at the time it did, and in the connection in which it did, necessarily it would have vacated the proceedings and brought the matter to an issue in another way. It seems to the Chair that the rule must be construed in the Committee of the Whole House on the state of the Union in the same spirit and in the same manner as would apply in the House. Therefore the Chair thinks that the demand for tellers is in order.

Mr. MANN. A parliamentary inquiry.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] will state it.

Mr. MANN. I understand the Chair has sustained the point of order made by the gentleman from Virginia [Mr. HAY].

The CHAIRMAN. The Chair had so stated.

Mr. MANN. I shall not appeal from the decision of the Chair, because I think it makes no difference. I am quite sure that when the Chair reflects upon it hereafter the Chair will change its judgment upon that question.

The CHAIRMAN. The Chair is very anxious to proceed in order.

Mr. MANN. I understand.

The CHAIRMAN. Now is as good a time as any for the Chair to change his decision.

Mr. MANN. This particular matter makes no difference. I think when the present occupant of the chair, who is a very able parliamentarian, thinks the matter over he will see that the ruling he now makes is not logical with the situation.

The CHAIRMAN. On the motion for tellers or——

Mr. MANN. On the point made by the gentleman from Virginia about tellers.

Mr. CULLOP. Mr. Chairman, is not the purpose of the announcement of the Chair that either "the ayes or noes seem to have it" to give opportunity to anyone who wants to demand a vote some other way to make that demand between that announcement and the announcement that "the ayes or noes have it," whichever way the Chair has decided? Now, that has been a practice ever since I have been a Member of the House, and after the Chair has made an announcement, I think if the Chair will look up the precedents on this subject he will find that frequently Speakers and Chairmen have ruled that way. In other words, the matter was adopted or rejected, but the point of no quorum can be raised at any time in order to get a quorum in the committee to do business. That is the point I am insisting on, and I believe the precedents abundantly sustain this view of the matter.

Mr. SAUNDERS. Mr. Chairman, just in this connection I wish to say a word in reply to the gentleman from Illinois. There were two stages in this matter. The announcement of the Chair was made with respect to the first stage. In the next stage the call was made for tellers, and the call was not sustained. Then the point of no quorum was made. The announcement of the Chair was to the effect that by the vote prior to the call for tellers, the amendment had been agreed to. When the request was made for tellers, and the vote was taken on that request, it was made apparent that no quorum was present. Thereupon the point of order of no quorum was made. On the discovery that no quorum was present, the action taken in respect to tellers thereby became of no effect.

Mr. KENDALL. Will the gentleman from Virginia [Mr. SAUNDERS] yield right there?

Mr. SAUNDERS. Yes.

Mr. KENDALL. After the demand for tellers was refused because not a sufficient number of gentlemen arose to command tellers, the Chairman announced that the amendment had been adopted.

Mr. SAUNDERS. That has already been stated. The facts in that connection have already been given, namely, that the amendment was agreed to by the first vote, but in connection with the gentleman's request for tellers, the point was made of no quorum, and when that point was made and the fact of no quorum was ascertained everything that was done in relation to tellers was of no effect. The Committee of the Whole can no more act without a quorum than the full House.

Mr. CULLOP. The gentleman has misunderstood the reading of the RECORD. The Chair read the RECORD. It was after all that the gentleman has mentioned had taken place that the Chair announced that the amendment was adopted and before a point of no quorum had been made.

Mr. SAUNDERS. That, of course, must be determined by reference to the RECORD.

Mr. HAY. Mr. Chairman, I withdraw the point of order I made.

Mr. SAUNDERS. If I apprehend the reading of the RECORD, the ruling made by the Chair is logical and appropriate.

The CHAIRMAN. The gentleman from Virginia [Mr. HAY] made the point of order that the question was on the demand for tellers. The Chair presumes the language used by the Chair was such as to show that the Chair sustained that point of order, although the Chair's first impression was otherwise. The gentleman from Virginia [Mr. HAY] now states that he desires to withdraw that point of order. By unanimous consent those proceedings will be vacated, and the Chair will hold that the matter comes up de novo upon the amendment. The question is on agreeing to the amendment.

Mr. KENDALL. Mr. Chairman, I ask unanimous consent that the amendment be stated again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment proposed by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

On page 22, after line 24, insert the following: "That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 18, 1912, whereby fourth-class postmasters were placed within the classified civil service, are hereby annulled and set aside."

The CHAIRMAN. The question is upon the amendment.

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

Mr. CULLOP. A division, Mr. Chairman.

The committee divided; and there were—ayes 49, noes 18.

Mr. ALLEN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ALLEN. Is it appropriate to take notice of the fact at this time that the Members on the Republican side are not voting? [Laughter.]

Mr. MANN. It is improper to make the statement. If the gentleman understood the proprieties he would not be willing to take a chance about that. [Laughter.]

The CHAIRMAN. The Chair does not think that that is a parliamentary inquiry. On this vote the ayes are 49 and the noes 18. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Tellers, Mr. Chairman.

Mr. SAUNDERS. Mr. Chairman, I make the point of no quorum.

Mr. CULLOP. And I make the point, Mr. Chairman, that that is dilatory.

Mr. REILLY. Mr. Chairman, I demand tellers.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and ten gentlemen are present—a quorum. The gentleman from Connecticut [Mr. REILLY] demands tellers.

Mr. CULLOP. Mr. Chairman, I make the point of order now that that demand comes too late. The Chair has announced the result.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MANN rose.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. MANN. The gentleman from Connecticut [Mr. REILLY] demanded tellers as soon as the vote was announced before.

Mr. CULLOP. Regular order!

The CHAIRMAN. The Chair will state to the gentleman——

Mr. MANN. The Chair is more courteous than the gentleman from Indiana knows how to be.

The CHAIRMAN. The Chair will state to the gentleman from Illinois [Mr. MANN] that upon the conclusion of the vote by tellers the Chair announced that the ayes were 49 and noes were 18. Thereupon the gentleman from Connecticut [Mr. REILLY] was observed by the Chair to be standing, and the Chair hesitated. The Chair understood the gentleman from Connecticut to say, "Mr. Chairman—" and he stopped. The gentleman did not pursue it, and the Chair then very deliberately stated, "The ayes have it." The Chair thinks the demand of the gentleman from Connecticut, in view of the situation, came too late.

Mr. MANN. But, Mr. Chairman, it has been the invariable practice, and that is the rule laid down in Jefferson's Manual, that the demand for tellers comes after the announcement of the result of a vote on a division.

Mr. MOON of Tennessee. Mr. Chairman, I believe there is nothing before the House, and I demand the regular order.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

Mr. MOON of Tennessee. The gentleman from Illinois [Mr. RODENBERG] requested that we return to page 17 to consider the item at the foot of that page. I ask unanimous consent that that be done.

The CHAIRMAN. The gentleman from Illinois [Mr. RODENBERG] submits a request that the committee return to the last paragraph on page 17. Without objection, it is so ordered. The Clerk will report the paragraph.

The Clerk read as follows:

For inland transportation by railroad routes, $49,000,000: *Provided*, That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

Mr. RODENBERG. Mr. Chairman, I make a point of order against that proviso. My point is that this amendment is new legislation, changing existing law; and further, that there is nothing in this amendment appearing on its face to indicate that its adoption will result in retrenchment, and for that reason I insist that it is in direct conflict with Rule XXI of the House. That is the point that I make.

The CHAIRMAN. Does the gentleman desire to be heard further on his point of order at this time?

Mr. RODENBERG. If some one objects to the point, I want to be heard.

Mr. MURDOCK. Mr. Chairman, I intend to resist the point of order. I think that the amendment that has been placed in the bill by the committee, to wit—

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis—

is saved by the proviso at the end of the second clause of Rule XXI of the House. As the Chair knows, that second clause is one which defines limitations in the form of amendments to appropriation bills, and contains the well-known general statement that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Now, I believe that the following proviso is the one which protects this amendment from a successful point of order. The proviso is as follows:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

I want to call the attention of the Chairman to the fact that there may be a material difference between the reduction of an appropriation and a retrenchment in the expenditures under that appropriation. The lump-sum appropriation for this service carried in this bill is $49,000,000. As a matter of fact, if the amendment should stay in the bill and become a law, then there would be an expenditure of less than $49,000,000. I ask the Chairman to follow me while I visualize the situation as it exists.

The St. Louis Terminal Association controls the station and the tracks leading thereto from all directions in the city of St. Louis, but the St. Louis Terminal Association receives pay as a separate entity only on that part of the mail which comes into St. Louis over one of the bridges leading into the city from the east. I point out to the Chairman that the tracks leading into St. Louis from the west are owned by the same terminal association, but pay is not given to the terminal association for the transportation of mail over the tracks which lead into St. Louis from that direction, but only on the tracks that lead across the river from the east, and over one bridge, the Eads Bridge. Pay is given for the transportation of the mail in St. Louis in two ways. We have a statute which provides pay for the transportation of mail by the railroads on the amount of mail transported, with the weight multiplied by the distance carried and fixed upon a graduated scale of rates; and on all mail that comes into the terminal station at St. Louis the mileage system of pay for the transportation of mail is used except in the one instance. But we have another law, which I now wish to read to the Chairman. It is brief, and is as follows:

That the Postmaster General is hereby authorized, in his discretion, to pay, from appropriations for transportation by railroad routes, for the special transfer and terminal service between the Union Station and East St. Louis, Ill., and the Union Station and St. Louis, Mo., including the use, lighting and heating of mail buildings and the transfer service at St. Louis, at a rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1899.

That is the law under which the Government now pays to the St. Louis Terminal Association $50,000 a year out of this lump sum of $49,000,000. I want to point out to the Chairman——

The CHAIRMAN. Will the gentleman permit the Chair to ask a question?

Mr. MURDOCK. Certainly.

The CHAIRMAN. Is the $50,000 paid for transportation, as well as for the other things mentioned in the act which the gentleman has just read?

Mr. MURDOCK. I will say to the Chair that it is. The $50,000 is a payment for the transportation of the mail, first, from East St. Louis to the terminal at St. Louis, a distance of 3.80 miles, and for heating and lighting rooms in the station and for transfer service in the station.

Now, if the proviso which the committee has included in the bill should become law, then the Government, as I will show a little later, will pay the St. Louis Terminal Association a sum of money based on the mileage charge between East St. Louis and St. Louis, which, according to the report of the Post Office Department, will reach the sum of $19,000. So there can be no question at all about the fact that this amendment will result in a retrenchment in expenditures.

The committee does not assume to change the total of the lump-sum appropriation, but by the very nature of things—and a long history will bear me out in this—the amendment places the payment for the transportation of that mail on a mileage basis and results, as the department says, in a reduction of some $19,000 a year.

In that connection I am not merely making the argument for the purpose of carrying out my own point of view, but I find that since this was last in controversy in this House—and

it has been up very frequently for discussion—there has been published a report from the department in which it recommends that this change shall be made, and states that a saving will be accomplished.

I call the attention of the chairman to the fact Rule XXI can be construed strictly and narrowly and to the letter, or on the other hand it can be construed broadly, and for my part I would like to see the so-called Holman provisions of the rule given the broadest sort of construction.

If an individual Member of the House, without the authorization of the committee, should offer this amendment as I have done myself repeatedly in the past, I can see where the contention of the gentleman from Illinois and his point of order might be well taken; but where, under the provisions of this rule, a committee has regularly, following the rule, reported an amendment which does retrench expenditures, then I do not believe that the point of order should lie against it.

Mr. MADDEN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Illinois?

Mr. MURDOCK. I yield to the gentleman from Illinois.

Mr. MADDEN. I was asking recognition in my own right. I thought the gentleman from Kansas had concluded.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois in a few moments. The Chair desires to propound a question to the gentleman from Kansas. Assuming, as the gentleman does, that this provision depends wholly upon the Holman rule, and that it would not be in order unless in order under the Holman rule, the Chair wishes to ask the gentleman if he has examined the ruling of Mr. Speaker Kerr, which is the first ruling on the Holman rule, and subsequent rulings, particularly a ruling by Mr. Chairman SAUNDERS, of Virginia, in the last session of Congress on the Army bill, the substance of which was that any amendment or legislation so proposed must show clearly upon its face that it is a retrenchment. If so, what has the gentleman to say as to this amendment showing that upon its face?

Mr. MURDOCK. I have read the decision of Chairman SAUNDERS and the decision of the present occupant of the Chair, and also a decision by the gentleman from Kentucky [Mr. JOHNSON]; and, if my recollection serves me right, the gentleman from Kentucky [Mr. JOHNSON] ruled that where a substantial reduction was apparent from the context and from the provision itself, it came within the Holman rule.

The CHAIRMAN. Undoubtedly that is the rule, but the question is, taking the amendment of the committee or the proviso placed in the bill by the committee in connection with the original act which the gentleman from Kansas has read, which lodges discretion in the Postmaster General with respect to this matter, can the Chair, without extraneous information, determine from the act and the proviso itself that it does work a retrenchment?

Mr. MURDOCK. That is precisely my contention. The gentleman from Illinois contends that an amendment to come within the Holman rule must show upon its face a reduction, and it is my belief that the Chairman can see by the very nature of the amendment that it does mean a reduction, certainly not an increase. The Chairman must know that an amendment of this kind can not result in an increase. We have the general statute which provides for the pay of the railroads for the carriage of the mails on a certain system, and the Chair has a right to consider that general rule for the payment of railroads. I want to repeat that the Chair has a right to consider that we have one general law which applies to all railroads in the pay for the transportation of the mails on a railroad, and that an amendment thereto which restricts the pay for the carriage of the mail or the handling of the mail to that one general statute providing for payment—the Chair has a right to consider that that is necessarily a reduction, which it is in fact.

I want to say, further, to the Chairman, however he may decide, that a study of the chronological history of the item itself proves this very matter. The old Eads Bridge was constructed in 1875, and thereafter for some 20 years there was carried currently in appropriation bills a law which gave $25,000 a year for the transportation of the mail for these 3½ miles across the bridge and its housing and transfer at St. Louis. In 1899 we made the provision permanent law, and it has continued now for 12 or 13 years as permanent law.

No one contends, I think, for a moment—and I do not think the gentlemn from Illinois will contend—that this amendment or proviso would result in increasing the pay of the St. Louis Terminal Association. It will result in a reduction. It was written for that purpose, and the history of the item shows that it will result in that way, and I believe the chairman of the committee has a right to consider the bearing on the subject of the fact that we pay for the transportation of mails in one general statute and that the amendment to a law restricting any payment to that one general statute where the carriage of the mails is involved must necessarily result in a reduction of the expenditures.

The CHAIRMAN. Will the gentleman permit the Chair again? The proviso of the committee reads:

> That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

The act from which the gentleman from Kansas has read and of which the Chair has a copy before him, provides:

> SEC. 3. That the Postmaster General is hereby authorized, in his discretion, to pay from appropriations for transportation by railroad routes for the special transfer and terminal service between the Union Station at East St. Louis, Ill., and the Union Station at St. Louis, Mo., including the use, lighting, and heating of mail building and the transfer service at St. Louis at the rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1889.

The discretionary act, if it may be so termed, seems to the Chair much broader than the proviso of the committee. Is the gentleman from Kansas sure that if the committee's proviso were to pass that it would repeal the entire special act or would it simply repeal it pro tanto?

Mr. MURDOCK. I will show to the Chair where it would repeal that act, because the act which he has just quoted provides that "the Postmaster General is hereby authorized, in his discretion, to pay from the appropriations for transportation by railroad routes," and if the payment can not be made except from this item, certainly it can not be paid from any other item of appropriations in this or any other bill, and that amount of appropriation would fail and cease to be available.

In other words, Mr. Chairman, there is no other appropriation out of which this service can be paid for. Now, if under the Holman Act we reduce expenditures through the restriction upon the way in which that money shall be expended, namely, the lump sum of $49,000,000, it seems to me that under these circumstances it must come within the rule. It certainly does limit the discretion which the special act the Chair has just mentioned gives to the Postmaster General. He now can pay not to exceed $50,000 for the special transfer of the mail, the heating and lighting of the buildings, and for the carriage of the mail included, but the minute this amendment is adopted and becomes law, then the Postmaster General is able to pay only for the transportation of mail over the St. Louis bridge on a mileage basis.

The CHAIRMAN. That is the point that came into the mind of the Chair, in an attempt to construe the act, as to whether or not, if the proviso shall be held in order and become a law, the Postmaster General can not, under it and under the other special act, pay on a mileage basis for carrying the mails, and then, if in his discretion he sees fit to do so, pay all the balance for the other special things mentioned in the special act.

Mr. MURDOCK. I am glad the Chairman asked that question, because I can answer positively no. There is no pay to any of the 14 railroads which cross Eads bridge into St. Louis for transportation of the mail from East St. Louis to St. Louis. All the mail routes at present cease at the station at East St. Louis, and all the pay that is given for the transportation of the mail from the bridge over to St. Louis is in this payment of $50,000. Answering the Chairman's question strictly, the Postmaster General, if this amendment should pass, would pay the 14 railroads for transportation of mail from East St. Louis to St. Louis on a mileage basis, and would not be enabled to pay any money whatever from any source in this or any other appropriation bill to the Terminal Co. for heat, lighting, special transfer, and so forth.

Mr. RODENBERG. Mr. Chairman, I do not care to address myself to the merits of the transfer service across the bridge to St. Louis, but I will confine myself to a discussion of the parliamentary situation. I do not claim to have much familiarity with the rules of this House, but I do know that the decisions of every Speaker and every Chairman who has been called upon to construe the so-called Holman rule sets forth in clear and unmistakable language that amendments on an appropriation bill, to be in order under that rule, must indicate on its face that, if adopted, it will result in retrenchment and reduction of expenditures.

My contention is that this amendment does not indicate anything of that kind. The act of March 1, 1899, under which the Terminal Railroad Association is now being paid for this service, and which has been read by the gentleman from Kansas [Mr. MURDOCK], and also by the Chairman, expressly states that compensation shall be paid not only for carrying the mail across the bridge, but also for the special transfer and terminal serv-

ice, including the use, lighting, and heating of mail buildings. It must be noted by every member of the committee that compensation is provided for for service in addition to carrying the mail. It must also be noted that the whole matter of payment is addressed to the discretion of the Postmaster General. He may pay for all of this service any sum that he sees fit to pay, so long as it is not in excess of $50,000. This amendment specifically directs payment for one of the items covered in the general act, that of carrying the mail alone. It must certainly be apparent that this kind of limitation is not a retrenchment, because no one can tell in what manner the Postmaster General will exercise that discretion. I undertake to say, further, that if this amendment should be adopted it might result in an increase of expenditures. The Post Office Department would be called upon to pay upon a mileage basis for carrying the mail across the bridge, and under the general act the Postmaster General might in his discretion still pay not to exceed $50,000 for the other service that is performed at that point, and if the gentleman's statement is correct, and the estimate of the Second Assistant Postmaster General is correct, and the payment on mileage basis will amount to $19,000, then, if the Postmaster General should in the exercise of his discretion conclude to pay the maximum amount of $50,000, the amendment of the committee would result not in a retrenchment, but in an increase, instead of a decrease in expenditures.

Mr. Chairman, I contend that the act of March 1, 1899, is a discretionary act. It places certain discretionary authority in the hands of the Postmaster General, and I contend, further, that so long as that discretion is lodged in the Postmaster General no amendment can be incorporated in this appropriation bill which will clearly set forth that it will result in a retrenchment, because there is no way of determining just how the Postmaster General may exercise his discretion. He could now under the general law pay less than $19,000 for all of the service at St. Louis. He could pay $10,000. He could pay $5,000. He can pay less than the sum that would be fixed by compensation on the mileage basis. Therefore I contend that you can not, as long as that discretionary power is lodged in the Postmaster General, and so long as there is no way of determining how that discretion will be exercised, put an amendment on this appropriation bill that will absolutely guarantee a reduction of expenditures.

Mr. GARDNER of New Jersey. Mr. Chairman, I do not want to get into this discussion, but it seems to me that there is no way of proceeding to the consideration of this question without first meeting the legal question that presents itself on the face of the bill. Does this proviso repeal the special act? If the answer be no, then all the contentions that the amendment is in order fall. There is nothing in the suggestion that there will be no fund from which to pay the money if this proviso goes in, unless it be first held that it repeals the special act, because as long as the special act stands there will be authority in the Postmaster General to pay the $50,000. That is clear, as the law reads and has been read to the Chair. That is the only suggestion I mean to make. This amendment does nothing that brings it within any rule unless it be first held that it repeals the special act.

Mr. MURDOCK. Mr. Chairman, just a word before the Chair rules. I think it should be stated in answer to the gentleman from Illinois [Mr. RODENBERG] and in answer to the gentleman from New Jersey [Mr. GARDNER], what has not been hitherto stated, and that is this, that there is no general law in the United States which provides payments to railway companies for the housing or transfer of mails at stations.

Mr. GARDNER of New Jersey. But that special law does.

Mr. MURDOCK. That special law does.

Mr. RODENBERG. And you must repeal it first.

Mr. MURDOCK. And under that one special law the Terminal Association is paid out of this sum specifically named here $50,000 for two services, namely, the handling of the mail from East St. Louis to St. Louis and the transfer of the mails in the station there at St. Louis.

Mr. RODENBERG. And for furnishing of mail facilities.

Mr. MURDOCK. And heating and lighting. In case of a limitation in this appropriation bill which provides that the Postmaster General can not pay for the handling of that mail across the Mississippi River, save on a mileage basis, then, as a matter of fact, without any question, that limitation would repeal the force and effect of the special law which gives compensation for the handling and transfer of the mail in the St. Louis station. If there were a general law in this country providing for the pay to railways for the handling of mail and the transfer of it in stations and for the heating and lighting of mail rooms in the station, then my argument would fall to the ground; but inasmuch as there is no general statute to that effect, then the passage of this amendment would put upon the Postmaster General, no matter who he was, the necessity of paying to the 14 railroads which use the Eads Bridge pay on the mileage basis, and would prevent the Postmaster General from giving any compensation to the St. Louis Terminal Association for the use of rooms in the station.

The CHAIRMAN. The Chair is prepared to rule. It has been conceded by all participating in this discussion that if the provision be in order it is made in order by the latter part of the so-called Holman Rule, which reads:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

This measure, if presented as an original bill, would, of course, go to the Committee on the Post Office and Post Roads under the rules of the House. Therefore the committee which brings it in as an integral part of this bill is the committee which should have jurisdiction of it, standing as independent legislation, and therefore no objection could lie on that score.

But the question in the mind of the Chair, and which has given the Chair considerable trouble, is whether this meets the requirement of the Holman rule or that provision of the Holman rule as to retrenchment, and whether it shows upon its face satisfactorily, not necessarily conclusively, but to such an extent as that a reasonable man looking at the proposal and measuring it by the act which it proposes to alter, would say it was a retrenchment. The Chair is not at all satisfied that if this proviso should become a law that it would repeal all of the original act. The Chair will read it again:

SEC. 3. That the Postmaster General is hereby authorized, in his discretion, to pay from appropriations for transportation by railroad routes for the special transfer and terminal service between the Union Station at East St. Louis, Ill., and the Union Station at St. Louis, Mo., including the use, lighting, and heating of mail building and the transfer service at St. Louis, at the rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1889.

That is the law of the land. Whether it is wise or unwise, whether it is just or unjust, the Chair does not know, nor does it concern the Chair at this stage of the proceedings. But evidently that act, on its face, at least, does provide for the payment for something besides the transfer or the carrying of the mails. That is to say, it lodges discretion in the Postmaster General to pay for something besides the carrying of the mails across that bridge, out of this particular fund, if he deems it proper. Now, the language of the proviso is:

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis other than upon a mileage basis.

Suppose that becomes the law? Is not there still left to the Postmaster General a discretion he can exercise in paying for lighting, heating, and so forth? Upon the facts of it, it seems to the Chair that unquestionably there is; and, therefore, it does not touch the discretion of the Postmaster General, except upon one particular of the whole sum of items for which he is permitted to pay in his discretion—that is, the matter of carrying—and that being the case, it only touching that single item, how can the Chair possibly say that upon its face it shows a retrenchment such as is required to be done to make it in order under the Holman rule?

The Chair has given considerable attention to this matter and considerable study, and does not think that it shows upon its face that it works a retrenchment such as is required under the Holman rule; and the Chair sustains the point of order.

Mr. REILLY. Mr. Chairman, I ask unanimous consent that we return to page 19 for the purpose of an amendment, as suggested by the House action.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] asks unanimous consent to return to page 19, to the paragraph which was there passed.

Mr. JACKSON. Mr. Chairman, I would like to ask the gentleman if he will withhold his request until I offer an amendment?

The CHAIRMAN. The gentleman from Kansas [Mr. JACKSON] will be recognized for the purpose of offering an amendment to the section. Does he desire to offer an amendment to the paragraph which has just been passed?

Mr. JACKSON. I do.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read a portion of the amendment, as follows:

Amend, line 21, page 17, by striking out "$49,000,000," and insert in lieu thereof "$48,500,000"; and by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended

to promote the sale of stocks, shares, bonds, or other forms of indebtedness, of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

Mr. MOON of Tennessee. I make a point of order upon the proviso to the section.

The CHAIRMAN. The gentleman from Tennessee makes a point of order upon the proviso to the section.

Mr. MOON of Tennessee. He reduces the amount from $48,000,000 to $45,000,000; that is not subject to a point of order; but to the balance of the amendment I make a point of order.

Mr. HOBSON. Will not the gentleman reserve the point of order?

Mr. MOON of Tennessee. No; I will not reserve it.

The CHAIRMAN. Does the gentleman now insist on the point of order?

Mr. MOON of Tennessee. I make it now.

Mr. JACKSON. I would like to have the Clerk conclude the reading of the amendment.

Mr. MOON of Tennessee. But I shall insist on the point of order being discussed alone, and not a lot of prohibition rot, in this House.

The CHAIRMAN. The Clerk will finish the reading of the amendment.

The Clerk read as follows:

And the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

The CHAIRMAN. The Chair will hear the gentleman from Kansas upon the point of order.

Mr. JACKSON. Now, Mr. Chairman, the amendment is not offered for the purpose of exploiting what the gentleman from Tennessee [Mr. MOON] is pleased to call "prohibition rot." There is not any such thing as prohibition rot among well-informed people, and I regret very much that the gentleman is pleased to meet this amendment by attempting to indulge in such unparliamentary language.

Mr. MOON of Tennessee. Do I understand the gentleman is discussing the point of order?

Mr. JACKSON. Mr. Chairman, I am not responsible for the gentleman's inability to understand the English language.

Mr. MOON of Tennessee. I understand the English language, but you are responsible, though, for making a statement here to the committee on the point of order that is not in order.

Mr. JACKSON. I refuse to yield.

Mr. MOON of Tennessee. I insist on the rule that the gentleman discuss the point of order.

The CHAIRMAN. The gentleman from Kansas [Mr. JACKSON] will proceed in order.

Mr. JACKSON. Mr. Chairman, I was attempting to do so. Now, I shall not attempt to review the decisions which have just been cited to the Chair upon the amendment offered by my colleague or the decisions referred to by the Chair in his decision except in so far as I think they are applicable to this rule. And so far as that is concerned, the merit of the proposition is involved in the point of order, because the merit of the proposition, if it has any, is involved in this attempt to retrench expenditures under this appropriation.

Now I call the attention of the Chair, in the first place, to the fact that the amendment upon its face does reduce the amount of the appropriation. The gentleman from Tennessee [Mr. MOON] concedes that so much of the amendment is in order.

Mr. MOON of Tennessee. Concedes what? Mr. Chairman, does the gentleman yield?

Mr. JACKSON. Mr. Chairman, I shall insist that we have order and that the chairman of the Committee on the Post Office and Post Roads observe order.

Mr. MOON of Tennessee. I asked the gentleman if he would yield. He said I conceded something. I want to know what it is.

Mr. JACKSON. I will repeat what I said, for the benefit of the gentleman. I said that the chairman conceded that so much of the amendment as reduced the amount of the appropriation is in order. In addition to that, Mr. Chairman, the amendment proceeds to provide for a reduction of the amount of money that is to be paid out of the Treasury. So that for two reasons the amendment comes within the Holman rule. I concede that if it were not for the Holman rule it would not be in order, because, while it is a limitation upon the appropriation, it does change existing law and directs the Postmaster General to take certain procedure.

The CHAIRMAN. Will the gentleman from Kansas permit the Chair a question right there?

Mr. JACKSON. In just a moment. I desire now to call the Chair's attention to the very point which the Chair made in connection with the amendment of my colleague, Mr. MURDOCK, concerning the bridge transportation—that it did not follow necessarily that it would mean a reduction of expenditures that is only made in this amendment by the mere fact that this amendment seeks to take out of the mails a large amount of matter which is at the present time, under existing law, transported in the mail, and reduces the appropriation for that purpose.

Now, in that connection I call the attention of the Chair to precedent 3892, cited in Volume IV of Hinds' Precedents, with which I have no doubt the Chair is familiar. The amendment in that case was offered by Mr. Robinson, of Massachusetts, May 5, 1880, under the old Holman rule. It reads as follows:

Strike out all in the sixtieth and sixty-first and sixty-second lines between the word "namely," in the sixtieth line, and the word "Provided," in the sixty-second line, and substitute the following:

"For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881."

Mr. James H. Blount, of Georgia, made a point of order against the amendment under Rule XXI as it then existed, in a modified form adopted at that session of Congress:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

After debate the chairman said:

"Although the meaning of the words 'necessary' and 'special facilities for postal service' is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law, provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States, or, secondly, by reducing the compensation of persons paid out of the Treasury of the United States, or, thirdly, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill, but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out '$9,500,000' and inserting '$9,490,000.' So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide, but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order."

Now, Mr. Chairman, the language of this amendment complies exactly with the amendment offered under this precedent. In addition to that, it complies in every particular with the decision rendered by the gentleman from Virginia [Mr. SAUNDERS] on the Army appropriation bill at the last session, because the amendment, if it is carried out, must necessarily reduce the amount of mail matter carried over the railroads of the country.

Now, the point to the Saunders decision, as I understand it and as the Chair understands it, was that the Chair may look to existing law for the purpose of determining whether the amendment will retrench expenditures, and also whether it will reduce the amount of money paid out of the Treasury for compensation to any officers or persons.

Now, we all know that the amount of the compensation paid to railroads is fixed by law, subject to an examination or weighing of the mails by the Postmaster General, and that he may at any time weigh the mails and reduce the amount paid to the railroads. We also know that this will take out of the mails a great amount of matter that is now carried over the railroads of the country—a very large per cent of it.

And, Mr. Chairman, I want to give an example of the class of mail that will be excluded by the enforcement of this amendment by the Postmaster General. I have here an example of that class of mail. I have here an editorial which I presume every Member of the House received in an envelope recently. It is an editorial of only a few lines, printed, it seems, very strange to say, right under that famous motto of the immortal Joseph Pulitzer, asking for fair play, arraigning corruption and tainted news, and demanding the independence of the press; and yet I will ask any gentleman of this House to look at this publication, marked as it is, and sent through the mails to every Member of this House, and answer under his conscience whether or not he believes that something outside of fair play inspired that editorial, and caused to be placed underneath the motto under which this famous paper is circulated through the mails of the United States and all over the world.

The heading of this editorial is "Lobbying for tyranny," and it proceeds to denounce bills like the Kenyon-Sheppard bill as bills for enforcing tyranny. Then it states that the Prohibitionists are wanting the Congress to enforce their laws for them.

Mr. Chairman, I denounce that statement as absolutely false. The Prohibitionists do not want this amendment, they do not want the Kenyon-Sheppard bill, or kindred bills, for the purpose of having the Federal Government enforce their laws for them, but they want such bills for the purpose of not having the Federal Government enforce upon them provisions of law which are absolutely incompatible with their own local police laws.

A statement was introduced into the RECORD the other day by a Senator, which advertised the fact that Uncle Sam was in partnership with the liquor interests of the country; a picture of Uncle Sam, and underneath it a statement that Uncle Sam is our partner, circulated through the mails of the United States all over the country by certain liquor houses, for the purpose of making it difficult for the States to enforce their local laws.

The purpose of this amendment is simply that the United States shall go out of partnership with the liquor interests of the country, that it shall withhold Government agency from the purpose of assisting these men to do in the States what the State law says its own citizens shall not do; and I say that the purpose of the amendment is not only right and just and consonant with good morals and the enforcement of the local laws of the States, but it is bound to reduce the expenditures of the Government. Why should the Government continue to pay out immense sums of money for the purpose of promoting the business of the liquor corporations and the business of the sellers of fake corporation stocks? I think any gentleman upon the floor of this House will agree with me that if that class of literature was stricken out of the mails of the United States, at least 10 per cent——

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the gentleman is not discussing the question before the House, and in violation of the rules of the House is discussing just what I thought he would, something else than the question before the committee.

Mr. JACKSON. The gentleman is mistaken.

The CHAIRMAN. The Chair thinks that the gentleman is making an argument to reenforce the proposition that he has laid down, that there will be a reduction in expenditures by this amendment.

Mr. MOON of Tennessee. He has not been talking about that for at least five minutes.

Mr. JACKSON. I assume that the gentleman from Tennessee will be bound by the ruling of the Chair, and I would like to state that in my opinion, and I believe in the opinion of every Member of this House, if this amendment should be adopted striking from the mails of the United States the liquor advertisements and the liquor literature, and the promotion literature of the country put out for the purpose of swindling the innocent purchasers of corporation stock, much of which is already barred from the mails by fraud orders of the Post Office Department, and therefore strictly germane to that subject, the volume of mail carried by the country would be reduced at least 10 per cent. But, of course, the Chair is not concerned with the percentage. One per cent is just as good as 10 per cent for the legal question involved here. The Chair must see, in line with the opinion of Mr. Chairman Saunders, that this amendment will necessarily reduce the amount of mail carried over the railroads of the country, and if the Postmaster General complies with the law and with the direction of this amendment and weighs the mails, the amount paid out of the Treasury under this appropriation will be lessened, and in line with this precedent at section 3892 the reduction of the appropriation itself makes the entire amendment legal and proper at this time.

Mr. RODDENBERY. Mr. Chairman——

The CHAIRMAN. Is the gentleman opposed to the point of order?

Mr. RODDENBERY. I am opposed to the point of order. I think the amendment is clearly in order.

The CHAIRMAN. The Chair would like to hear from some one in favor of the point of order.

Mr. MOON of Tennessee. Mr. Chairman, I want to say a word, perhaps using some of the latitude that the gentleman from Kansas took. Of course, I know the feeling of the Chair on this question and his sympathy, perhaps, with the motion of the gentleman, but I know that will not influence the action of the Chair. When I politely asked the gentleman from Kansas [Mr. JACKSON] what he meant by what he said, because I did not understand him, owing to the confusion and the distance that he was from me, he very promptly and very readily replied, with that commonplace and indecent stock repartee, that he was not responsible for my not having enough sense or ability to understand him. That is possibly true, Mr. Chairman. He may not be responsible for that. The argument made by the gentleman may be so intricate and so learned and so able that I can not understand it, but I hardly think so, in view of the judgment of the gentleman's constituents, who have recently repudiated him, and very meritoriously so, as unfit for service in this House. I want to say that, while the proposition to reduce the appropriation from $49,000,000 to $48,500,000 is in order, and while the proposition to make any reduction may be in order, yet when it is coupled with a proposal to establish a new law for the expenditure of the whole of the appropriation reduced from $49,000,000 to $48,500,000, the subject matter following the figures of the reduction being entirely new and there being no general law to support it or justify it, it is clearly out of order. The rule requires that no new matter shall be incorporated into an appropriation bill and that the appropriations shall be such only as are required to be made under general law. You can not by subterfuge and a pretended limitation of this character violate that rule of the House. Of course, everybody knows that the reduction proposed brings it within the section of the Holman rule, but are you to say that you can circumvent the purpose and intent of the law and the rule by adding after that reduction the imposition of new duties upon the department which possibly may cost even more than the $49,000,000? You have got no way to go into that question. You can not analyze it. You can not tell from the face of the proposition whether it is within or without the rule. It is left in doubt, in my judgment. I do not want to discuss the question fully, but I suggest that line of thought.

Mr. HOBSON. Mr. Chairman, the eloquent chairman of the Committee on the Post Office and Post Roads [Mr. MOON of Tennessee] has practically conceded in one part of his remarks that he is in error with regard to his point of order.

Mr. MOON of Tennessee. I shall be glad to have the gentleman point out the place where I conceded that.

Mr. HOBSON. I will point it out to the gentleman. The gentleman remarked that the specific provision, by reducing the appropriation, was in order, but that the way in which it would be reduced was not in order.

Mr. MOON of Tennessee. Oh, the gentleman has misunderstood me.

Mr. HOBSON. I will go a little further, and perhaps the gentleman will see it. He said that because it was a modification of the law it would be subject to the point of order.

Mr. MOON of Tennessee. The gentleman is mixed.

Mr. HOBSON. The gentleman admits that if the first part of the amendment had not been in it it would have made no difference. The amendment does not have to make itself a provision for the reduction, provided that the carrying out of the amendment would clearly on the face of it result in a reduction. Furthermore, the gentleman as he was elaborating his position practically said that the new cost of the added duties of the Post Office Department would stand over against the saving which he thereby admitted would exist in the reduction of the deficit in carrying the second-class mail matter.

Mr. MOON of Tennessee. There was no admission of that kind made.

Mr. HOBSON. His very argument admitted it by saying that the added duties of the department might cost more than any alleged reduction. He thereby admitted that the amendment itself did produce a reduction. Now, then, I will submit it to any practical man that the expense in the duties of supervision to cut out matter could never be as great as the expense involved in the matter itself; that inspection is never as expensive as the work itself, and that the added cost of inspection would probably be nil, because the same authorities that are employed now would carry out the added inspection; that the reduced force in connection with the reduced volume would of itself of necessity be greater than any added force if there were any added force at all.

In other words, Mr. Chairman, it is plain on the face of it, and it is plainly inferable from the remarks of the gentleman from Tennessee, that the subject matter of this amendment, irrespective of its merits, would reduce the volume of the mails, and that part of the volume of the mails that is not self-sustaining, that part which entails a deficit, and therefore that the amendment would result in a reduction.

Mr. MOON of Tennessee. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MOON of Tennessee. What particular class does the gentleman say there is a deficit in?

Mr. HOBSON. Particularly in the second-class mail matter.

Mr. MOON of Tennessee. Does the gentleman insist that the whole deficit is in the second-class matter?

Mr. HOBSON. No; but much of just such matter as is mailed into my district and into the district of the gentleman from Kansas, and into prohibition territory everywhere, is carried at a loss.

Mr. MOON of Tennessee. So are newspapers and magazines.

Mr. HOBSON. Certainly; and if an amendment was offered to cut down the transportation of newspapers and magazines the amendment would be in order under the Holman rule. I do not believe that when this is understood it can be thrown out on a point of order. I do not believe that it was the original intention to discuss in all its phases the prohibition question, and I regret that my friend from Tennessee was impatient in his remarks at the outset.

Mr. MOON of Tennessee. I want to say that I do not know what right the gentleman from Alabama has to say that I was impatient in my expression that there was a lot of rot to this question of prohibition. The gentleman ought to know that there is a lot of foolish stuff said about it, and he must know that there is more common rot and hypocrisy about this political issue than any other that I have known.

Mr. HOBSON. I would like to say on the question that every State has a right to its own local self-government; it has the right to exercise its own police powers; and that there is no subject under the Government that lies deeper toward the foundation of the Government.

The practice of the Federal Government in being a party to the violation of local law in this regard has no other analogue in the Government, has no parallel in history. The Federal Government to-day is a party to the violation of law in my district. It is a party to the violation of the law in the district and in the State of the gentleman who offered this amendment. When the Federal Government inculcates observance of law, in fact depends upon law, depends for its very perpetuity upon law and respect for law, it is certainly not consistent that an amendment asking that the Federal Government withdraw itself from partisanship in the violation of the law should be denied.

Mr. MOON of Tennessee. May I ask the gentleman a question?

Mr. HOBSON. Certainly.

Mr. MOON of Tennessee. If the gentleman really wants to present that issue and cover these questions and do something effectual in the interest of prohibition, does he think that he can get any advantage by the suggestion of a reduction of this item of $49,000,000? Does he think there is anything involved in it except the display of eloquence on the matter?

Mr. HOBSON. I will say to my friend that I have not been accustomed to make a display on the question here. When the proper time comes and the question is up on its merits, as I hope it will be some day and a day not far distant, I hope to have some remarks to make. I do not believe the object of display was the purpose of the gentleman from Kansas in offering the amendment. I do want to say that the question of saving the Government $100,000 in the Post Office appropriation bill, while it is worthy of consideration, nevertheless is not commensurate with the importance of the greater question as to whether in the operation of this bill, or any other bill now and at any other time and at all times, the Federal Government should withdraw wherever it can legitimately do it from abetting, aiding, and becoming an outlaw under the police power and legitimate laws of States and of districts and of counties.

Mr. MANN. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MANN. On the point of order I understood the gentleman to say that the proviso in the amendment would be in order under the Holman rule on the ground that it would reduce the amount expended by the Government by cutting out a portion of second-class matter which is not self-sustaining. If that amendment should prevail, would it not become necessary for the postal officials to examine all second-class mail matter covered by it?

Mr. HOBSON. I do not think so. I think it would be simply sufficient for the postmasters at the points where this mail matter now comes into the mail to simply examine it. I do not believe that it would require a single new official under the Government.

Mr. MANN. I am not saying whether it would require any new official or not, but would it not require an examination by some postal official of every piece of second-class mail matter deposited in the mails?

Mr. HOBSON. I do not think so.

Mr. MANN. How, then, would it become effective?

Mr. HOBSON. I think each postmaster where the mail matter was put in would be able to tell at once with reasonable certainty, and if finally he found he was not catching it he would later be able to tell at once in the ordinary exercise of his duties whether it was illegal or not.

Mr. MANN. Could he tell without any examination of the second-class mail matter?

Mr. HOBSON. I do not mean to maintain, as the gentleman must so understand, that it would require no examination to enforce the law, but I do mean to say that if there was any possible increase in the cost due to excluding it from the mail it would not be commensurate with and could not be commensurate with the saving to the Government in the body of the matter itself.

Mr. MANN. Would it not, as a matter of fact, be sure to require quite a corps of officials in the Post Office Department in cities like New York, Boston, Philadelphia, and Chicago to examine and read through all of the second-class mail matter offered for deposit in order to see whether either the advertising or the reading matter contravened the provisions of the law?

Mr. HOBSON. Under the supposition of the gentleman to-day every official in the Post Office Department would be reading all of the second-class mail matter to see if the anti-lottery law was being enforced.

Mr. MANN. But there is a special provision against putting lottery matter in the mail, which of itself enforces that law to a certain extent—it does not enforce it completely; but here is a provision affecting inland transportation, and it seems to me that it would require the examination by some one—I do not mean to say of every piece of second-class mail matter, but of each issue of all second-class mail matter which was published.

Mr. HOBSON. I think it would require and would involve the scrutiny of mail matter sent out by these particular interests at their particular localities, but on the face of it it is a plain question, and any possible, slight, incidental increase in cost could not possibly be commensurate with the saving in cost from the bulk of the matter which is excluded.

Mr. MANN. Is not that a pure matter of argument?

Mr. HOBSON. No; it is self-evident. I think the question raised by the gentleman is a pure matter of argument.

Mr. MANN. But the gentleman assumes it is self-evident, when no one in the world can tell. It is a pure guess at that. On one side you say there is a saving and on the other side there is an admitted expense. No one on earth can tell in advance which side will be the heaviest.

Mr. HOBSON. I will say to the gentleman that the matter of additional expense is questionable, but the matter of saving is material and is self-evident. It is borne on the face of the amendment itself.

Mr. RODDENBERY. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. RODDENBERY. In connection with the colloquy with the gentleman from Illinois [Mr. MANN], the postal laws now provide against the mailing of lewd and lascivious publications and pamphlets, and certain mechanical devices, certain things dangerous to the mail, certain instrumentalities for the prevention of conception. Divers and sundry other items are positively excluded from the mail.

Mr. MANN. They are all in the criminal code.

Mr. RODDENBERY. They are prohibited and made penal under the existing law. If this proviso goes in, it not only provides for the exclusion of this matter and on its face reduces the amount of money covered by the bill, but in addition to that, in the very language of the proviso, it appears that there is excluded from the mails a large volume of matter; and the Chair will take cognizance of the fact that the cost to the Government is based on what is transported measured in weight by pounds.

The question of the cost to the Government of the enforcement of this provision as a set-off against the amount carried in the bill, as a parliamentary question, can not possibly be involved. Besides, under this provision, in consideration of and in conjunction with the general law, it not only becomes prohibited in an appropriation bill, but it becomes a crime to transport it, because by law it is declared unmailable matter, and the same employees, agents, and instrumentalities of the Government that enforce the provisions of existing laws not covered in this particular law will be adequate entirely for inspection, detection, and enforcement of this amendment if enacted. I would also suggest further to the gentleman that if the part of the amendment conceded to be in order by the gentleman from Tennessee [Mr. MOON] were not in the amendment, that the proviso itself in its very terms, without any presumption, shows a reduction in the amount covered by the bill. It is indisputable. It in no way comes under the provision of the rule relating to amend-

ments reported from a committee having jurisdiction, and therefore, if the English language means anything and if common intelligence can be applied to that language, there can be but one deduction, and that is that it will reduce the necessary expenses of the Government in transporting mail on a weight basis. The amendment, however, provides in terms for the reduction of the appropriation by half a million dollars.

Mr. HOBSON. Mr. Chairman, I want to thank the gentleman. I think he is clearly right, that the officials of the Post Office Department now are constantly looking through the mail to see whether any part of it is illegal. And the gentleman from Illinois [Mr. MANN] only makes the suggestion that the difference would be that we do not carry any penalty for this violation, but, as the gentleman from Georgia just pointed out, that is not necessary when you make a general law on an appropriation bill. Any part of all the provisions of this bill when enacted into law would have the whole force of the Government for its enforcement.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Yes.

Mr. STEENERSON. The gentleman bases his argument upon the fact that the volume of second-class mail will be reduced and that there is a loss on second-class mail, and therefore the result would be a saving.

Mr. HOBSON. Yes; and the volume would be less, and, of course, the Government would not pay on that.

Mr. STEENERSON. I desire to call attention to the fact that this amendment excludes first-class mail.

Mr. HOBSON. Somewhat.

Mr. STEENERSON. And that upon first-class mail there is a very large profit, so that by reducing the volume of first-class mail you will entail a loss.

Mr. HOBSON. I will answer the gentleman in his own kind, I think, by telling him that the general prosperity of the Nation resulting from a better enforcement of law, that reduces the amount of toxin that is a specific for degeneracy—and I assume the gentleman knows that——

Mr. STEENERSON. I do not know anything about that; but I do know that there is a profit on first-class mail.

Mr. HOBSON. That this particular toxin is a specific for degeneracy.

The general increase of intelligence and prosperity of the people, resulting from the reduced consumption of the specific in degeneracy, would far more than make up for any supposititious loss from reducing first-class mail matter, and would, in fact, increase the volume of all business, and consequently the volume of first-class mail matter.

Mr. STEENERSON. My suggestion is if on its face it does not involve a loss to the first-class mail matter on which there is a profit?

Mr. HOBSON. It does not on the matter that comes into my district. I shall be perfectly willing to see a modification that would cut it out of the first class.

Mr. STEENERSON. That might save your amendment.

Mr. HOBSON. I think it is supposititious. I do not think that the amendment needs saving.

Mr. MOON of Tennessee. Mr. Chairman, I would be glad, whichever way this matter is to be decided, that it should be done.

Mr. GARNER. Mr. Chairman, I would like to make a suggestion to the Chair if not sufficient time has been had in order for the Chair to rule?

The CHAIRMAN. The Chair wishes to know if anyone desires to be heard against the point of order.

Mr. CANNON. Mr. Chairman, I would like to be heard. As I understand the rule, Mr. Chairman, if any part of an amendment is subject to a point of order the amendment fails. That is to say, the first two lines are clearly in order, but in my judgment the balance is clearly out of order.

The CHAIRMAN. I would like to ask the gentleman if he understands that is true where a proposition is submitted under the Holman rule?

Mr. CANNON. Well, I think so. Otherwise you could put the whole criminal or civil code, or all legislation, into an amendment that could be tortured into being germane. But I will also make a point of order in addition to one that was made on the proviso. Now, what is this? Does it appear upon this proviso that it would retrench expenditures? Not at all. That is purely a matter of argument.

Mr. JACKSON. Will the gentleman yield for a suggestion?

Mr. CANNON. Certainly.

Mr. JACKSON. The way I read this precedent, it holds exactly to the contrary of what the gentleman from Illinois [Mr. CANNON] has said.

Mr. CANNON. What is the precedent? When was the decision made?

Mr. JACKSON. This was a decision made May 5, 1880, under the old Holman rule. The Chairman was Mr. John G. Carlisle, of Kentucky. He said:

> The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill, but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out "$9,500,000" and inserting "$9,490,000." So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule.

Mr. CANNON. Has the gentleman the amendment there?

Mr. JACKSON. Yes; I will read that to the gentleman. It says:

> For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

The latter part of the amendment following the reduction in the appropriation bill mentioned in the opinion of the Chair.

Mr. CANNON. I recollect the precedent that the gentleman speaks of, and, although the decision was made by so famous a parliamentarian as ex-Speaker Carlisle, it seems to me it was not well made. I recollect when it was made. However, let that be as it may, this proviso and this amendment are not upon all fours with that precedent. This amendment provides:

> That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical, advertising for sale either directly or indirectly any spirituous, malt, vinous, or other intoxicating liquors for transportation to or delivery in any State, county, municipality wherein the sale of such liquor is or may be hereafter prohibited by State law or when like pieces of mail matter are intended to promote the sale of stock, shares, or bonds, or other forms of indebtedness of any corporation, company, or association unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States, and the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

I do not suppose that the chairman of the committee can take notice that any newspaper carries an advertisement or any of the advertisements referred to or that any letter is written. And while it is true that it strikes off $500,000 from the appropriation, it adds $100,000 in directing a reweighing of the mails.

Mr. JACKSON. The gentleman misunderstands.

Mr. CANNON. It says:

> Is hereby authorized and directed.

That is legislation to do what? To use $100,000 for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails. That is not all:

> By excluding said classes of mail matter from the mails of the United States.

Now, it seems to me that the proviso is subject to a point of order. If it is, it seems to me that the whole amendment goes out. But if it does not, the point of order has also been made upon the proviso. If this can be done, then the Holman rule and the rule that prohibits legislation upon appropriation bills is nullified, and you can put under the guise of an amendment a revision of the laws of the United States.

The CHAIRMAN. Will the gentleman from Illinois permit the Chair a question right there?

Mr. CANNON. Certainly.

The CHAIRMAN. The Chair is very anxious to determine this question in accordance with the spirit of the rules of the House. The Chair would suggest to the gentleman this idea, which is in the Chairman's mind: It seems to be conceded that the first sentence there, involving a reduction of $500,000, is in order.

Mr. CANNON. Yes.

The CHAIRMAN. Now query: If there be connected with that proposition, which is in order, a proposition that is directly related to it, as this rather appears to be, pointing out the way apparently in which that reduction can be brought about, does it not seem to come within the Holman rule, particularly when considered in the light of the precedents laid down by Mr. Speaker Carlisle, although the Chair believes the gentleman from Illinois has taken issue with that decision?

Mr. CANNON. Well, I think that decision does not cover this amendment. I think if this would be in order it would be in order to amend the amendment, making a rate of 5 cents a pound or 2 cents a pound for the transportation of newspapers and magazines. I think, as I said before, that you could put a whole code on the bill. It would be in order, it seems to me,

to amend so as to exclude all matter that would, by argument, reduce expenditures.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. CANNON. In a moment. Can the Chair determine from this amendment whether there are any newspapers circulated or letters written? The Chair must construe that, and the amendment must speak for itself. The Chair must be able to say that from the proviso upon its face without argument there would be a reduction of expenditures.

Now, I should argue the other side of the question that the $100,000 with which the Postmaster General is arbitrarily clothed would be an increase.

The CHAIRMAN. Does the gentleman mean that the Chair must have actual or judicial knowledge of it?

Mr. CANNON. It must appear on the face of the proviso.

Mr. SHERLEY. Mr. Chairman, if the gentleman will permit——

Mr. CANNON. On the proviso. That is what I claim.

Mr. MADDEN. Would the Postmaster General under this amendment be required to open letters to ascertain whether or not they contained anything in violation of the prohibition laws of the various States? Would he have authority to do it?

Mr. CANNON. I do not care to discuss it. The mere asking of the question shows how far we could go if this amendment be in order and germane.

Mr. JACKSON. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. CANNON. Certainly.

Mr. JACKSON. We do now have machinery and officials under the direction of the Post Office Department to do the very thing that the gentleman mentions—to open letters and examine mail for the purpose of seeing whether the law is being violated, do we not?

Mr. CANNON. I am not aware of it. If there be any law authorizing the Postmaster General or his subordinates to open a letter with a 2-cent stamp on it, I am not aware of it.

Mr. JACKSON. Is not the gentleman aware of the fact that the Attorney General seized a lot of mail in the city of New York recently?

Mr. CANNON. Well, there are people who might say that the Attorney General has, perchance, violated the law. I know of no law that authorizes the breaking of the seal of a letter being in the United States mails.

Mr. JACKSON. Does the gentleman understand me? If the Post Office Department issues an order—and it certainly has that right—does the gentleman deny the authority of that department or the authority of the Department of Justice to open a letter for the purpose of ascertaining that fact?

Mr. CANNON. I do absolutely deny it.

Mr. JACKSON. The gentleman should inform the President, then.

Mr. SHERLEY. Mr. Chairman, I desire simply to say this, in response to the suggestion of the Chairman: The proposed amendment is not really one amendment; it is three amendments. Now, if it be in order, you are met with this situation, that by the reduction of the amount appropriated in any particular item, by a fraction of a cent, and then by adding to that any language relating to the subject matter with which the paragraph deals—and I make a distinction relating to the subject matter, but not to the economy in dealing with the subject matter—it becomes in order because, according to the contention of the gentleman, they have made an economical proposal by simply reducing the amount appropriated. Now, I contend that this must be true: Any legislation that is attached to an amendment which reduces the amount, in order to be in order must on its face, not as a matter of conclusion, not as a matter of argument or deduction, but absolutely because of the language used, show that it will bring about a reduction in expenditure.

Now, if a proviso had been put in, not only reducing the amount but saying also that there shall be a less sum paid—as, for instance, 60 per cent of the pay heretofore paid per pound—it would be manifest that such an amendment would on its face show that it went in the direction of economy. But when you undertake to argue from the broad statement of an exclusion of a particular kind of mail matter, which of itself requires, in order to be excluded, a great deal of work and search, that that will bring about a reduction, you are simply arguing a conclusion in which one man's judgment is as good as another's. I might, for example, take the suggestion inferentially made by the gentleman from Alabama [Mr. HOBSON] and say that seemingly, in accordance with his prohibition view, it is going to improve the health of the people and to increase their wealth and happiness to exclude from the mails the matter referred to, and therefore there will result, instead of a reduction, an additional expenditure, due to additional quantities of mail resulting from greater industry and prosperity, the Nation having gotten rid of the blight of intoxicants. If the Chair holds this in order, it follows that any man can make in order on any paragraph anything relating to that paragraph by the very easy device of providing a reduction of half a cent in the amount appropriated.

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN The gentleman will state it.

Mr. GARDNER of Massachusetts. Would it be in order to demand a division of that amendment at this time?

The CHAIRMAN. The Chair thinks not, except upon a vote. The Chair will state that the gentleman from Tennessee [Mr. MOON] made his point of order merely to the proviso.

Mr. GARDNER of Massachusetts. The reason I ask the question is this: It is clear that the argument that this amendment is not obnoxious to the point of order rests on the fact that on its face it makes a reduction in the amount carried by the bill. If it merely provided for a retrenchment, it would be in order only when presented by a committee, not by an individual. If the question is divided, the legislative proposition is at once divorced from the reduction.

The CHAIRMAN. Will the gentleman permit the Chair a question?

Mr. GARDNER of Massachusetts. Certainly.

The CHAIRMAN. Does the gentleman understand that the rules of the House will permit the division of a question before a ruling by the Chair?

Mr. GARDNER of Massachusetts. I am uncertain as to that.

The CHAIRMAN. The Chair thinks otherwise.

Mr. SHERLEY. There may not be a division in the sense in which you have a division when a vote is had; but I submit to the Chair that in considering whether a matter is really germane and not subject to a point of order that very question must arise, because otherwise all I have to do is to insert the word "and" after the clause proposing the reduction and then continue indefinitely any sort of legislation that relates to that particular matter.

Mr. GARDNER of Massachusetts. I know the Chair has before him the star-route case. As he will observe, an attempt was made, under the Holman rule, to reduce an appropriation by $500 and couple with this reduction a legislative proposition with regard to the method of making star-route contracts, or something of the kind. It seems to me that this is a parallel case. I remember that the parliamentarian who preceded Mr. HINDS, a gentleman named Crutchfield, in his book made the comment that the same result could have been arrived at by demanding a division of the question. This comment appears, I think, in the Manual of the Fifty-third Congress. That is why I ask whether the present moment would be an appropriate time to demand a division of the amendment.

Mr. MANN. The gentleman says the same result could have been arrived at. What result?

Mr. GARDNER of Massachusetts. The result of projecting the point of order on the legislation and not on the reduction. In the star-route case the Chair sustained the point of order as against the legislative provision.

The CHAIRMAN. The gentleman from Massachusetts is familiar with the star-route ruling to which he has called the attention of the Chair. That proposed to refund $500, I believe, in the amount carried by the bill, and then proposed a contract system for the star routes; but there really was not any effort to show any connection, was there, between the contract system proposed and the reduction of $500?

Mr. GARDNER of Massachusetts. There has been scarcely more than a pro forma attempt here.

The CHAIRMAN. That is a question, of course.

Mr. HOBSON. The Chair had not finished his statement. We would like to hear it.

The CHAIRMAN. The Chair asked a question of the gentleman.

Mr. GARDNER of Massachusetts. Will the gentleman permit me to answer the Chair's question without interrupting?

Mr. HOBSON. I wonder if the gentleman from Massachusetts would condescend to allow the Chairman to finish a simple statement?

Mr. GARDNER of Massachusetts. After the gentleman has been recognized——

Mr. HOBSON. I assumed, of course, that when the glorious gentleman from Massachusetts spoke to me, I was recognized by every rule in the world.

Mr. MANN. How good natured they all are. [Laughter.]

The CHAIRMAN. The Chair will hear the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. The gentleman from Massachusetts has now forgotten the question asked by the Chair.

The CHAIRMAN. The suggestion of the Chair was this: In the star-route case, to which the gentleman kindly called the attention of the Chair, there does not seem to have been any effort to connect the reduction with the proposed legislation, whereas in the mind of the Chair there does seem to be in this amendment some connection between the legislation and the proposed reduction.

Mr. SHERLEY. If the Chair will permit me, I said that that is just the point to be determined. When there is simply a suggestion it does not come within the rule. It must absolutely appear upon the face of it that it will result in a reduction in order to come within the rule; and whenever it requires a suggestion, whenever it requires an argument, whenever the Chair's mind must go out exploring in order to come to a conclusion as to whether it does or does not result in a reduction, that moment, by the very process that the Chair has to undertake, he should determine that it does not in a parliamentary sense show a reduction.

The CHAIRMAN. Assuming that matter of the kind described passes through the mail—and frankly the Chair thinks he must take cognizance of that fact—the elimination of that matter from the mail would reduce the weight of it.

Mr. SHERLEY. But the weight is not the only thing that determines the expense.

The CHAIRMAN. Weight is the only thing that determines the expense, so far as this particular item is concerned, is it not?

Mr. SHERLEY. Perhaps; but that is not the proposition that is before the Chair. It does not simply say that it must reduce expenses in this particular way, but that it must reduce expenses. The rule does not qualify it to the extent that the Chair undertakes to qualify it.

Mr. JACKSON. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Kentucky yield to the gentleman from Kansas?

Mr. SHERLEY. Certainly.

Mr. JACKSON. Has the gentleman read the amendment carefully?

Mr. SHERLEY. I have read it several times.

Mr. JACKSON. I was going to suggest that the gentleman's last statement indicated that he misunderstood the latter part of it. The amendment does direct the way in which the reduction shall be made—that it shall be made by excluding from the mails these pieces of mail matter which are carried at the present time.

Now, if I understand Judge SAUNDERS's opinion, it says that the Chair must look at the law to determine whether the result will be a retrenchment of expenses. The cases are very similar, Mr. Chairman. When the Army bill was before the House, the number of regiments was reduced from 15 to 10. Judge SAUNDERS said that that must necessarily result in a reduction of expenses.

Mr. SHERLEY. Mr. Chairman, I suggest to the gentleman that by the very language of his amendment he excludes letters that contain matter relating to alcoholic liquors, letters that go by first-class mail. It is a matter of knowledge, it is a matter of proof, that the first-class mail is the profitable mail of the country—the mail that practically sustains the Government in its large losses from other mail matter. Can the gentleman say by virtue of his amendment that the exclusion of first-class mail matter, of postage that carries such mail matter, will result in an economy to the Government?

Mr. JACKSON. Mr. Chairman, the suggestion of the gentleman from Kentucky is a good one, and I am glad he made it, as I wanted an opportunity to say something on that subject. The gentleman says that the Chair must take knowledge of the fact that some of this matter goes by letter.

Mr. SHERLEY. If the gentleman will permit, I did not say that.

Mr. JACKSON. I so understood the gentleman.

Mr. SHERLEY. I said that the gentleman's amendment expressly related to letters which are carried in the first-class mail.

Mr. JACKSON. And the gentleman further stated that the Chair must take knowledge of the fact that the first-class mail is a profitable mail.

Mr. SHERLEY. I did not say that.

Mr. JACKSON. The gentleman will wait until I conclude——

Mr. SHERLEY. But the gentleman is talking in my time, and he must not misrepresent me.

Mr. JACKSON. I think that the gentleman will acknowledge that I do not misrepresent him if he will wait. The gentleman said that the Chair must consider the fact, or take knowledge of the fact, that the first-class mail is the profitable mail.

Mr. SHERLEY. No; I do not think I said that.

Mr. JACKSON. What did the gentleman say?

Mr. SHERLEY. I can give the gentleman the information, but I can not furnish him the understanding.

Mr. JACKSON. Now, I have been castigated for using that expression, and I hope the gentleman will not incur the displeasure of the chairman of the committee, the gentleman from Tennessee.

Mr. SHERLEY. Perhaps the difference is in the application of it.

Mr. JACKSON. I say that if it is the duty of the Chair to recognize that the first-class mail is a profitable mail, it is also his duty to recognize that second and third class mail is unprofitable, and the hearings on this very bill show that the entire second-class matter was carried last year at a deficit. So it must necessarily follow that any reduction in the amount of mail will result in a retrenchment of expenditures.

Mr. SHERLEY. If the gentleman will permit, I desire to say to the Chair that I did not say, and do not now say, that the Chair can take judicial knowledge of the fact that first-class mail matter is profitable or unprofitable. I said it might be well argued inasmuch as the amendment of the gentleman related to first-class mail matter, that therefore since it was a matter of common knowledge that there would be a loss of revenue since you were lessening the class of mail that brought in a profitable revenue.

But, Mr. Chairman, all of this is for the purpose of showing that the whole matter is one of argument. The gentleman's speech, my speech, the speeches here, the very need for constant reiteration of information, shows that it is a matter of information and that the language itself is not so plain as to be within the meaning of the rule and show that there must be a reduction by virtue of its adoption. That is the meat of the whole thing, and the very fact that the Chair has to go out and weigh and balance the proof shows that it does not come within the rule.

Mr. SAUNDERS. Mr. Chairman, in response to the last suggestion of the gentleman from Kentucky, I will say that the mere fact that the Chair has to weigh and balance the merits of the amendment submitted does not show that the point of order is well taken. On the contrary it is perfectly proper for the Chair before passing on a point of order to an amendment, claimed to be within the Holman rule, to balance the pros and cons of the proposition on its merits. If he is satisfied on the whole, that the necessary effect of the amendment, operating by its own force, will be a retrenchment of expenditures in one of the three ways contemplated by the rule, then the point of order should be overruled.

Mr. SHERLEY. Will the gentleman permit an interruption?

Mr. SAUNDERS. Not just now. I wish to present in their sequence some thoughts which I have in mind. It is not necessary on behalf of an amendment of this character to establish with the inexorable severity of a mathematical demonstration that it will effect retrenchment of expenditures. Nor is the Chair confined to consideration of the face of the amendment, or of the paragraph, or compelled to determine from the same without extraneous aid, or assistance, whether it will effect a retrenchment.

Mr. Speaker Kerr expressly ruled, and this ruling has been uniformly followed, that in determining whether an amendment will effect retrenchment, the Chair can look to the pending bill, the specific section, or amendment under consideration, the law of the land, so far as applicable, and the parliamentary rules and practices of the House. Keeping these aids to a conclusion in mind, the Chair must determine whether the amendment under consideration will operate of its own force to reduce expenditures. The mere fact that the Chair may think that it is likely that an amendment may operate to effect retrenchment, is not sufficient ground on which to hold that such amendment is in order. There must be something more. To be in order, the amendment must necessarily bring about such a result, ex proprio vigore. But the determination on this point must be reached by the Chair. If he is reasonably satisfied that such a result will follow, this conclusion of his own mind will fix his ruling, and sustain the amendment. It is insisted in this debate, that if the conclusion of retrenchment, from the operation of an amendment, is a matter of debate, or argument, then it does

not appear from the amendment itself that it will effect retrenchment, and therefore the same will be out of order. This contention is not sound. Any proposition may be the subject of debate. Conceding that the Chair is limited to an inspection of the face of the amendment, even then the proper conclusion to be drawn therefrom, may be contested, and appropriately debated. The opponents of the amendment may contend with vehemence that no rule of economy will attend its operation, while with equal vehemence and superior logic the friends of the amendment may demonstrate that from its operation such a result will be a reasonably necessary sequence. Hence, the mere fact that the effect of a proposition may be assailed in debate, will not operate to establish its invalidity, or put it beyond the pale of the Holman rule. The true doctrine is, that before sustaining an amendment offered under the Holman rule, the Chair must be reasonably satisfied, whether with or without debate, that such amendment operating by its own force will effect a retrenchment of expenditures. If the processes of his own mind bring him to this conclusion, after the consideration of all the matter proper to be considered under Speaker Kerr's ruling, then the point of order should be overruled. The Holman rule should be viewed in the light of reason, and of what it is designed to accomplish.

I agree that if the Chair is in doubt, if he can not reasonably determine whether retrenchment will follow the amendment, if with all the light before him he is unable to concur in the view urged by the friends of the pending proposition that it is one of necessary economy, then the point of order should be sustained; but if the Chair upon a reasonable view of the situation—because we are all supposedly reasonable beings, doing the best that we can with our problems, and applying the rule of reason to the solution of our difficulties—if, I say, the Chair upon full consideration of the subject matter reaches the conclusion that a reduction of expenditures will be effected with reasonable certainty by the amendment, then such an amendment, I submit, will be in order. The Chair is entitled to look to the legislative features of the amendment designed to effect economies, and to the reduction of $500,000 in the total amount appropriated, which is a part of the amendment and is presented as a result of the legislation in the proposed provision. He is also entitled to consider whatever is presented by the experience of the department as actual results in the handling of material of this character. If upon the whole, the Chair reasonably concludes, having in mind the known cost of transporting this class of matter, the provisions of the amendment, and the change in the total appropriation, that a reduction of expenditures will follow the enactment of this amendment, then upon such a view the amendment is in order, whatever the Chair may think of its merits, or the propriety of its passage.

Mr. JACKSON. Mr. Chairman, I desire to say just a few words in somewhat of a personal way.

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the gentleman has already spoken about three times, as often as any other gentleman has spoken upon this subject.

The CHAIRMAN. The Chair is prepared to rule. The present occupant of the chair has been in the chair on different occasions when different phases of this Holman rule have been construed, and the Chair thinks that the reading of such decisions as he has already made upon those matters will indicate the tendency of the present occupant of the chair to always construe that rule strictly and not to give it wider latitude than the clear import of the language used in it justifies. The Chair is disposed to apply that same principle in the decision that he is now called upon to make.

The amendment proposed by the gentleman from Kansas [Mr. JACKSON] is as follows:

Amend, line 21, page 17, by striking out "$49,000,000" and insert in lieu thereof "$48,500,000," and by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors, for transmission to or delivery in any State, county, municipality, wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States; and the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States."

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

The decision referred to has been read, but the order was not altogether good at the time, and the Chair will ask the indulgence of the House while he reads it again:

On May 5, 1880, the Post Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. George D. Robinson, of Massachusetts, offered this amendment to the paragraph providing $9,500,000 for transportation of mails on railroad routes:

"Strike out all in the sixtieth and sixty-first and sixty-second lines between the word 'namely,' in the sixtieth line, and the word '*Provided*,' in the sixty-second line, and substitute the following:

"'For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.'"

Mr. James H. Blount, of Georgia, made a point of order against the amendment, under Rule XXI, as it then existed, in a modified form adopted at that session of Congress:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The Chair will state that the form was the same as it is now, except that it did not then contain the proviso, or at least the proviso was not invoked in that discussion.

After debate, the Chairman, Mr. John G. Carlisle, of Kentucky, overruled the point of order in the following language:

Although the meaning of the words "necessary and special facilities for postal service" is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States; or, second, by reducing the compensation of persons paid out of the Treasury of the United States; or, third, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill; but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out "$9,500,000" and inserting "$9,490,000." So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide; but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order.

We have here one more proposition than was contained in the proposition on which Mr. Carlisle then had occasion to rule. That contained a proposition to reduce the amount, a proposition to authorize $150,000 for a certain purpose. The proposition presented by the gentleman from Kansas seeks to reduce the amount, and then it proposes to have certain governmental activities, or to lay certain limitations that upon the face of it would appear to the Chair to make it possible to make some reduction of amount at least, and then another proposition similar to that which was contained in the amendment ruled upon by Mr. Carlisle.

It seems to the Chair that the proviso against which the gentleman from Tennessee [Mr. MOON] makes the point of order is so related to that portion of the amendment proposed by the gentleman from Kansas, which is admitted to be in order, that it is germane, and the Chair therefore overrules the point of order.

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

Mr. SHERLEY. Mr. Chairman, I demand a division of the amendment.

Mr. STEENERSON. Mr. Chairman, I desire to offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the first part of the amendment.

The Clerk read as follows:

Amend, line 21, page 17, by striking out "$49,000,000" and insert in lieu thereof "$48,500,000."

Mr. SHERLEY. Mr. Chairman, I think that is a substantive proposition, and I insist that that as a single amendment shall be put to the House.

The CHAIRMAN. Does the gentleman from Minnesota desire to offer an amendment to that portion of the amendment which I just read?

Mr. STEENERSON. No.

The CHAIRMAN. The question is on the amendment just read by the Clerk.

The question was taken; and on a division (demanded by Mr. JACKSON) there were—ayes 20, noes 49.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the next amendment.

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the balance of this proposition is not now in order in view of the vote of the committee.

Mr. HAUGEN. Mr. Chairman, I wish to offer an amendment.

Mr. SHERLEY. Mr. Chairman, I make the further point of order that an amendment is not in order pending the point of order of the gentleman from Tennessee [Mr. MOON].

Mr. HAUGEN. I understood that the matter had been disposed of.

Mr. STEENERSON. I have an amendment which, as soon as it is in order, I want to offer.

Mr. JACKSON. Mr. Chairman, a parliamentary question.

The CHAIRMAN. The gentleman from Kansas will state it.

Mr. JACKSON. I want to inquire of the Chairman if we are going to be permitted to discuss this amendment?

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has made the point of order upon the second part of the gentleman's amendment. The Clerk had not reported that part of the amendment. The gentleman from Kentucky [Mr. SHERLEY] has demanded a division. Will the gentleman from Tennessee [Mr. MOON] permit the Clerk to report what would be the second amendment?

Mr. MOON of Tennessee. I will.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows.

Page 17, after line 21:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spiritucus, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, or municipality wherein the sale of such liquors is or may be hereafter prohibited by State law or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

The CHAIRMAN. And to that the gentleman from Tennessee [Mr. MOON] makes a point of order.

Mr. RODDENBERY. Mr. Chairman, if the Chair will indulge me, I should like to be heard in opposition to the point of order.

The CHAIRMAN. The Chair will hear the gentleman briefly.

Mr. RODDENBERY. Mr. Chairman, as I have already stated, when the gentleman from Alabama [Mr. HOBSON] courteously yielded to me, the proviso in itself shows a retrenchment of expenditures, and it is in conformity with the ruling of the Chair already announced. The ruling of Mr. Speaker Carlisle was based on the proposition of reducing the amount carried in the bill, and under the additional proviso that the Postmaster General might exercise certain powers in availing himself of $150,000 of the appropriation. Now, the pending amendment or proviso goes still further. It meets both the conditions of the ruling of Mr. Speaker Carlisle, and, in addition to that, it shows on its face that there will be denied and excluded from the carrying in the mails a very large volume of matter which is at present carried. The Chair undoubtedly will take cognizance that such elimination from the mails will lessen the cost to the Government.

The Chair will no doubt take further cognizance that the matter sought to be prohibited involves many tons of mail. Then this proviso, if adopted and enforced, will have a result that can not but be apparent to the Chair. The Chair of course will assume, as he must assume, that the provisions of the law will be executed, hence the result is that there will be excluded from railway mail transportation a weighty volume of expensive and chargeable matter. If this be correct, it is not necessary that there be any provision reducing the actual amount in dollars. It is not assumed that the Government will pay any more of the appropriation than is necessary to execute the enactment of Congress upon the subject. And it is the law that the mails are transported by weight charges paid by the Government to the carriers, for which this appropriation is made. It must also be conceded that when this appropriation is passed it is not known, as a matter of law or fact, what the weights of the mail will be, nor, therefore, what the charge in dollars for transportation will be. Then, if the proviso shows on its face that the quantity of matter carried by the mails would be reduced, this appropriation, based upon weight, will be likewise reduced. It is a matter of unescapable logic and deduction that there will be a reduction of expenses and retrenchment. If there be no retrenchment under this proviso, it must be because the administrative department provided for in the law and included in the proviso pays a rate in excess of law or pays for matter that is not carried. Such would be an unwarranted, if not impossible, assumption. And I submit, Mr. Chairman, as stated heretofore, that the proviso itself conforms to the literal terms of the Holman rule. It is germane, as the Chair has ruled, and it did not require the $500,000 reduction amendment to make it germane. Hence, voting down the first division of the amendment does not alter that part. It has in it the element of reducing the cost to the Government, and it does not take an amendment reducing in dollars the amount carried by the bill for that to be made to appear. Hence, voting down the first division of the amendment does not take the proviso out of the Holman rule. If this be true, the proviso would seem to be not subject to the point of order.

The CHAIRMAN. Will the gentleman from Tennessee [Mr. MOON] permit the Chair to ask a question? The Chair has ruled upon this proposition, standing as a whole, and then the gentleman from Kentucky [Mr. SHERLEY] demanded a division of the question, that division being demanded for the purpose of having a division on the vote. It was conceded, as the Chair understood, by the gentleman from Kentucky that a division could not be made prior to the ruling of the Chair for the purpose of having a ruling upon each matter separately. Now, query: Can you do by indirection that which can not be done by direction?

Mr. MOON of Tennessee. This is not a question of that sort. The whole basis for the amendment rests upon the fact that there is to be a reduction in the expense to the Government and to establish the fact that they purpose in the amendment to reduce it from $49,000,000 to $48,500,000. The Chair has held that under the Holman rule that is a basis for the ruling in favor of the point of order, both the proviso and the amount. Now, the House has declined to make any reduction in the amount. The question comes in, Does the proviso stand alone; the House having sustained the amount of $49,000,000 and not agreed to the other amount? Does the amendment alone, standing upon its face, force the Chair to the conclusion that a reduction will still be maintained under the Holman rule?

Now, I do not want to discuss this question sericusly very long. Everybody knows that if this amendment were carried and became a law you would have to open up every package of letters in every place in the United States, and it would take more men to attend to that work than it takes to carry the mail. Without being offensive to anybody, or intending to be, it seems that any man removed three degrees from idiocy would know that it would cost this Government four or five millions of dollars to carry out this amendment.

Mr. HOBSON. Mr. Chairman, I make the point of order against the point of order that the question itself has already been passed upon by the Chair.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] makes the point of order that the question has already been ruled upon by the Chair.

Mr. HARDWICK. Mr. Chairman, I want to call the attention of the Chair and of the committee to the ruling made in the Fifty-second Congress, in which the Chairman himself decided this same question, as noted on page 409 of the Manual.

The CHAIRMAN. The old one or the new one?

Mr. HARDWICK. The new one, the second session Manual.

The CHAIRMAN. What rule is it under?

Mr. HARDWICK. It was under the Holman rule. I read:

An amendment was proposed reducing by one the number of clerks in a bureau provided for in the bill, coupled with a distinct provision repealing part of an act, the effect of which repeal would dispense with the one clerk in such bureau. Held that so much of the amendment as provided for the repeal was subject to the point of order, its effect not being directly to reduce expenditure.

In other words, in that case, if the Chair will get the Precedents and look it up he will find, I think, that this happened: That it was held that part of the amendment which reduced in so many figures the total of the appropriation carried in the bill was in order, but that another part of the amendment was not in order, the question being separated and the Chair holding one part as in order and the other part not in order that sought indirectly to carry out that purpose. He held that that part was not in order. It appears to me here that the second part of the amendment is subject to the point of order under the Holman rule, and that the question is susceptible of a division. That same thing was done in the case I cite.

The CHAIRMAN. It is the opinion of the gentleman from Georgia [Mr. HARDWICK] that the Chair having passed upon the matter as a whole, and not having divided the subject, it is

still in order when a division is demanded for the purpose of voting?

Mr. HARDWICK. Undoubtedly the Chair could pass on it separately.

Mr. HOBSON. Mr. Chairman, if the second part of the paragraph had been out of order, the Chair would have ruled the whole as being out of order, and the Chair having ruled the whole as in order, one part could not be out of order.

Mr. MANN. Mr. Chairman, I thought when the amendment was offered by the gentleman from Kansas [Mr. JACKSON] that under the Holman rule it was in order. The Chair held it to be in order. Thereupon the committee amended the amendment. But the amendment having been held to be in order, and an amendment to that amendment having been agreed to, I do not see how it is possible to declare a portion of the original amendment out of order so long as a change has been made by the committee by way of amendment.

If the original amendment was in order when it was offered, it certainly still is in order when presented to the House to vote upon it. The very fact that the committee has amended the amendment would ordinarily preclude the making of a point of order against the amendment, because after an amendment is offered to the amendment, which in the first place was subject to a point of order, it is too late to raise the point of order. But the amendment having been held to be in order, as proposed by the gentleman from Kansas [Mr. JACKSON], I do not see how an amendment agreed to by the committee to that amendment will thereby render it out of order.

Mr. HOBSON. Mr. Chairman, I ask for a ruling on my point of order.

Mr. SHERLEY. If the Chair please, it was the right, and the Chair so held, of anyone to demand a division. A division is granted because there are distinct propositions. In this case there were three propositions. Now, those three propositions were considered by the Chair on a former point of order, and in weighing any one of the three the Chair weighed it in connection with the other two, and the decision of the Chair expressly showed that. But when it came to voting, a Member in the exercise of his right demanded a division, which was granted, so that now there come before the House three distinct propositions, because that is the meaning of the division itself. One of those propositions has been voted down. With its voting down there falls the support from which the second proposition got its right to appear at all, and therefore the condition being now as if the first proposition had never been, because legislatively it does not exist, it is no part of the bill under discussion. The Chair has confronting it a proposition—the second proposition here—and on that the point of order is made, because there is nothing to predicate the contention on.

Mr. HOBSON. Mr. Chairman, will the gentleman allow an interruption?

Mr. SHERLEY. There is nothing on which to predicate the contention that it necessarily brings about a reduction in expenditure. And in that connection I desire to call the attention of the Chair to the rule. The rule provides that a reduction of expenditure generally holds only where an amendment is offered by authority of the committee, but where the amendment is offered by an individual the reduction must be in the amount carried in the bill.

Now I yield to the gentleman from Alabama.

The CHAIRMAN. Before the gentleman from Kentucky yields to the gentleman from Alabama [Mr. HOBSON] the Chair will say that he had in mind a matter which the gentleman from Kentucky [Mr. SHERLEY] has just suggested and meant to propound that inquiry later on; but the matter which is in the mind of the Chair just now is, having ruled upon this proposition as a whole, and as the gentleman from Illinois [Mr. MANN] has expressed it, the Committee of the Whole having amended that amendment that was proposed, that is virtually amending it by failing to adopt a portion of it, whether the Committee of the Whole should not vote on the other part of it.

Mr. SHERLEY. If the Chair will permit, in thinking over the matter I think the only trouble was in holding that the matter was not divisible as a subject for the point of order. I submit that the only reason for a division is because more than one substantive provision is proposed. That is the only ground on which you can have a division. Therefore, we have not amended the amendment. We have refused to agree to one of three amendments and we now have before the House two amendments. I maintain that the second of those three, that is, the first of the remaining two, has nothing on which to rest. Now I yield to the gentleman from Alabama [Mr. HOBSON] for a question.

Mr. HOBSON. The gentleman realizes perfectly well that under the ruling of the Chair on the whole amendment that ruling covered every part of the amendment, so that we are now presented with the situation that but a few moments ago the Chair ruled on that part of the amendment that is now before the House and against which the gentleman from Tennessee [Mr. MOON] makes the point of order, and therefore the call for a second ruling, following on the heels of the other ruling, is dilatory and out of order. I will ask the gentleman, Does he not recognize that this amendment has been ruled on as being in order?

Mr. SHERLEY. In the sense in which the gentleman asks the question, I will say no, for this reason: That you have now a concrete proposition presented to you. What is past is behind us, and it is not a part of one amendment that is being presented to the House. It is a single affirmative proposition. It must have been a single affirmative proposition or it could not have been divided from the rest. One of these affirmative propositions has disappeared, as if it had never existed. The other stands in front of you now, to which the point of order is raised, and the situation that confronts you is not the situation of a division——

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

Mr. SHERLEY. For a question.

Mr. HOBSON. I am quite sure the gentleman will recognize this: That the second part, upon which the ruling is now requested, was substantive and was not affected by the first part, which reduced the appropriation.

Mr. SHERLEY. I do not admit anything of the kind.

Mr. HOBSON. That, whether it was or not, the second part was the one that was included in the ruling.

Mr. SHERLEY. I do not admit that.

Now, if I have the floor, I will yield to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. I am going to read from Crutchfield's Manual. Here are his remarks on the division of the question in the star-route case, which was referred to earlier in the day. I am aware that a text book is not so controlling as a decision, but Crutchfield was an able parliamentarian. Here is what he says in commenting on the star-route case. I am reading from the Constitution, Manual, and Digest of the House of Representatives, first session Fifty-third Congress, page 268:

> It will be noted that the point of order was made against the amendment as a whole. The propositions contained in the amendment were divisible, namely, first, to substitute $49,500 for $50,000; and, second, the provision "to be disbursed in such manner," etc. The second branch of the amendment did not of itself result in a reduction of the amount carried by the bill, and had a division of the question been demanded and a point of order made against the latter branch the provision changing the law as to the manner of disbursements would no doubt have been held out of order.

Now, before the Chair decided on the first point of order, I made a parliamentary inquiry as to whether that moment was the time for me to demand a division of the question. The Chair replied by asking me what my own opinion was. I expressed my opinion, and it is still my opinion, that the proper time to demand a division of the question is when the question is about to be put and not when the point of order has been raised. The Chair decided the amendment as offered to be in order. Clearly it must have been in order only because it carried a reduction in terms. Now that the committee has voted down that reduction, the proposition on which we are about to vote is at best merely a retrenchment, and therefore not in order unless presented by a committee having jurisdiction. I am sending the comment of Mr. Crutchfield to the Chair, so that he can read it for himself.

Mr. MANN. Mr. Chairman, I heard the gentleman from Massachusetts demand a division of the question, but recalling the rule that a motion to strike out and insert is not divisible, I did not suppose that the gentleman was serious in his demand.

Mr. GARDNER of Massachusetts. The committee has already divided the question on the demand of the gentleman from Kentucky [Mr. SHERLEY]. The division was after the motion to strike out and insert and before the legislative proviso.

Mr. MANN. But the motion of the gentleman from Kansas was to strike out $49,000,000 and insert something in its place.

Mr. MOON of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. Is it in order for me to withdraw my point of order?

Mr. HOBSON. I will say that he can not withdraw it until my point of order is disposed of first. I am willing to withdraw my point of order if the gentleman will withdraw his.

Mr. MOON of Tennessee. I want to say that there have been three or four hours of the public time wasted on this question, which ought to have been settled in 10 minutes, and I am willing to withdraw the point of order.

Mr. HOBSON. Then, Mr. Chairman, I withdraw my point of order against the gentleman's point of order.

Mr. SHERLEY. I will renew the point of order.

Mr. HOBSON. Then I make the point of order against the point of order of the gentleman from Kentucky, and I simply repeat that the Chair has ruled upon the point and the request is dilatory and out of order.

The CHAIRMAN. The Chair may be in error in regard to this matter, and if he is in error of course it will not be taken as a precedent. It seems that, the Chair having ruled on the proposition as a whole, and there having been no demand for a division for the purpose of the ruling, it brought this entire amendment before the House for a vote. Then it was the right of any Member to raise the demand for a division of the proposition for a vote, and by a failure to adopt any part of the amendment when it was subdivided that vote virtually amended the amendment. The Chair does not think this action places the portion now before the House in such a parliamentary situation as that it is subject to the point of order made by the gentleman from Kentucky [Mr. SHERLEY], and therefore the Chair sustains the point of order made by the gentleman from Alabama.

Mr. STEENERSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

After the word "liquors," in the amendment, insert the following: "Smoking and chewing tobacco, snuff, cigars, and cigarettes."

Mr. HOBSON. Will the gentleman from Minnesota yield for a question?

Mr. STEENERSON. I will yield after I have opened the discussion.

Mr. HOBSON. Very well, I will not ask it now if the gentleman desires to discuss it.

Mr. STEENERSON. Mr. Chairman, it is generally conceded that nine times as many men use tobacco as use liquor, that it is a greater evil perhaps because more insidious and more habit-forming drugs are contained in various preparations of tobacco, especially in the last item—snuff. I am informed by men who have made a special investigation that the habit-forming power of the snuff generally distributed through the country is very great. The advertisements in the magazines of beautiful pictures of men smoking tobacco does a great damage to the welfare of citizens.

Mr. HOBSON. Will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. HOBSON. I wanted to ask the gentleman if he knows of any State in the Union where it is against the law to sell all these articles?

Mr. STEENERSON. Some of them. I think it is against the law in my State to sell cigarettes, and it ought to be against the law to sell snuff, because it contains so many habit-forming drugs.

Mr. HOBSON. I am asking for information. Does the gentleman recommend to the people of this country——

Mr. STEENERSON. Kansas prohibits the sale of cigarettes.

Mr. HOBSON. And cigars and snuff?

Mr. STEENERSON. I do not know about that, but I would be willing to compromise on cigarettes and snuff. I think there is no more insidious evil than the distribution of advertisements of tobacco in all its forms. You see in all the magazines pictures of men seated in easy chairs in luxurious apartments smoking cigarettes and cigars and pictures of golden snuff-boxes that they use to imbibe the snuff. The Government should not aid in distributing these advertisements among the people. They are more injurious in their tendencies than those containing advertisements of fraudulent investment schemes or even of liquors.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment to the gentleman's amendment by way of a substitute.

The Clerk read as follows:

And "playing cards and poker chips."

Mr. STEENERSON. I make the point of order, Mr. Chairman, that that is not germane.

Mr. MOORE of Pennsylvania. Mr. Chairman, a great many young men go astray playing poker, and there are so many alluring advertisements of cards and poker chips that it seems to me, so long as we are venturing on the field of reform, that we ought to be thorough and workmanlike.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. What will the first vote come upon if the amendment offered by the gentleman from Pennsylvania is a substitute?

The CHAIRMAN. On the substitute.

Mr. MANN. A substitute is not in order to be submitted until the original amendment is perfected.

The CHAIRMAN. The gentleman from Pennsylvania offered his amendment as a substitute for the amendment proposed by the gentleman from Minnesota.

Mr. MOORE of Pennsylvania. That is what I did.

Mr. MANN. A substitute can be offered for the original proposition, but I do not understand that a substitute can be offered to an amendment to the original proposition.

Mr. STEENERSON. The substitute can be voted on after the original proposition.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania to offer his amendment as a substitute for the amendment proposed by the gentleman from Minnesota.

Mr. MOORE of Pennsylvania. It seems to me my substitute should be adopted if we are going into these other reforms.

Mr. HOBSON. Mr. Chairman, I make a point of order against the amendment of the gentleman from Pennsylvania if it is a substitute for the amendment to an amendment.

Mr. SHERLEY. I make the point of order that, there having been discussion, it is too late.

The CHAIRMAN. The point of order is sustained.

Mr. HOBSON. Mr. Chairman, I ask to be heard on the amendment.

The CHAIRMAN. The gentleman from Alabama is entitled to the floor for five minutes.

Mr. HOBSON. Mr. Chairman, I do not desire to take five minutes, but I wanted to say to the gentleman from Minnesota, when I asked him the question, that I intended to vote for his proposed amendment and also for that of the gentleman from Pennsylvania, but I want to point out that I recognize perfectly well that it would, at least the last one, be harmful to the original amendment. Of course, the gentleman from Pennsylvania realizes that there is not a State or county or municipality in the Union where there is a law against the sale of poker chips or of playing cards.

Mr. CANNON. Will the gentleman allow me?

Mr. HOBSON. Certainly.

Mr. CANNON. There is a law, I think not repealed, that imposes a penalty for the sale of playing cards in the State of Illinois, enacted in 1819, and also against the importation of billiard tables. There is a law in the State of Kansas, as I am credibly informed, that makes it a penitentiary offense to use playing cards in gaming, and there have been convictions under that law, and men are in the penitentiary for it.

Mr. MOORE of Pennsylvania. Mr. Chairman will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MOORE of Pennsylvania. We still have laws in Pennsylvania known as blue-laws, dating way back to 1794.

Mr. HOBSON. Does the State like to enforce those laws?

Mr. MOORE of Pennsylvania. Sometimes they are not enforced any more than the liquor law is enforced in certain sections of the country.

Mr. MANN. Mr. Chairman, when the amendment was first proposed by the gentleman from Pennsylvania [Mr. MOORE], I made the point of order against it and the Chair stated that it was offered as a substitute, which would be in order as a substitute for the original proposition. But a substitute for an amendment to an amendment is not in order. Under the rules a proposition is in order, an amendment to that proposition is in order, and a substitute for the original proposition and an amendment to the substitute is in order, but if a substitute to an amendment were held in order, then an amendment to the substitute would be in order, thereby getting in an amendment in the third degree to the original proposition, and if this is offered as a substitute for the original amendment it is in order to vote upon it when that is reached, but, I think, not in order at this time.

The CHAIRMAN. The gentleman from Illinois is correct. It is not in order to offer a substitute for the amendment of the gentleman from Minnesota.

Mr. STEENERSON. Then, Mr. Chairman, the vote is on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STEENERSON].

Mr. JACKSON. Mr. Chairman, I desire to be heard on my amendment.

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. JACKSON. I shall not detain the House very long.

Mr. MOON of Tennessee. Mr. Chairman, I move that all debate close upon this section.

The CHAIRMAN. The gentleman from Kansas has the floor for five minutes. The gentleman from Tennessee will be recognized when he is through.

Mr. MOON of Tennessee. I do not want to be recognized after the time has been all used by the gentleman from Kansas. He has had plenty of time.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that the gentleman from Kansas is within his rights under the five-minute rule.

Mr. MOON of Tennessee. Then let him proceed.

The CHAIRMAN. The gentleman from Tennessee seemed a trifle impatient with the Chair when the Chair said he would recognize the gentleman.

Mr. JACKSON. Mr. Chairman, I think I have been very patient and have occupied little time of the House in discussing this proposition. I presented it to the House in the utmost good faith, because I believed that the United States Government should no longer continue the partnership with the liquor houses and the circulation of fraudulent matter in the mails. I regret very much that the gentleman from Tennessee has been so petulant and impatient——

Mr. MOON of Tennessee. Mr. Chairman, I object to any statement about the gentleman from Tennessee by the gentleman from Kansas.

Mr. JACKSON. Mr. Chairman, I am simply replying to what the gentleman said to me. I believe I have a right to reply in my own time to a statement concerning myself.

Mr. MOON of Tennessee. The gentleman has not the right to make any remarks of that kind.

Mr. JACKSON. Well, the gentleman made it.

The CHAIRMAN. The gentleman from Kansas is familiar with the rule—when debate is proceeding under the five-minute rule that it must be confined to the subject matter of the amendment. The gentleman will proceed in order.

Mr. JACKSON. Mr. Chairman, the gentleman challenges my good faith in offering this amendment. What I said was said in reply to the gentleman's suggestion that it contains nothing but rot, and I congratulate the State of Tennessee, which is in a way committed to the subject of prohibition, that it has a Representative in Congress who stands here on the floor of the House and denounces any attempt to take out of the mails of the United States this class of literature as pure rot and hypocrisy. The gentleman saw fit to make remarks upon the result of the recent election concerning myself. It is true that I was defeated, as many other better gentleman were defeated, by a change of politics in my district, but I can not forget, Mr. Chairman, that in every little town and hamlet in that district I found from 15 to 20 men, at the instance of the agents of the breweries and liquor houses, fighting me openly because of my attitude upon the floor of this House on the temperance question and in the enforcement of the State laws. I also congratulate the State of Tennessee that the same argument that was in the mouths of the breweries in our State has followed us to the Halls of Congress and now finds proclamation from the mouth of the distinguished chairman of the Committee on the Post Office and Post Roads. And in reply to the suggestion that my amendment was not rot, the gentleman makes this reply, this unparliamentary, ungentlemanly reply, which could have no other object than to insult me personally, and, therefore, I will not be as bad as he is and characterize it, as it should be characterized, as cowardly as well as unparliamentary and ungentlemanly.

Mr. MOON of Tennessee. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. I do not want to disturb the gentleman until he is through. I desire to be recognized when he has concluded.

The CHAIRMAN. The Chair desires to caution the gentleman from Kansas to proceed in order.

Mr. JACKSON. Mr. Chairman, this amendment will reduce the mails. It will take out of the mail much of the matter that never should have been circulated in the mail, and the State of Kansas does not come here asking this amendment alone for herself. We can enforce our own laws, and we do enforce them, and I venture to say that the laws concerning the sale of intoxicating liquors in Kansas are as well enforced as the State law against murder or any other misdemeanor is in any State of the Union. No newspaper published within the confines of the State of Kansas circulates these advertisements. No self-respecting editor—and two of them, I am proud to say, are on our delegation in Congress from Kansas—would accept such advertisements, and none of the papers in Kansas does so.

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

Mr. JACKSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by including therein a statement of the governor of the State of Kansas concerning the way in which the intoxicating liquor laws of Kansas are enforced.

Mr. MOON of Tennessee. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Tennessee objects.

Mr. MOON of Tennessee. Mr. Chairman, I have at no time a desire to be the least bit personal in this or other matters. I generally speak my views of men and measures. I notice the gentleman as he stands on that side of the aisle to suggest that what I have done or said in this House was ungentlemanly or cowardly. I want to say to the gentleman that he can have an opportunity, if he thinks he can make anything out of it, to say that to me anywhere, at any time, or under any circumstances. I do not want to discuss the gentleman, and I am only going to refer for a few moments to what he said to me on this floor. I said, and I say it again, that there is more contemptible rot and hypocrisy by demagogues and scoundrels about this prohibition question than any other question that was ever presented in this country. There is no doubt in the world about that. Every man that gets crooked on it feels that it is necessary for him to do something to impress somebody, somewhere, that he has more morality and more decency than other men.

I have thought only of keeping off this bill legislation of this sort that does not belong on it. So far as the question of temperance is concerned, I have cast more temperance votes and done more for the cause of legitimate temperance than a dozen men like the gentleman from Kansas. [Applause.]

I am not going to talk about him. I am sorry I referred to him again. It is just as true of the politically dead as it is of those who are actually dead, that one ought not to say anything about them except that which is good. But I can not keep from congratulating his district and this country that a man of his type should have been signally and disgracefully repudiated by his constituents.

Mr. HOBSON. Will the gentleman yield for a moment?

Mr. MOON of Tennessee. No; I will not yield to you for anything.

Mr. JACKSON. I make the point of order that the gentleman from Tennessee is out of order.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] will proceed in order.

Mr. MOON of Tennessee. I do not care whether you put this measure on the bill or not, so far as whisky is concerned. I wish all the whisky was out of the world, so far as that is concerned, and nobody could get drunk or ever would be drunk, but the case would involve more definite and thorough discussion than we could give here, and I am not going to be drawn into a controversy either for or against prohibition. I have a record on that question. But I do say, if this House undertakes to put this amendment on this bill, the effect of it will be to add thousands and tens of thousands of officials in the United States to determine by the opening of every letter and every paper whether this law has been complied with or not. You can, and will, add millions under this amendment. If you want to pass upon that question, do it openly and honestly. Take up your bills and pass on them, and then we will see who is in favor of or who is against proper legislation on this question. But I do protest against attempting to put as a rider on this Post Office appropriation bill an immature and ill-considered proposition, moral in its nature, it is true, but one that has no place here because of the injury it will do to this service and to the Government. Let us deal with it as we would with any proper legislative enactment, and not attempt to incorporate it upon this bill or any other. [Applause.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Minnesota [Mr. STEENERSON] to the amendment proposed by the gentleman from Kansas [Mr. JACKSON].

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

Mr. HOBSON. Mr. Chairman, I desire to be heard on the original amendment now, and I do not care to take the five minutes to which I am entitled.

Mr. MANN. A parliamentary inquiry, Mr. Chairman. Is the substitute offered by the gentleman from Pennsylvania [Mr. MOORE] still before the House?

The CHAIRMAN. It was ruled out of order.

Mr. MANN. I made a point of order against it.

The CHAIRMAN. It has not been reoffered.

Mr. HOBSON. Mr. Chairman, I regret very much that the gentleman from Tennessee [Mr. MOON], a good friend of mine, should have included me in his impatience. I recognize that at times there have been cases where people have sought cover behind an assumed support of prohibition, but I have seen many other cases where they have taken cover behind liquor.

I dare say there are some scoundrels who are associated with law enforcement, but I will answer that there is not one to a thousand as compared with those who are associated with the violation of law that this amendment is trying to reach.

I wish that the gentleman from Tennessee had permitted us to proceed at the outset on the discussion of this question on its merits. I will say to him that under the five-minute rule my discussion of it on its merits would not have been on prohibition per se, but would have been purely and simply on a ground on which I am sure he would join with me and strike hands with me, namely, that if a citizen ought not to violate law, certainly the Federal Government ought not to be an accessory to the violation of law [applause]; and that wherever in appropriation bills or elsewhere the question arises in the deliberations of this House where we could promote, under the rules, by legitimate methods the better observance of law we should do so, and particularly the law of the weaker, the State, the county, the town, law that they believe in, even if they are mistaken, law that they believe affects the very question of their perpetuity. Alcohol having been declared to be a specific for degeneracy, they recognize that in that degeneracy, the blight not only upon the man but upon his children, is involved their prosperity, their liberties, and in the end the very question of life and death.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment of the gentleman from Kansas.

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

Mr. JACKSON. Division, Mr. Chairman.

The committee divided; and there were—ayes 33, noes 57.

Mr. JACKSON. Tellers, Mr. Chairman.

Tellers were ordered.

The gentleman from Kansas [Mr. JACKSON] and the gentleman from Connecticut [Mr. REILLY] took their places as tellers.

Mr. CANNON. Mr. Chairman, may I ask how many gentlemen desired tellers?

The CHAIRMAN. Twenty-three.

The committee again divided; and the tellers reported—ayes 35, noes 56.

So the amendment was rejected.

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

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. REILLY. Mr. Chairman, what has become of the amendment that I sent to the desk?

The CHAIRMAN. Is it an amendment to the amendment?

Mr. REILLY. It is an amendment that was temporarily placed on the table.

The CHAIRMAN. There is another portion of this other amendment to be disposed of. The Clerk will report it.

The Clerk read as follows:

On page 17, after line 21, insert the following: "The Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States."

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

The question was taken, and the amendment was rejected.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 19, line 4, by striking out the figures "$24,360,000" and inserting in lieu thereof the figures "$24,826,000."

Mr. MOON of Tennessee. That would make the section conform to the amendments?

Mr. REILLY. Yes; that was done in order to conform with the amendments already passed. It adds $466,000.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Connecticut [Mr. REILLY].

Mr. MANN. Mr. Chairman, the gentleman has computed the items, and this covers all of them?

Mr. REILLY. Yes.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Connecticut.

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

Mr. HAUGEN. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa [Mr. HAUGEN] offers an amendment, which the Clerk will report. Will the gentleman from Iowa kindly indicate where the amendment he proposes is intended to appear?

Mr. HAUGEN. Immediately after the section under consideration. It should come in on page 17, at the bottom, after line 25.

Mr. MANN. Mr. Chairman, that has been passed over.

Mr. MOON of Tennessee. You can not go back to page 17.

The CHAIRMAN. The Chair will state to the gentleman that that paragraph has been passed.

Mr. HAUGEN. We are considering the paragraph, as I understand it.

Mr. MURDOCK. Mr. Chairman, as a matter of fact we are considering the paragraph at the bottom of page 17.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] had proposed an amendment on page 19. Of course we were considering that paragraph at the bottom of page 17.

Mr. HAUGEN. Mr. Chairman, I was on my feet asking to be recognized.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. LLOYD. Mr. Chairman, there seems to be a misunderstanding about this matter. It was understood this morning that we should recur to page 19 whenever the gentleman from Connecticut [Mr. REILLY] had his amendment prepared to complete these footings, and only for that purpose.

Mr. MANN. And he just asked unanimous consent to recur to page 19 for that purpose, and the amendment was agreed to.

Mr. LLOYD. We did not revert to page 19 at all except for that purpose.

The CHAIRMAN. The Chair will state that his understanding is that the paragraph at the bottom of page 17 was passed this morning while the present incumbent of the chair was temporarily absent. He was informed at the desk that the paragraph was passed over with a point of order reserved by the gentleman from Illinois [Mr. RODENBERG]. Now, that having been attended to and that part of it having been disposed of, as well as some amendments to it having been disposed of, it would seem that the gentleman from Iowa [Mr. HAUGEN] is entitled to recognition to offer his amendment.

Mr. MOON of Tennessee. I do not know how we will get through at that rate.

Mr. HAUGEN. I will say, Mr. Chairman, that the amendment I offer has sufficient merit to enable it to be disposed of in a very short time.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. HAUGEN].

The Clerk read as follows:

On page 17, after line 21, insert: "*Provided*, That the Postmaster General be, and he is hereby, authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1913, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 10 per cent per annum from the rates fixed and allowed by the first section of an act entitled 'An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1874, and for other purposes,' approved March 3, 1873, for the transportation of mails on the basis of the approved weight, and amended by an act of July 12, 1876, and by an act of June 17, 1878, and an act of March 2, 1907."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on the amendment.

Mr. HAUGEN. I understood the gentleman to say a moment ago that any amendment having for its object the reduction of the amount to be appropriated would be in order. I also understood the Chair to hold that any amendment germane to the proposed new legislation would be held in order.

The CHAIRMAN. It seems to the Chair that the amendment is in order under the Holman rule.

Mr. MOON of Tennessee. Let us take a vote on it.

Mr. HAUGEN. Mr. Chairman, I shall not detain the House at this time except to say that the amendment provides for a 10 per cent reduction, which will, if the amendment is adopted, amount to $5,400,000. It is a simple proposition. I think the fact that this Government is now paying an average of more than 4 cents per pound for the carriage of mail matter, and whereas the express companies pay less than 1 cent per pound for a similar service, that alone is sufficient evidence to prove the merits of the proposition and to warrant the proposed reduction.

Mr. MOON of Tennessee. Mr. Chairman, we have had a parcel-post proposition here, adding millions of money that must be expended for the service of the Government. The general growth of the service is great, and this Congress, in order to be intelligently informed about the matter, has actually created a commission, with instructions to report as soon as practicable upon this question. I think it would be very unwise to take up a proposition of a 10 per cent reduction without any information on it at all.

Mr. HAUGEN. Mr. Chairman, the very fact that we have added the parcel-post service is another good reason why we should now reduce the pay. Every hundred pounds of express

transferred from the express to the mail increases the pay to the railroad companies for carrying more than 3 cents per pound, hence the excessive, unjust, and unreasonable high rate now paid will add millions of dollars to the already excessive receipts of the railroad companies, and if for no other reason that alone would warrant the reduction proposed in the amendment.

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

Mr. HAUGEN. Yes.

Mr. MURDOCK. I tried to understand the amendment of the gentleman from Iowa. I should like to ask him if his amendment reduces merely the pay to the railroads for the carriage of the mails in the matter of weight? Does he at all go into the question of pay for the railway mail cars?

Mr. HAUGEN. It reduces the amount 10 per cent on both the $49,000,000 for carrying the mail and on the $5,000,000 item for the mail cars, the reduction of 10 per cent amounting to in the aggregate $5,400,000.

Mr. CANNON. Mr. Chairman, this is a very important amendment. It may be that the railways in this country receive too much pay now, but the fact that the gentleman states that the Postmaster General recommends the reduction is no argument to me in favor of a reduction without full consideration. The Postmaster General asserts that we lose $60,000,000 on carrying second-class matter. I do not know whether we do or not. It may be that after a full consideration that great loss, as compared with the proposed 10 per cent reduction to the railways, should be taken into account. For one I am not ready to take it into account except as it may be intelligently and fully discussed. We have in the United States almost half the railways in the world carrying practically one-half of the railway commerce of the world. They go to all our States, crossing the continent. It may be that they receive too much pay. I do not know. From time to time their pay has been reduced. I hold no brief for the defense of the railways more than for any other corporations or any other individuals performing service for the Government. It is necessary that they should make improvements and betterments in order to keep pace with the rapid increase of population and commerce, and there are people who look with apprehension on the physical condition of the railways. We are told by the newspapers that they are driven to the negotiation of short-time notes for construction and repair of terminals and tracks, some at 6 per cent, and so far as I have noticed, none under 5 per cent, because they can not negotiate their bonds.

I say again, it may be that the newspaper postage ought to be increased. It may be that the railway-mail pay ought to be reduced, but in almost the closing days of this session for an amendment to be offered here hop, skip, and jump, without a chance for full consideration, to make a reduction of 10 per cent in the railway-mail pay does not address itself to my discretion as a legislator. I do not now, and never did, own a share of stock in any railway corporation, nor did I ever represent one as an attorney, directly or indirectly, in any way or form. It is important to all the people, nearly a hundred million of them, that these great arteries for the transportation of our enormous products should be fairly dealt with. Not only is it important to the railways themselves, but it is more important to all the people than it is to the railways. I notice that some people connected with railway management in New England, and some in New York, and some in Indiana, and possibly some in Ohio, have been indicted lately for not having their railways in sufficient repair. My service in this House will soon close, and while I should not regret to see the reduction of railway-mail pay, if it ought to be reduced, my judgment is that it ought not to be done until after full investigation, full consideration, and after the intelligent judgment of the majority of the House believes that it should be done, and how far it should be decreased.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Iowa [Mr. HAUGEN].

The question was taken; and on a division (demanded by Mr. HAUGEN), there were—ayes 16, noes 42.

Accordingly the amendment was rejected.

The Clerk read as follows:

OFFICE OF THE THIRD ASSISTANT POSTMASTER GENERAL.

For manufacture of adhesive postage stamps, special-delivery stamps, books of stamps, and for coiling of stamps, $800,000.

Mr. FOSTER. Mr. Chairman, I desire to offer an amendment.

Mr. MANN. Mr. Chairman, we have been at work very hard since 11 o'clock this morning. It is plain that we can not finish this bill to-night anyhow.

Mr. MOON of Tennessee. I want to finish the bill to-night.

Mr. MANN. It is not possible to finish the bill to-night. There have been several things passed over.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 23, at the end of line 4, insert the following:

"*Provided*, That from and after July 1, 1913, it shall be lawful to place any ordinary stamps of any denomination with the words "parcel post" written or printed on the package under such regulation as the Postmaster General may prescribe, and said package shall be handled, transmitted, and delivered in all respects as though it bore regulation parcel-post stamp or stamps.

Mr. FOSTER. Mr. Chairman, this is only to bring about a change in the regulations as to parcel-post stamps, which I think all Members will call to mind has caused a good deal of trouble since the parcel post was instituted.

Mr. CANNON. This is to make the ordinary stamps available for parcel post.

Mr. FOSTER. Yes.

Mr. CANNON. Does not the gentleman think it is important from the standpoint of future regulation that we should know the amount of revenue that is brought in by the parcel post?

Mr. FOSTER. This provides that the package shall be marked "parcel post" and that the provision shall not go into effect until next July.

Mr. CANNON. And up to that time we would have the regular parcel-post stamps?

Mr. FOSTER. Yes.

Mr. MANN. Mr. Chairman, can we have the amendment again reported?

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

The Clerk again read the amendment.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Illinois whether he is sure that the wording of the amendment would be construed to mean that there must be stamps of sufficient value placed on the package, as is now provided by existing law.

Mr. FOSTER. I think so. "Under such regulation as the Postmaster General may prescribe."

Mr. MANN. I suppose it would be so construed, without question.

Mr. CANNON. Mr. Chairman, I am not sure that I understand my colleague. Do I understand that after the 1st of July a special parcel-post stamp will not be placed on packages?

Mr. FOSTER. They can use the ordinary stamps.

Mr. CANNON. Does not my friend think that if we keep track of the revenue it would require a great deal of bookkeeping and a great deal of clerical attention in order to get at the revenue from carrying the mail by parcel post, which might be avoided if we continue to use special stamps?

Mr. FOSTER. This gives six months in which to make the calculation, and then, if the department should determine that it was necessary to have a further time so that they could keep track of the cost, they could keep track of the packages that go under the ordinary stamp.

Mr. CANNON. Suppose the income, we will say for the parcel post, amounts to $50,000,000, and we use the same stamps that we use on letters. They would not be sold as parcel-post stamps?

Mr. FOSTER. No.

Mr. CANNON. There is the trouble, if we are to keep track of the revenue from the parcel post. It seems to me that they should be by special stamps because the sale of the special stamps would tell the whole story. Otherwise every postmaster must examine at the place of origin the number of stamps on the package and keep an account of the postage. It seems to me it would lead to keeping of thousands of accounts that might otherwise be avoided, because the sale of the special stamps would tell the whole story.

Mr. SISSON. Mr. Chairman, I would like to ask the gentleman from Illinois a question. Has the gentleman considered the fact that the fourth-class postmasters throughout the country—200,000 of them—if they keep up with this as a business proposition until the department can ascertain just what it will cost to haul the packages, will be compelled to keep accounts, and that it may entail a great deal of additional clerical assistance and cause a great deal of expense?

Mr. FOSTER. I think that will hardly be the case, for there will be six months in which to make that estimate. I believe the accommodation of the people at the end of the six months is worth something.

Mr. SISSON. Mr. Chairman, I am inclined to agree thoroughly with the gentleman from Illinois, that, at the proper time, when the parcel post is worked out, it will not be necessary to keep two sets of stamps. But for the present, as a business

proposition, it would only be necessary for the department to have parcel-post stamps issued and sold, and then in the course of two or three years, after they have ascertained the cost of hauling the packages to the different sections of the country, the legislation which the gentleman desires might be had. But for the present, it seems to me, it would entail an interminable amount of work on the fourth-class postmasters.

Mr. FINLEY. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. FINLEY. There is a joint committee of the House and Senate appointed at the last session of Congress to investigate and report upon the parcel post. I want to say, as one of the committee, that as to the information to what extent the parcel post is used by the public and what is the revenue, I hope my friend from Illinois will withdraw the amendment, because we want all the information possible. I think next December, perhaps, there would be no objection to it.

Mr. SISSON. Mr. Chairman, I believe that as to the fourth-class post offices throughout the country many people are called upon to take the post office largely as a convenience to the people. As it is now they only have to keep one stamp account. They are charged with the number of stamps sent and they account for the number sold. This would necessitate, in order to keep track of this business, the keeping of a set of books, and when a package comes into the office—and stamps might be obtained at some other office—it would be necessary for the postmaster to keep an account of the number of stamps on the packages when posted. I can see many difficulties that would arise in keeping the books straight for several years to come. But at the end of two or three years if it is necessary to be done in order to make the parcel post a success, then the amendment that the gentleman offers might be adopted.

Mr. ALEXANDER. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. ALEXANDER. Is it not an experimental question whether the parcel-post rates now are too high or too low, and is there any practical method devised except by the sale of stamps to ascertain the fact?

Mr. SISSON. I think the gentleman from Missouri is absolutely right. Postmasters would have to keep track of the number of stamps, the number of packages handled, and estimate the difference between the cost of the service now and the cost of the service without the parcel post.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent to modify the amendment, so as to read, "January 1, 1914."

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment so as to make it read, "January 1, 1914." Is there objection?

There was no objection.

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

Mr. MARTIN of South Dakota. Mr. Chairman, I move to strike out the last word of the amendment. It seems to me that the gentleman's amendment is hastily proposed to the House, and this is a subject of too great importance for us to say at this time that on January 1, 1914, a year hence, this entire system must be changed. It is important that this business, in its initial stages, shall be kept by itself, and we ought not to say at this time that one year from now the system must be changed. Let us rather watch the development of this great new service, and let whatever amendments may be offered to it be offered after the development of it shows the necessity for them.

The reason for allowing the use of ordinary stamps on special-delivery letters is a very different subject. That is something that the sender considers important and wants to get hastily delivered. Consequently the leaning of the law and the regulations ought to be to permit him to do it in almost any way he can do it. But here is a new system for fourth-class matter, where speed is not so great an element, and where I think the people, at least, for some time to come might very properly yield personal convenience to the proper development of the system.

Mr. TILSON. And may I suggest further that, even in the case of special delivery, for a long time they used a special stamp before one was allowed to put ordinary stamps on the letter for that purpose, and that was done so that the department might find what the cost of the delivery was.

Mr. MARTIN of South Dakota. Furthermore, Mr. Chairman, on the suggestions that have come from all parts of the House, the gentleman has found it best to extend the time of his original amendment six months longer. The subject is so embryonic that we ought not at this time change the fundamental principles of the law, in as much as it has not been in operation for 15 days.

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

The question was taken, and the amendment was rejected.

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 following amendment, which I send to the desk and ask to have it read.

The Clerk read as follows:

Insert after line 20, page 23:

"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 1,000 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 the State boards of health or industrial commissions and by State boards or departments of public charities and corrections, 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 mail matter, shall be limited to copies mailed to such members as pay therefor, either as a part of their dues or assessments, or otherwise, not less than 50 per cent of the regular subscription price; to other bona fide subscribers; to exchanges; and 10 per cent of such circulation as sample copies: *Provided further*, That when such members pay therefor as a part of their dues or assessments, individual subscriptions or receipts shall not be required: *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, I make the point of order on that.

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

Mr. MURDOCK. Mr. Chairman, I will ask the gentleman from Tennessee to reserve his point of order until I can explain to him just what change is made, and then he may not press it after I make it.

Mr. MANN. Mr. Chairman, I again suggest to the gentleman from Tennessee that it is now 10 minutes of 6 o'clock. The House, at his request, met at 11 o'clock this morning, and I am sure that he can judge of this proposed amendment a great deal better if he can only see it in print.

Mr. MURDOCK. I can explain it very easily.

Mr. MOON of Tennessee. Oh, let us get through this.

Mr. MURDOCK. Yes; let us get through.

Mr. MANN. I would insist on reading it through, even if the gentleman from Tennessee did not.

Mr. MOON of Tennessee. I expect to make the point of order, anyway, but I would like to hear the gentleman from Kansas.

Mr. KENDALL. That is because he is such an interesting talker.

Mr. MANN. I would like to hear the gentleman from Kansas, but I know the gentleman from Kansas will keep until to-morrow.

Mr. MOON of Tennessee. I can not keep the point of order until to-morrow. I suggest to the gentleman from Illinois that we hear the gentleman from Kansas to-night and get through.

Mr. MANN. But the gentleman from Tennessee can not get through the bill to-night.

Mr. MOON of Tennessee. No; but this is at the close of the Third Assistant's Office.

Mr. MANN. We have been very good to the gentleman from Tennessee, so far as time is concerned. No Post Office bill has ever proceeded as rapidly as this one has this year.

Mr. MOON of Tennessee. Let us dispose of this, and then I will move to rise.

Mr. MURDOCK. Mr. Chairman, this amendment that I have offered merely adds to what is known as the Dodds bill, which was passed last year, a provision that the second-class privileges shall be extended to State industrial boards. Wisconsin and other States now have industrial boards which issue monthly bulletins dealing with labor, hazardous employment, accidents, and so forth, and those bulletins are of moment. They

are modern and their circulation is of a great deal more importance than other matters to which we have extended the second-class privilege. That is all the amendment does.

Mr. MOON of Tennessee. Would it not be better before dealing with this question to look into the report of the Hughes Commission so that we can have an understanding of this whole second-class matter and dispose of it altogether?

Mr. MURDOCK. I will say to the gentleman that the Dodds matter, which extended the second-class privileges to these various institutions, came into the House after the Hughes report, and the privilege has been extended to many State boards, like State boards of health, and so forth. This industrial commission work is of real importance, and is modern and new and ought to have the privilege of the second class extended to it. I am not going to press the matter, however, at this late hour.

Mr. MOON of Tennessee. We are extending and extending, and we ought to settle the matter once and for all. I insist upon the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. GREGG of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk.

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. GARRETT, 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. 27148, the Post Office appropriation bill, and had come to no resolution thereon.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, a Senate joint resolution of the following title was taken from the Speaker's table and referred to the appropriate committee, as follows:

S. J. Res. 149. Extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma; to the Committee on Indian Affairs.

LATE REPRESENTATIVE ANDERSON, OF OHIO.

Mr. GOEKE. Mr. Speaker, I ask unanimous consent for the present consideration of an order which I send to the Clerk's desk.

The SPEAKER. The gentleman from Ohio [Mr. GOEKE] asks unanimous consent for the present consideration of an order, which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, the 23d day of February, 1913, be set apart for addresses on the life, character, and public services of the Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio.

The SPEAKER. Is there objection?

There was no objection.

So the order was agreed to.

HOUR OF MEETING TO-MORROW.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day that it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Tennessee moves that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. MOON of Tennessee. I move that the House do adjourn.

The motion was agreed to; accordingly (at 6 o'clock p. m.) the House adjourned until Tuesday, January 14, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of preliminary investigations and surveys of Patuxent River as a source of water supply for the District of Columbia (H. Doc. No. 1266); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of the Treasury, recommending the enactment of a law authorizing the payment of the widow or heirs of a deceased civilian employee the amount found due said employee if the amount does not exceed $500, without administration (S. Doc. No. 999); to the Committee on the Judiciary and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting supplemental estimate of appropriation for the Federal building at Denver, Colo. (H. Doc. No. 1267); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of War, transmitting report of an inspection of the several branches of the National Home for Disabled Volunteer Soldiers made September 18, 1912, to December 5, 1912 (H. Doc. No. 987); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. EVANS, from the Committee on the Library, to which was referred the concurrent resolution (S. Con. Res. 32) approving plan, design, and location for a Lincoln memorial, reported the same without amendment, accompanied by a report (No. 1294), which said concurrent resolution and report were referred to the House Calendar.

Mr. COVINGTON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes, reported the same with amendment, accompanied by a report (No. 1295), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FARR, from the Committee on Claims, to which was referred the bill (H. R. 27090) for the relief of Cora Evans, reported the same without amendment, accompanied by a report (No. 1292), which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill (S. 2666) granting an increase of pension to William P. Clark, reported the same without amendment, accompanied by a report (No. 1293), 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. BROUSSARD: A bill (H. R. 27983) for the erection of a public building to be used as a post office at Houma, La.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27984) for the erection of a public buildingk to be used as a post office and customhouse at Morgan City, La.; to the Committee on Public Buildings and Grounds.

By Mr. DOUGHTON: A bill (H. R. 27985) providing for the purchase of a site and the erection thereon of a public building at Lenoir, in the State of North Carolina; to the Committee on Public Buildings and Grounds.

By Mr. NYE: A bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT: A bill (H. R. 27989) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENCH: A bill (H. R. 27990) to provide for the improvement of the Coeur d'Alene River in Idaho; to the Committee on Rivers and Harbors.

By Mr. MOORE of Pennsylvania: A bill (H. R. 27991) to repeal part of an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912; to the Committee on Ways and Means.

By Mr. HOBSON: A bill (H. R. 27992) to authorize the creation of a temporary commission to investigate and make rec-

ommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Naval Affairs.

By Mr. HEFLIN: A bill (H. R. 27993) to provide for the erection of a public building on the line between the city of West Point, Ga., and the city of Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. ADAMSON: A bill (H. R. 27994) to provide for the erection of a public building on the line between the city of West Point, Ga., and the city of Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: A bill (H. R. 27995) for the relief of the Iowa Tribe of Indians of Oklahoma; to the Committee on Indian Affairs.

By Mr. HOUSTON: A bill (H. R. 27996) to amend an act approved August 23, 1912, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Census.

By Mr. AUSTIN: A bill (H. R. 27997) to further amend an act approved August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works," and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: Resolution (H. Res. 773) referring the bill (H. R. 27995) for the relief of the Iowa Tribe of Indians in Oklahoma to the Court of Claims; to the Committee on Indian Affairs.

By Mr. KINDRED: Resolution (H. Res. 774) authorizing the printing and binding in volume form, with accompanying illustrations, of 100,000 copies of the special article on trachoma, etc., among the Indians and others in the United States; to the Committee on Printing.

By Mr. HOBSON: Joint resolution (H. J. Res. 382) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 27998) granting an increase of pension to Elvin A. Estey; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27999) granting an increase of pension to Robert L. McMurtry; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28000) for the relief of the legal representatives of Mary A. Cameron and John Cameron, deceased; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 28001) for the relief of Alfonso M. Skinner; to the Committee on Naval Affairs.

Also, a bill (H. R. 28002) granting an increase of pension to Pascualita J. Garcia de Anaya; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28003) granting an increase of pension to Margarita S. Salazar; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 28004) for the relief of H. E. Johnson, John F. Shelley, Jane M. Johnson, and Duff Quinn; to the Committee on Claims.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28005) granting a pension to Sarah K. Marshall; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 28006) granting a pension to Annie Burk; to the Committee on Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 28007) granting an increase of pension to Cornelius A. Enterline; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28008) to correct the military record of Sylvester De Forest; to the Committee on Military Affairs.

By Mr. PARRAN: A bill (H. R. 28009) for the relief of Joseph Sedlack; to the Committee on Naval Affairs.

By Mr. PRINCE: A bill (H. R. 28010) granting an increase of pension to Andrew T. Machesney; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 28011) granting a pension to Elno H. Abells; to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 28012) granting a pension to Mary N. Nichols; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 28013) granting an increase of pension to Emma C. Kennedy; to the Committee on Invalid Pensions.

By Mr. WILDER: A bill (H. R. 28014) granting a pension to Lucy Button; to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 28015) granting a pension to Wesley C. Beatty; to the Committee on Pensions.

Also, a bill (H. R. 28016) granting an increase of pension to Catharine J. Wesley; 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. ASHBROOK: Petition of W. H. Packhard and 5 other merchants of Uhrichsville, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward the control of express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Order of the Knights of Labor, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DRAPER: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. FORNES: Petition of the Italian Chamber of Commerce, of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of Sol Bloom, of New York, protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

By Mr. HIGGINS: Petition of the city council of the city of New London, Conn., asking the repeal of amendment of the sundry civil appropriation bill prohibiting further appointments of cadets or cadet engineers for the Revenue-Cutter Service except by consent of Congress; to the Committee on Appropriations.

By Mr. LINDSAY: Petition of John Traver, Samsonville, N. Y., favoring the passage of House bill 1339, granting increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Sol Bloom, New York, protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Soil Fertility League, Chicago, Ill., favoring the passage of the Smith-Lever bill for the improvement of agriculture; to the Committee on Agriculture.

By Mr. MANN: Petition of Victor L. Barkey and I. B. Rosenback, of Chicago, Ill., protesting against the passage of House bill 27158 relative to making and selling of shoes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. NEELEY: Petition of citizens of Laden and Kiowa and Gray Counties, Kans., all favoring the passage of the Kenyon-Sheppard liquor bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Barton County, Kans., protesting against the passage of House bill 26464, granting pensions to Presidents of the United States and their widows and minor children; to the Committee on Pensions.

By Mr. PLUMLEY: Petition of George M. McKnight and 14 others, asking that the Vermont delegation in Congress take no action detrimental to the interest of the farmers of Vermont; to the Committee on Agriculture.

Also, petition of John Harrigan and 18 other merchants of Northfield, Vt., protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

By Mr. SMITH of Texas: Petition of citizens of Buffalo Gap, Tex., favoring the passage of legislation prohibiting the persecution of the editors of the Appeal to Reason by the officials of the United States; to the Committee on Rules.

By Mr. STEPHENS of California: Petition of residents of Los Angeles County, Cal., protesting against the proposed tariff reduction on raw and refined sugar; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Connecticut Fish and Game Protective Association of the State of Connecticut, favoring the passage of House bill 23839, for the establishment of game

reservations on national lands; to the Committee on Agriculture.

By Mr. UNDERHILL: Petition of the Central Federated Union of New York and Vicinity, protesting aganst the passage of the Kenyon-Sheppard bill; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. WICKERSHAM: Petition of resident fishermen of Ketchikan, Alaska, praying for the passage of legislation prohibiting the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILSON of New York: Petition of the National Academy of Design, of New York, protesting against any action on the part of Congress conflicting with the design set forth by the Washington Park Commission for the development of Washington; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Petition of the Presbyterian Synod of New Jersey, favoring the passage of legislation to enforce the proper observance of the Sabbath in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Presbyterian Synod of New Jersey, favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

SENATE.

TUESDAY, *January 14, 1913.*

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

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

PRAIRIE COUNTY, ARK., V. THE UNITED STATES (S. DOC. NO. 1005).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Prairie County, Ark., *v.* The United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PRESERVATION OF NATIONAL ARCHIVES.

The PRESIDENT pro tempore. The Chair presents a communication from the president of the New Hampshire Historical Society——

Mr. GALLINGER. I ask that it may be read, so that it may go in the RECORD.

The PRESIDENT pro tempore. It will be read, as requested by the Senator from New Hampshire.

The communication was read, as follows:

WASHINGTON, D. C., *January 11, 1913.*

To the PRESIDENT PRO TEMPORE OF THE SENATE,
Washington, D. C.

SIR: At the annual meeting of the New Hampshire Historical Society, which was fully attended, on January 9, 1913, the society voted unanimously in favor of an appropriation by the Congress of the United States for the erection of a building for the preservation of the national archives at Washington.

As president of the society, I am directed to communicate to the Senate the fact that this vote was passed.

So urgent is the need, and so worthy the object, that I indulge the hope that at the present session a suitable appropriation will be voted by the Senate. I have the honor to be

Your obedient servant,

FRANK W. HACKETT,
President of the New Hampshire Historical Society.

Mr. GALLINGER. I move that the communication be referred to the Committee on Appropriations and be printed.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the Union Evangelistic Committee of sundry churches of Nashua, and of the congregations of the Central Congregational Church, of Derry, and of the First Baptist Church of Nashua, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of White Mountain Council, No. 506, Knights of Columbus, of Berlin, N. H., praying that an appropriation be made for the construction of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

Mr. WORKS presented a memorial of sundry citizens of Los Angeles County, Cal., remonstrating against a reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. JACKSON presented a petition of sundry citizens of Montgomery County, Md., praying that an appropriation be made for the construction of a public highway from Washington, D. C., to Gettysburg, Pa., as a memorial to Abraham Lincoln, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Princess Anne, Md., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of the congregation of the Metropolitan Presbyterian Church, of Washington, D. C., praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

Mr. O'GORMAN presented a petition of sundry assistant inspectors of steam vessels at the port of New York, praying that they be granted an increase in their salaries, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by the Board of Aldermen of Buffalo, N. Y., favoring the selection of the name "City of Buffalo" for one of the proposed new battleships, which was referred to the Committee on Naval Affairs.

Mr. LODGE presented the memorial of Joseph R. Churchill, of Dorchester, Mass., and a memorial of members of the Massachusetts Civic Alliance, remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which were ordered to lie on the table.

He also presented petitions of sundry citizens of West Newton and Newtonville, in the State of Massachusetts, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the Woman's Club, of Fall River, Mass., remonstrating against transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a petition of sundry citizens of Lee, Mass., praying for the enactment of legislation providing for the protection and preservation of migratory birds, which was ordered to lie on the table.

Mr. WETMORE presented a petition of Nanaquaket Grange, of Tiverton, R. I., and a petition of North Scituate Grange, Patrons of Husbandry, praying for the establishment of agricultural extension departments in connection with State agricultural colleges, which were ordered to lie on the table.

NATIONAL AERODYNAMICAL LABORATORY.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof, reported it without amendment and submitted a report (No. 1107) thereon.

BILLS INTRODUCED.

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

By Mr. BRISTOW:

A bill (S. 8107) granting an increase of pension to Minnie A. Piety; to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8108) authorizing the purchase or acquisition of the aviation field at College Park, Md., and property adjacent thereto for aviation, maneuvers, and other military purposes (with accompanying papers); to the Committee on Military Affairs.

By Mr. McLEAN:

A bill (S. 8109) granting an increase of pension to Anna M. Thomas (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8110) authorizing the Secretary of War, in his discretion, to deliver to the city of Trinidad, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; and

A bill (S. 8111) authorizing the Secretary of War, in his discretion, to deliver to the city of Rocky Ford, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; to the Committee on Military Affairs.