Also, a bill (H. R. 5583) granting an increase of pension to Deliah J. Johnson; to the Committee on Pensions.

Also, a bill (H. R. 5584) granting an increase of pension to Susan T. Lisk; to the Committee on Invalid Pensions.

Also, a bill (H. R. 5585) granting an increase of pension to Joseph D. Hazzard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 5586) for the relief of J. M. Crumpton; to the Committee on Claims.

Also, a bill (H. R. 5587) for the relief of Samuel B. Ried; to the Committee on War Claims.

Also, a bill (H. R. 5588) for the relief of James D. Butler; to the Committee on War Claims.

Also, a bill (H. R. 5589) for the relief of William R. Young; to the Committee on Claims.

Also, a bill (H. R. 5590) for the relief of Squire Simes; to the Committee on War Claims.

Also, a bill (H. R. 5591) for the relief of C. W. Moffatt; to the Committee on Claims.

Also, a bill (H. R. 5592) for the relief of C. J. Chason; to the Committee on Claims.

Also, a bill (H. R. 5593) for the relief of Harvey W. Lane; to the Committee on Claims.

Also, a bill (H. R. 5594) for the relief of the legal representatives of J. Hill Jones; to the Committee on Claims.

Also, a bill (H. R. 5595) for the relief of the heirs of Adam L. Eichelberger; to the Committee on War Claims.

Also, a bill (H. R. 5596) providing for the payment to C. H. Jewett, of Tarpon Springs, Fla., for extra work performed by him for the United States on the Canal Zone, Panama; to the Committee on Claims.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Chicago Association of Credit Men, Chicago, Ill., favoring an immediate reform in the present banking system of the United States; to the Committee on Banking and Currency.

Also (by request), petition of J. E. Burns, of Hannibal, Mo., protesting against including mutual life insurance companies in the income-tax bill; to the Committee on Ways and Means.

By Mr. ASHBROOK: Petition of Hartzler & Slusler and 5 other merchants of Smithville, Ohio, favoring a change in the insterstate-commerce laws; to the Committee on the Judiciary.

Also, petition of James Marshall and 150 other citizens of Coshocton, Ohio, favoring an investigation of the West Virginia labor conditions; to the Committee on Labor.

By Mr. BEALL of Texas: Petition of sundry citizens of the State of Texas, favoring the passage of the Berger old-age pension bill; to the Committee on Pensions.

By Mr. CRAMTON: Petition of sundry citizens of St. Clair, Mich., favoring the passage of the pure fabric and leather bill; to the Committee on Interstate and Foreign Commerce.

By Mr. DALE: Petition of Charles F. Hubbs & Co., New York, N. Y., favoring the passage of a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the J. Wilckes Co., of New York City, against any fee for filing protest against assessment of duty by collectors of customs; to the Committee on Ways and Means.

Also, petition of the Russian Caviar Co., of New York City, against reduction of the duty on caviar; to the Committee on Ways and Means.

By Mr. DYER: Petitions of sundry manufacturers and business men of the State of Missouri, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of the State of Missouri, against mutual life insurance funds and funds of other organizations not organized for profit in the income-tax bill; to the Committee on Ways and Means.

Also, petition of G. X. Duther, of St. Louis, Mo., relative to the matter of the North American-Penn-Wyoming-United Smelters' series of swindles of the State of Wyoming promoted by the Standard Oil people through aid of the interlocked banks; to the Committee on Banking and Currency.

By Mr. GARDNER: Petition of Samuel C. Barnes and 27 other citizens of Massachusetts, protesting against the creation of a committee on public health; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYES: Petitions of the J. Pfister Knitting Co., of West Berkeley, Cal., and the Van Arsdale-Harris Lumber Co., favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of the Chamber of Commerce of Atlanta, Cal., favoring a fair currency bill; to the Committee on Banking and Currency.

Also, petition of the San Monte Fruit Co., of Watsonville, Cal., and 12 others of the State of California, against the reduction of the duty on sugar; to the Committee on Ways and Means.

Also, petition of Thomas R. Weaver and 35 others, of California, against mutual life insurance funds in the income-tax bill; to the Committee on Ways and Means.

By Mr. HOWELL: Petition of J. R. Edghill and others, of Salt Lake City, Utah, against mutual life insurance funds in the income-tax bill; to the Committee on Ways and Means.

By Mr. JOHNSON of Washington: Petition of the Tacoma Association of Credit Men, Tacoma, Wash., favoring an immediate reform in the present banking system of the United States; to the Committee on Banking and Currency.

Also, petition of sundry citizens of the State of Washington, at Colfax, Wash., favoring an appropriation by Congress for the development of the Palouse irrigation and power project; to the Committee on Appropriations.

By Mr. J. R. KNOWLAND: Petition of the Pacific Association of Railway Surgeons, of San Francisco, Cal., favoring a department of public health; to the Committee on Interstate and Foreign Commerce.

By Mr. MANN: Petition of the Chicago Live Stock Exchange, Chicago, Ill., favoring the placing of live stock on the free list; to the Committee on Ways and Means.

# SENATE.

MONDAY, *May 26, 1913.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Forrest J. Prettyman, D. D.

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

### ENROLLED JOINT RESOLUTION SIGNED.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled joint resolution, and it was thereupon signed by the Vice President:

H. R. 4234. An act providing certain legislation for the Panama California Exposition to be held in San Diego, Cal., during the year 1915;

S. J. Res. 30. Joint resolution extending the leave of absence of Mrs. A. E. Grant.

### PETITIONS AND MEMORIALS.

Mr. GRONNA presented petitions of sundry citizens of Dogden, Fargo, Bottineau, Grafton, Doyon, Rugby, Forest River, and Taylor, all in the State of North Dakota, praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

He also presented a memorial of the Forschen Club, of Perth, N. Dak., remonstrating against the transfer of 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 Columbia Lodge, No. 174, International Association of Machinists, of Washington, D. C., praying that an investigation be made into the labor conditions in the coal fields of the Paint Creek district, West Virginia, which was referred to the Committee on Education and Labor.

Mr. GALLINGER presented memorials of Cascade Local Union, No. 24, International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, of Berlin; of Local Union No. 29, International Brotherhood of Paper Makers, of Berlin; and of the Board of Trade of Berlin, all in the State of New Hampshire, remonstrating against the removal of the duty on print paper and wood pulp, which were referred to the Committee on Finance.

He also presented petitions of C. H. Feitz, of Aurora, Ill.; Alexander Bros., of Philadelphia, Pa.; Hannah R. Holden, of Penacook, N. H.; and G. F. Wooley and C. G. Blakely, of Topeka, Kans., praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

He also presented a memorial of Local Union No. 137, Flint Glass Workers' Union, of Cumberland, Md., remonstrating against a reduction in the duty on glassware, which was referred to the Committee on Finance.

Mr. NORRIS presented a petition of sundry citizens of Essex, Iowa, praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which was referred to the Committee on Finance.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. NELSON presented petitions of sundry citizens of Clarissa, Mankato, St. Paul, and Spring Grove, all in the State of Minnesota, praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

Mr. SMITH of Arizona. I present a joint resolution adopted by the Legislature of Arizona. I ask that it be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the joint resolution was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

IN THE HOUSE OF REPRESENTATIVES OF THE STATE OF ARIZONA, THIRD SPECIAL SESSION.

House joint resolution 8.

Whereas the Hon. CARL HAYDEN, Representative from the State of Arizona, has introduced into the House of Representatives of the Sixty-third Congress of the United States of America, first session, House resolution No. 4825, entitled "A bill opening the surplus and unallotted land in the Colorado River Indian Reservation to settlement and entry under the provisions of the Carey Land Acts, and for other purposes"; and

Whereas the enactment of said bill into law will enable the State of Arizona to enter into a contract under the provisions of the Carey Act for the purpose of diverting the water of the Colorado River and reclaiming a vast area of land on said reservation; and

Whereas the reclamation of such lands by the diverting of such waters thereon will result in the bringing in of thousands of people who will become bona fide settlers and tend to develop the wonderful agricultural possibilities of such lands and will be one of the greatest factors in the building up of the State of Arizona; and

Whereas such lands in their present condition are practically valueless and are not wholly needed for the maintenance or support of the Indians thereon: Now, therefore, be it

*Resolved by the Legislature of the State of Arizona*, That we hereby petition and memorialize the Congress of the United States to speedily enact the provisions of said House resolution No. 4825 into law in order that said lands on said Indian reservation shall be open to settlement and entry under the provisions of the Carey Land Act, and for other purposes, and that said House resolution No. 4825 be enacted into a law at the present session of Congress now convened, believing it would be an act of greatest benefit to the State of Arizona at this time; be it further

*Resolved*, That the chief clerk of the house be instructed to transmit a copy of this resolution to the Hon. CHAMP CLARK, Speaker of the House of Representatives of Congress, for presentation to said House of Representatives, and that a copy of this resolution be forwarded to the Hon. CARL HAYDEN, Representative from this State, and to the Hon. HENRY F. ASHURST and Hon. MARK SMITH, Senators from Arizona.

Passed the senate May 13, 1913, by a vote of 18 ayes; 1 excused.

W. G. CUNNIFF,
*President of the Senate.*

Read third time in full and passed the house by following vote: 28 ayes, 4 absent, 3 excused.

H. H. LINNEY,
*Speaker of the House.*

Mr. SMITH of Arizona presented a resolution adopted by the Federal grand jury at Phoenix, Ariz., at the April, 1913, term, favoring the adoption of an amendment to section 2139 of the Revised Statutes of the United States, relating to the trial and punishment of persons selling or giving intoxicating liquors to Indians, which was referred to the Committee on the Judiciary.

Mr. SHEPPARD presented a petition of sundry citizens of Blackwell, Tex., praying for a reduction in the duty on sugar, which was referred to the Committee on Finance.

Mr. JACKSON presented a memorial of the employees of the American Label Manufacturing Co., of Baltimore, Md., remonstrating against a reduction in the duty on lithographic products, which was referred to the Committee on Finance.

Mr. CLAPP presented petitions of sundry citizens of St. Paul, Minneapolis, Grove City, Stillwater, White Bear, Duluth, St. Peter, Russell, Winona, Rush City, Hill City, Fergus Falls, Moorhead, Hendricks, Hopkins, Clarissa, Lewiston, Garvin, and Mankato, all in the State of Minnesota, praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of Minneapolis, Trosky, Germantown, and Bricelyn, all in the State of Minnesota, praying for a reduction in the duty on sugar, which were referred to the Committee on Finance.

He also presented memorials of Local Union No. 294, of Duluth; Local Union No. 77, of Minneapolis; Local Union No. 98, of St. Paul; and Local Union No. 448, of Brainerd, of the Cigarmakers' International Union of America, and of the Cigar Manufacturers' Association of Duluth, all in the State of Minnesota, remonstrating against the importation of cigars free of duty from the Philippine Islands, which were referred to the Committee on Finance.

He also presented a resolution adopted by the Minneapolis Association of Credit Men of Minnesota, favoring the enactment of sound banking and currency laws, which was referred to the Committee on Banking and Currency.

Mr. PERKINS presented petitions of sundry citizens of Los Angeles, Santa Monica, San Francisco, and Alameda, all in the State of California, praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

Mr. McLEAN presented petitions of sundry citizens of Hartford, New Haven, Vernon, South Glastonbury, and Clinton, all in the State of Connecticut, praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

Mr. JOHNSON of Maine presented memorials of the Chamber of Commerce of Rumford, and of sundry citizens of Danforth, Cherryfield, and Calais, all in the State of Maine, remonstrating against a reduction of the duty on news print paper and wood pulp, which were referred to the Committee on Finance.

Mr. GOFF presented memorials of H. L. Heintzelman, president, and the employees of the Monongah Glass Co., of Fairmont; of Local Union No. 97, Flint Glass Workers' Union, of Buckhannon; and of Ideal Local Union, National Window Glass Workers, of West Union, all in the State of West Virginia, remonstrating against a reduction in the duties on glass, glassware, window glass, etc., which were referred to the Committee on Finance.

He also presented the memorial of Samuel C. Gist, president of the Tri-State Wool Growers and Sheep Breeders' Association, of Wellsburg, W. Va., remonstrating against a reduction in the duty on wool, which was referred to the Committee on Finance.

He also presented a telegram in the nature of a memorial from the Master House Painters' Association, of Wheeling, W. Va., remonstrating against the adoption of the so-called restriction clause in the sundry civil appropriation bill preventing the use of money to prosecute labor organizations for violation of the Sherman antitrust law, which was ordered to lie on the table.

Mr. FLETCHER. I present a joint memorial of the Legislature of Florida, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the joint memorial was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

House memorial 2.

A memorial to the Congress of the United States praying that a military post be established at Fort Clinch, Fla.

Whereas Cumberland Sound, located at the northeastern extremity of the State of Florida, comprises a vast anchorage of more than 20 square miles, being thoroughly landlocked and having a depth of water of from 40 to 60 feet in depth over a large part of its area; and

Whereas there is now a channel of ample width from said sound to the Atlantic Ocean, with a depth of water accommodating vessels of 30-foot draft, which depth of water could be increased to 36 feet with very small expenditure; and

Whereas the United States owns a frontage of about 1¼ miles on Amelia River, a tributary to said sound, another frontage of about 1¼ miles on said sound, and another frontage of about 2¾ miles on the Atlantic Ocean near said sound; and

Whereas the vicinity in which the Federal Government owns said land is exceptionally healthful, being near the famous Cumberland Island upon which many people of the country have winter homes; and

Whereas the said sound, if properly protected by land forts, would furnish an impregnable anchorage for an entire fleet of battleships: Now, therefore, be it

*Resolved by the Legislature of the State of Florida*, That our Senators and Representatives in Congress are urged to do all in their power to secure a military post on said Cumberland Sound and to have the said sound properly fortified.

*Resolved, further*, That the secretary of State be requested to furnish a certified copy of this resolution to each of our Senators and Representatives in Congress.

STATE OF FLORIDA, *office of secretary of state, ss:*

I, H. Clay Crawford, secretary of state of the State of Florida, do hereby certify that the foregoing is a true and correct copy of house memorial No. 2 by the Florida Legislature, session 1913, as filed in this office.

Given under my hand and the great seal of the State of Florida at Tallahassee, the capital, this the 21st day of May, A. D. 1913.

[SEAL.] H. CLAY CRAWFORD,
*Secretary of State.*

Mr. LODGE presented sundry papers to accompany the bill (S. 1732) providing for the establishment of a hospital ship in connection with the American fisheries, which were referred to the Committee on Fisheries.

Mr. STEPHENSON presented petitions of sundry citizens of La Crosse and Milwaukee, in the State of Wisconsin, and of sundry citizens of Hancock, Mich., praying for the exemption of mutual life insurance companies from the operation of the income-tax clause of the pending tariff bill, which were referred to the Committee on Finance.

He also presented a petition of the Woman's Club of Fox Lake, Wis., praying for the adoption of the clause in the pend-

ing tariff bill relating to the importation of aigrettes and feathers, etc., which was referred to the Committee on Finance.

SELAH G. BLAKEMAN AND TIMOTHY E. HAWLEY.

Mr. FLETCHER. From the Committee on the Judiciary I report back favorably, without amendment, the bill (S. 1689) authorizing the accounting officers of the Treasury to allow in the accounts of the United States marshal for the district of Connecticut amounts paid by him from certain appropriations, and I submit a report (No. 51) thereon.

Mr. BRANDEGEE. Mr. President, I did not hear the Senator from Florida. I assume that he asked unanimous consent for the present consideration of the bill.

Mr. FLETCHER. I ask unanimous consent for the present consideration of the bill.

The VICE PRESIDENT. The Senator from Florida asks unanimous consent for the present consideration of the bill. It will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the accounting officers of the Treasury to allow in the accounts of the United States marshal for the District of Connecticut amounts paid by him from the appropriation pay of bailiffs, etc., United States courts, 1912, to Selah G. Blakeman, $192; and from the appropriation pay of bailiffs, etc., United States courts, 1913, to Selah G. Blakeman, $363, and to Timothy E. Hawley, $513, notwithstanding the fact that the payees also served and received compensation as field deputy United States marshals.

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

Mr. BRANDEGEE. I ask that the report accompanying the bill be printed in the RECORD.

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

The report this day submitted by Mr. FLETCHER is as follows:

[Senate Report No. 51, Sixty-third Congress, first session.]

RELIEF OF THE UNITED STATES MARSHAL FOR THE DISTRICT OF CONNECTICUT.

Mr. FLETCHER, from the Committee on the Judiciary, submitted the following report to accompany S. 1689:

The Committee on the Judiciary, to whom was referred the bill (S. 1689) authorizing the accounting officers of the Treasury to allow in the accounts of the United States marshal for the district of Connecticut amounts paid by him from certain appropriations, having had the same under consideration, unanimously recommend that the bill do pass without amendment.

From the statements and papers submitted it appears that in 1911 the marshal for the district of Connecticut, with the authorization and approval of the Department of Justice, appointed two bailiffs of the United States district court special deputy marshals to serve process. These officers acted as such special deputies when the court was not in session and they were not in actual service as bailiffs. Their fees, in the amounts stated in the bill, were paid by the marshal and the expenditures allowed by the accounting officers of the Treasury Department. Subsequently it was held that the statute (29 Stats., p. 183, sec. 13) in force in 1911 forbade deputy marshals from receiving compensation as bailiffs, and recoupment of the amounts paid to these officers under the facts stated, aggregating $1,068, is now demanded by the Treasury Department from the marshal of the district of Connecticut, whose salary is $2,500 per annum.

As is shown by the appended correspondence, which is made a part of this report, the appointments of these special deputies were authorized by and made with the approval of the Department of Justice, which was fully cognizant of all the facts; and that department, in the letter of May 24, 1913, to Mr. FLETCHER, chairman of the subcommittee appointed to consider this bill, strongly recommends its passage.

DEPARTMENT OF JUSTICE,
UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CONNECTICUT,
*Hartford, October 23, 1911.*

The ATTORNEY GENERAL, *Washington, D. C.*

SIR: Inclosed find oath of office of Timothy E. Hawley, whom I have this day appointed special deputy United States marshal at Hartford for the purpose of serving writs of which it was impracticable for myself or my deputies to make service.

Occasions are coming frequently when the marshal's office has several subpœnas and processes to serve at once. A few hours' delay in summoning witnesses may hinder the case on trial or be of serious injury to the Government or to the parties in interest. I would like to have the appointment of Mr. Timothy E. Hawley approved by you. It is my intention to use Mr. T. E. Hawley only when necessity arises in the service of citations or of summoning witnesses. To-day I felt it my duty to send Mr. Hawley to Waterbury, as Mr. Parmelee, the field deputy, was busy in Fairfield County, Mr. Smith, the office deputy, in the cities of Hartford and New Haven, and the ground could not be covered by either of the regular deputies.

Mr. Hawley is at present bailiff of the court, and hence is always available if wanted.

Respectfully,

SIDNEY E. HAWLEY,
*United States Marshal.*

—

DEPARTMENT OF JUSTICE,
*Washington, October 27, 1911.*

SIDNEY E. HAWLEY, Esq.,
*United States Marshal, Hartford, Conn.*

SIR: Replying to your letter of the 23d instant, and in view of the statements contained therein, the appointment of Timothy E. Hawley as a field deputy marshal, with headquarters at Hartford, is approved, with the understanding, however, that he is to be employed to serve process only in emergencies and when it is impracticable for you or your regular deputies to make the service.

Respectfully,

J. A. FOWLER,
*Assistant to the Attorney General.*
(For the Attorney General.)

—

DEPARTMENT OF JUSTICE,
UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CONNECTICUT,
*Hartford, May 21, 1912.*

The ATTORNEY GENERAL, *Washington, D. C.*

SIR: Inclosed find oath of office of Selah G. Blakeman, whom I have this day appointed special deputy United States marshal at New Haven, for the purpose of serving writs of which it was impracticable for myself or my deputies to make service.

My deputy, William L. Parmelee, who has headquarters at Ansonia, is a very sick man and has been confined to his bed for some two weeks suffering from nervous prostration and heart trouble, and it will be some time before he will be able to perform his duties as deputy marshal, hence the appointment of Mr. Blakeman, which will probably last for the May term only. He is at present bailiff of the court, and hence is always available when wanted. His duties as deputy marshal will not interfere in any way with his duties as bailiff of the court.

The May term of the district court will come in here on Tuesday, the 28th, and Special Deputy Hawley is busy with writs to be served in the eastern part of the State.

Respectfully,

SIDNEY E. HAWLEY,
*United States Marshal.*

—

UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CONNECTICUT,
*Hartford, May 27, 1912.*

FRIEND SELAH: The Department of Justice wants the date of your birth so as to complete the records of the department.

Please send it to me and oblige,

Yours, truly,

G. BRAINARD SMITH.

—

DEPARTMENT OF JUSTICE,
UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CONNECTICUT,
*New Haven, Conn., May 28, 1912.*

G. BRAINARD SMITH.

DEAR SIR: I was born on the 23d day of May, 1841, in the town of Stratford, Fairfield County, State of Connecticut. I lived there, excepting the three years that I was in the Army, until the spring of 1866; since then in the town of Huntington.

Yours, truly,

S. G. BLAKEMAN.

—

DEPARTMENT OF JUSTICE,
*Washington, D. C., May 24, 1912.*

UNITED STATES MARSHAL,
*Hartford, Conn.:*

The department is in receipt of your letter of the 21st instant, transmitting the oath of office executed on May 20, 1912, by Selah G. Blakeman, whom you have appointed a temporary field deputy, headquarters at New Haven, during the illness of Deputy Parmelee.

Please forward a copy of the commission issued appointing Mr. Blakeman a deputy. Also have Mr. Blakeman fill out the inclosed card and then return same to the department.

The department should be notified promptly when the appointment of Deputy Blakeman terminates.

KNAEBEL, *Assistant Attorney General.*
(For the Attorney General.)

—

DEPARTMENT OF JUSTICE,
UNITED STATES MARSHAL'S OFFICE,
DISTRICT OF CONNECTICUT,
*Hartford, May 31, 1912.*

The ATTORNEY GENERAL, *Washington, D. C.*

SIR: In compliance with your letter of the 24th instant, I inclose herewith a copy of Mr. Blakeman's commission; also a card filled out as requested.

Yours, respectfully,

SIDNEY E. HAWLEY,
*United States Marshal.*
By G. BRAINARD SMITH,
*Office Deputy.*

—

DEPARTMENT OF JUSTICE,
*Washington, D. C., April 26, 1913.*

Hon. FRANK B. BRANDEGEE,
*United States Senate, Washington, D. C.*

SIR: In accordance with your request, there is herewith inclosed a draft of a proposed amendment to the sundry civil appropriation act for 1914, or to some other act if found expedient. With this proposed legislation the Auditor for the State and Other Departments would be enabled to allow the items mentioned therein, being items disallowed in certain accounts rendered by the United States marshal for the district of Connecticut.

Respectfully,

ERNEST KNAEBEL,
*Assistant Attorney General.*
(For the Attorney General.)

—

DEPARTMENT OF JUSTICE,
*Washington, D. C., May 24, 1913.*

Hon. DUNCAN U. FLETCHER,
*Chairman Subcommittee to whom S. 1689 was referred,*
*United States Senate.*

SIR: In reply to your letter of the 22d instant, you are informed that the passage of this bill for the relief of the marshal for the district of Connecticut is strongly recommended. It appears from the accounts of the marshal and otherwise that the services for which the per diems were charged were actually rendered and the marshal in good faith paid for the same.

You are also advised if this bill shall become law the United States will have been to no additional expense, by reason of the fact that field deputy marshals acted also as bailiffs and were paid by the mar-

shal therefor. The services rendered as bailiff were, of course, rendered during the sitting of the court, whereas the process was served when the court was not in session.

Respectfully,

JESSE C. ADKINS,
*Assistant Attorney General.*
(For the Attorney General.)

HEARINGS BEFORE THE COMMITTEE ON NAVAL AFFAIRS.

Mr. WILLIAMS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 86, submitted by Mr. TILLMAN on the 19th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

*Resolved*, That the Committee on Naval Affairs, or any subcommittee thereof, be authorized during the Sixty-third Congress to subpœna witnesses, send for books and papers, to administer oaths, and to employ a stenographer at a price not to exceed $1 per printed page, to report such hearings as may be had in connection with any subject which may be pending before the said committee; that the committee may sit during the sessions or recesses of the Senate; and the expense thereof shall be paid out of the contingent fund of the Senate.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

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

By Mr. OLIVER:

A bill (S. 2336) granting an increase of pension to Franklin E. Fisher (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 2337) to create the Coast Guard by combining therein the existing Life-Saving Service and Revenue-Cutter Service; to the Committee on Commerce.

By Mr. KENYON:

A bill (S. 2338) granting an increase of pension to Sallie E. Masmar; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 2339) amending the laws relating to national banking associations, enlarging their powers to issue circulating notes, regulating their reserves, and for other purposes; to the Committee on Banking and Currency.

A bill (S. 2340) granting an increase of pension to Jane L. Starritt (with accompanying papers); to the Committee on Pensions.

Mr. WORKS. I introduce a bill to fix and limit the sessions of Congress, and to provide for the time of electing Senators and Representatives, and for other purposes. The bill is a very short one, and I ask that it be read.

The bill (S. 2341) to fix and limit the sessions of Congress, and to provide for the time of electing Senators and Representatives, and for other purposes, was read the first time by its title and the second time at length, as follows:

*Be it enacted, etc.*, That the Congress of the United States shall assemble once each year, and such meeting shall be on the first Monday in October and continue until the first Monday in June following if the business thereof shall require it.

SEC. 2. That United States Senators and Members of the House of Representatives shall be elected at elections to be held on the first Tuesday after the third Monday in August, and their terms of office shall commence on the first Monday in October following their election.

SEC. 3. That the term of office of any Senator or Representative which shall expire after the last preceding election and before the first Monday in October after his successor is elected is hereby extended to the said first Monday in October.

The VICE PRESIDENT. The bill will be referred to the Committee on Privileges and Elections.

Mr. WORKS. I have another bill, which provides for the election of President and Vice President at the same time, and providing that they shall take office on the 4th day of November. I will not ask to have the bill read, but I should like to have it printed in the RECORD.

There being no objection, the bill (S. 2342) to amend chapters 1 and 2 of Title III of the Revised Statutes of the United States, and for other purposes, was read twice by its title and referred to the Committee on Privileges and Elections and ordered to be printed in the RECORD, as follows:

*Be it enacted, etc.*, That section 131 of the Revised Statutes of the United States, Title III, chapter 1, be, and the same is, amended to read as follows:

"SEC. 131. Except in case of a presidential election prior to the ordinary period, as specified in sections 147 to 149, inclusive, when the offices of President and Vice President both become vacant, the electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the third Monday in August in every fourth year succeeding every election of a President and Vice President."

SEC. 2. That section 135 of said statutes be, and the same is, amended to read as follows:

"SEC. 135. The electors for each State shall meet and give their votes upon the first Monday in September in the year in which they are appointed, at such place in each State as the legislature of such State shall direct."

SEC. 3. That section 140 of said statutes be, and the same is, amended to read as follows:

"SEC. 140. The electors shall dispose of the certificates thus made by them in the following manner.

"First. They shall, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the President of the Senate at the seat of government before the second Wednesday in October then next ensuing one of the certificates.

"Second. They shall forthwith forward by the post office to the President of the Senate at the seat of government one other of the certificates.

"Third. They shall forthwith cause the other of the certificates to be delivered to the judge of that district in which the electors shall assemble."

SEC. 4. That section 141 of said statutes be, and the same is, amended to read as follows:

"SEC. 141. Whenever a certificate of votes from any State has not been received at the seat of government on the second Wednesday in October, indicated by the preceding section, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of the votes from that State has been lodged, and such judge shall forthwith transmit that list to the seat of government."

SEC. 5. That section 142 of said statutes be, and the same is, amended to read as follows:

"SEC. 142. Congress shall be in session on the last Wednesday in October succeeding every meeting of the electors, and the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice President ascertained and declared agreeable to the Constitution."

SEC. 6. That section 148 of said statutes be, and the same is, amended to read as follows:

"SEC. 148. The notification shall specify that electors of a President and Vice President of the United States shall be appointed or chosen in the several States as follows:

"First. If there shall be the space of 2 months yet to ensue between the date of such notification and the first Monday in September then next ensuing, such notification shall specify that the electors shall be appointed or chosen within 34 days preceding such first Monday in September.

"Second. If there shall not be the space of 2 months between the date of such notification and such first Monday in September, and if the term for which the President and Vice President last in office were elected will not expire on the 3d day of November next ensuing, the notification shall specify that the electors shall be appointed or chosen within 34 days preceding the first Monday in September in the year next ensuing. But if there shall not be the space of 2 months between the date of such notification and the first Monday in September then next ensuing, and if the term for which the President and Vice President last in office were elected will expire on the 3d day of November next ensuing the notification shall not specify that electors are to be appointed or chosen."

SEC. 7. That section 149 of said statutes be, and the same is, amended to read as follows:

"SEC. 149. Electors appointed or chosen upon the notifications prescribed by the preceding section shall meet and give their votes upon the first Monday in September specified in the notification."

SEC. 8. That section 152 of said statutes be, and the same is, amended to read as follows:

"SEC. 152. The term of four years for which a President and Vice President shall be elected shall in all cases commence on the 4th day of November next succeeding the day on which the votes of the electors have been given: *Provided*, That if the 4th of November shall fall on Sunday said terms shall commence on the Monday following."

SEC. 9. That the terms of office of the President and Vice President holding their offices at the time of the first election under this act shall be, and are hereby, extended to the 3d day of November following.

By Mr. SMITH of South Carolina:

A bill (S. 2343) to require any individual, firm, or corporation doing an interstate transportation business to provide separate sleeping accommodations for the conveyance of white and colored passengers; to the Committee on Interstate Commerce.

By Mr. SHERMAN:

A bill (S. 2344) granting a pension to Daniel G. Peterson, alias Robert Brown;

A bill (S. 2345) granting a pension to John August Bohman;

A bill (S. 2346) granting an increase of pension to Lorena Tyler; and

A bill (S. 2347) granting an increase of pension to Emil Hagler; to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 2348) to amend section 24 of the Judicial Code, approved March 3, 1911; to the Committee on the Judiciary.

By Mr. GOFF:

A bill (S. 2349) granting a pension to William Reedy; to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 2350) authorizing the Secretary of War to donate condemned cannon and balls; to the Committee on Military Affairs.

By Mr. WILLIAMS:

A bill (S. 2351) for the relief of William H. C. Whiting and others; to the Committee on Claims.

By Mr. CLAPP:

A bill (S. 2352) for the relief of the Oneida Indians residing in the State of Wisconsin; to the Committee on Indian Affairs.

By Mr. THOMAS:

A bill (S. 2353) to authorize the President to appoint Col. James W. Pope, assistant quartermaster general, to the grade of brigadier general in the United States Army and place him on the retired list; to the Committee on Military Affairs.

By Mr. STONE:

A bill (S. 2354) to perfect the title of the heirs of James S. Rollins, deceased, to bounty land warrant No. 58479, issued to George Hickum, teamster, United States Quartermaster Department, War with Mexico; to the Committee on Public Lands.

A bill (S. 2355) to correct the military record of Patrick J. Carmody; to the Committee on Military Affairs.

A bill (S. 2356) to carry out the findings of the Court of Claims in the case of the city of Glasgow, Mo.; to the Committee on Claims.

A bill (S. 2357) granting a pension to Tim McCarthy; to the Committee on Pensions.

By Mr. BANKHEAD:

A bill (S. 2358) for the relief of George Killeen (with accompanying papers); and

A bill (S. 2359) for the relief of Rittenhouse Moore; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 2360) for the relief of Joseph Wygant; to the Committee on Military Affairs.

A bill (S. 2361) granting an increase of pension to Gertrude C. Manross (with accompanying paper);

A bill (S. 2362) granting an increase of pension to George D. Stebbins (with accompanying paper);

A bill (S. 2363) granting an increase of pension to Sarah H. Alldis (with accompanying paper); and

A bill (S. 2364) granting an increase of pension to Rebecca E. Squier (with accompanying paper); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 2365) for the restoration of Alonza Burke, chief carpenter, United States Navy, retired, to the active list of the Navy as an additional number in his grade (with accompanying papers); to the Committee on Naval Affairs.

A bill (S. 2366) for the relief of William R. Cherry; and

A bill (S. 2367) for the relief of Aden Carpenter; to the Committee on Claims.

A bill (S. 2368) granting a pension to Elmer E. Dickey; to the Committee on Pensions.

By Mr. BACON:

A bill (S. 2369) for the relief of the estate of Aaron Murdock, deceased; and

A bill (S. 2370) for the relief of the legal representatives of the estate of Samuel Noble, deceased, and others (with accompanying papers); to the Committee on Claims.

By Mr. JOHNSON of Maine:

A bill (S. 2371) granting an increase of pension to Porter E. Nash; to the Committee on Pensions.

By Mr. THORNTON:

A bill (S. 2372) for the relief of the heirs or estate of Joseph Block, deceased; and

A bill (S. 2373) for the relief of the estate of Philip Felix Herwig, deceased; to the Committee on Claims.

By Mr. POMERENE:

A bill (S. 2374) providing for the care of the Confederate Stockade Cemetery, Johnstons Island, in Sandusky Bay; to the Committee on Military Affairs.

A bill (S. 2375) for the condemnation of land in the interior of square No. 28, District of Columbia, and for other purposes; and

A bill (S. 2376) for the condemnation of land in the interior of square No. 449, District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. OVERMAN (for Mr. LEA):

A joint resolution (S. J. Res. 37) authorizing the Secretary of War to accept the title to approximately 5,000 acres of land in the vicinity of Tullahoma, in the State of Tennessee, which certain citizens have offered to donate to the United States for the purpose of establishing a maneuver camp and for the maneuvering of troops, establishing and maintaining camps of instruction, for rifle and artillery ranges, and for mobilization and assembling of troops from the group of States composed of Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, and South Carolina; to the Committee on Military Affairs.

FOURTH-CLASS POSTMASTERS.

Mr. OVERMAN. I introduce a joint resolution which I send to the desk and ask that it be read, and when read that it be referred to the Committee on Civil Service and Retrenchment.

The joint resolution (S. J. Res. 38) suspending the order of October 15, 1912, placing fourth-class postmasters under the civil service was read the first time by its title and the second time at length, as follows:

*Resolved, etc.*, That the order issued by President Taft, under date of October 15, 1912, placing fourth-class postmasters under civil service be, and the same is hereby, suspended.

SEC. 2. That any officer or employee of the Government of the United States, who may be required by law or regulations to execute a bond to his superior officer, or any other officer of the Government, to secure a faithful performance of official duty, may be appointed by the officer, who may require such bond without regard to the provisions of an act of Congress entitled "An act to regulate and improve the civil service of the United States, approved January 16, 1883," and amendments thereto, or any rule or regulation made in pursuance thereof, and the officer requiring said bond shall have power to revoke the appointment of any subordinate officer or employee and appoint his successor at his discretion without regard to the act, amendments, rules, or regulations aforesaid.

Mr. OVERMAN. Mr. President, I am not going to make a speech on this subject. I desire to say, however, that I have been misrepresented, or rather that a statement has been made in the newspapers that this resolution would be introduced by me after conference with the Secretary of the Treasury. I wish to say that I have had no conference on the subject with the Secretary of the Treasury. He has never mentioned it to me nor have I mentioned it to him or to anyone in the Treasury Department. I simply introduce the joint resolution.

I desire to say that I am in favor generally of civil service, but I am utterly opposed to the extent to which it has been carried by Executive order. I shall ask the committee to consider this joint resolution. I expect to appear before them, and I hope that they will treat me better than they have done in reference to the other resolution which I have introduced and which sleeps within the Committee on Civil Service and Retrenchment.

Mr. GALLINGER. Mr. President, in seeking light on this subject, I would ask the Senator from North Carolina [Mr. OVERMAN] if he has had a conference, if he chooses to state it, with the Postmaster General, under whom this matter comes more directly than under the Secretary of the Treasury?

Mr. OVERMAN. I have had no conference with any Cabinet officer, nor have I had any conference with the President on the subject. This is simply introduced on my own initiative.

Mr. GALLINGER. I will not pursue my inquiry, but I might ask a further question. I have noticed that the Postmaster General has ordered an examination of fourth-class postmasters, and it seems to me that that ought to be going far enough. Now, we are going to get rid of them with some haste, it seems to me, if this joint resolution passes; but we shall discuss it when it is reported, if it ever is. I think we ought to go slow in disturbing the civil service. I feel very sure that many statements that have been made as to the administration of the civil service have been made upon misinformation. Some facts of which I am in possession will demonstrate that when the debate occurs. The service can doubtless be improved, and it ought to be improved, and if the Senator from North Carolina succeeds in improving it he will deserve the thanks of us all.

Mr. OVERMAN. Mr. President, carrying out that idea, the Senate passed a resolution requesting the President to send to the Senate the report of the Economy and Efficiency Commission made to the President in March last, and the Senator from New Hampshire will find that they report that the Civil Service Commission has been used as a cloak for the old spoils system.

Mr. SMITH of South Carolina. Before the Senator from North Carolina takes his seat, I desire to ask him if by Executive order all fourth-class postmasters were not also put under the operation of the civil-service law?

Mr. OVERMAN. That is my understanding, and that is the reason I have introduced the joint resolution.

Mr. SMITH of South Carolina. I do not think there is anyone who is familiar with the discharge of the duties of a fourth-class postmaster who ever contemplated that such an officer would necessarily be kept under civil-service rules in view of the degree of competency that is necessary for the discharge of the duties of such an office. Such action really would bring the civil service into disrepute and encourage the kind of thing which the Senator from North Carolina is attempting to eliminate.

The VICE PRESIDENT. The joint resolution will be referred to the Committee on Civil Service and Retrenchment.

THE TARIFF.

Mr. OLIVER submitted an amendment intended to be proposed by him to the bill (H. R. 3321) to reduce tariff duties and provide revenue for the Government, and for other purposes, which was referred to the Committee on Finance and ordered to be printed.

Mr. BURTON submitted two amendments intended to be proposed by him to the bill (H. R. 3321) to reduce tariff duties and provide revenue for the Government, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

VALORIZATION OF COFFEE.

On motion of Mr. NORRIS, it was

*Ordered*, That in accordance with the letter of the Attorney General of May 6, 1913, in response to the request of the Senate contained in

the resolution adopted April 21, 1913, relating to the valorization of coffee, the papers and documents accompanying said letter be returned to the Department of Justice.

COMMISSION ON ECONOMY AND EFFICIENCY.

Mr. OVERMAN submitted the following resolution (S. Res. 90), which was read, considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to send to the Senate, if not incompatible with the public interest, a copy of the report submitted to him on March 25, 1913, by the President's Commission on Economy and Efficiency, on the apportionment of appointments made from the registers of the Civil Service Commission of the apportioned service at Washington.

TREATMENT OF TUBERCULOSIS IN NORTH CAROLINA.

Mr. OVERMAN. I submit a resolution, which I ask may be read, and I ask unanimous consent for its present consideration.

The resolution (S. Res. 89) was read, as follows:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, requested to institute, through the Bureau of the Public Health, an investigation of the practices and methods employed by Drs. Karl and Silvia Von Ruck, of Asheville, N. C., in treating tuberculosis and in rendering persons immune from tuberculosis, and to report to the Senate as soon as practicable whether the vaccine used by the said Drs. Von Ruck in attempting to render persons in health immune to tuberculosis is successful in immunizing those thus vaccinated.

Mr. GALLINGER. Mr. President, I do not rise to object, because we want all the light we can get on this important subject; but it occurs to me that this tuberculosis-vaccine controversy seems to be running riot. We have Dr. Friedmann making claims for a remedy that has been shown to be practically worthless, and we have now a physician in Chicago, Dr. Dukeh, who assures the country that he has a serum that is a certain cure for tuberculosis. I have very grave doubts myself as to the efficacy of any of these serums; but the Senator from North Carolina thinks that the resolution ought to pass and I will not object, although I doubt the propriety of the Government officially engaging in such investigations.

Mr. OVERMAN. Mr. President, I wish to suggest that with Dr. Von Ruck this is no new matter. He has a hospital in western North Carolina, and numbers of patients have been cured by him. There is a Senator on this floor who could rise and testify that he has been cured by this treatment. If we can investigate a foreigner and his methods, I do not see why we should object to the examination of those of an American who, I think, has really the vaccine matter that will do the work.

Mr. GALLINGER. As I heard the resolution, Mr. President, I understood it to mean that this is a serum that makes persons threatened with tuberculosis immune from the disease. Is that it?

Mr. OVERMAN. Yes.

Mr. GALLINGER. Is it also claimed to be a cure for the disease when it actually exists?

Mr. OVERMAN. It has really cured many people, and our leader, the Senator from Indiana [Mr. KERN], I do not mind stating, says that he was cured by it and that he would be willing to give testimony to that effect.

Mr. GALLINGER. We can readily get testimony that men have been cured of all sorts of diseases by all sorts of remedies, but that really proves very little.

Mr. OVERMAN. There is no harm in adopting the resolution.

Mr. GALLINGER. There is no harm in it, except that it establishes a bad precedent; but I will not object.

Mr. OVERMAN. There is no harm in allowing the Government to investigate the matter.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

TARIFF STATEMENT (S. DOC. NO. 45).

Mr. SMOOT. Mr. President, I have had prepared a comparison of the rates of duty levied by the tariff act of 1909 and House bill 3321 as passed by the House of Representatives, showing also the corresponding rates in the chemical, metal, sugar, cotton, and wool bills of 1912, and the equivalent ad valorems in all these measures based upon the importations of the fiscal years 1911 and 1912, and also a complete index to the different bills in the comparison.

I ask that it be printed as a public document.

The VICE PRESIDENT. Is there any objection to the request of the Senator from Utah?

Mr. SIMMONS. Mr. President, I do not desire to object to the printing, and, in fact, I do not think it is necessary to get the consent of the Senate to print the statement. I think the committee has ample authority, and I am sure if the Senator had suggested it the committee would have exhausted its authority to have had it printed.

I wish to say to the Senator that there has been printed already a comparative statement which covers, I think, substantially what he has just presented.

Mr. SMOOT. No; I have seen the statement which has been already printed. It does not cover all the items.

Mr. SIMMONS. What item in the Senator's statement is not covered in the comparative statement which has been printed?

Mr. SMOOT. The items in the comparative statement which have been printed do not, I think, give House bill 23182 of 1912. That statement does not show the ad valorem duties of the bills that were introduced in 1912 on chemicals, metals, sugar, and cotton. This statement shows all those.

Mr. SIMMONS. As far as that is concerned, if that is the only difference, and the Senator had suggested it, we would have provided for a column of the comparative statement for that purpose; and when the committee finally acts, if the Senator wants that put in the comparative statement, we will see that it is put in. But I shall make no objection to the printing of the statement, if the Senator desires it.

Mr. SMOOT. I wish to have it printed as a public document.

The VICE PRESIDENT. The Chair hears no objection, and it is so ordered.

INTERNATIONAL CONGRESS ON ALCOHOLISM (S. DOC. NO. 44).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

*To the Senate and the House of Representatives:*

I transmit herewith, for the information of Congress, a report by the Secretary of State covering the report of the delegates of the United States to the Thirteenth International Congress on Alcoholism, at The Hague, in September, 1911, appointed in pursuance of a provision in the diplomatic and consular appropriation act approved March 3, 1911.

WOODROW WILSON.

THE WHITE HOUSE, *May 26, 1913.*

ALLEGED COTTON POOL.

Mr. SMITH of South Carolina. I send to the desk a resolution which I ask may be read, and I ask unanimous consent for its immediate consideration.

The resolution (S. Res. 91) was read, as follows:

*Resolved*, That the Secretary of Commerce be, and he is hereby, directed to inquire fully as to the names of the party or parties or corporations that sold the cotton alleged to have been bought in the year 1910 by a pool of purchasers, who are now under indictment by the Department of Justice, and at what prices these parties sold this cotton to the alleged pool, and whether or not the parties selling this cotton owned the cotton at the time of the sale thereof, and the price of spot cotton in the markets of this country on the date of the making of these contracts or the sale of these contracts for this cotton, and to report the same at the earliest possible moment to the Senate.

Mr. SMITH of South Carolina. Mr. President, in explanation of the resolution I will say that in 1910 there was alleged to have been a certain conspiracy entered into by certain individuals for the purpose of cornering the cotton market and putting up the price of cotton. In an indictment which was found shortly after that time certain individuals were alleged to have entered into an agreement with certain mill owners in this country who were to take part of this cotton from their hands as they bought it and to distribute it. It seems that when the time came for the delivery of the cotton the parties having sold these contracts claimed that under the Sherman antitrust law those individuals who had bought this cotton were guilty of an infraction of that law. The truth of the matter is that under the operations of the New York Cotton Exchange those who had sold this cotton had hoped to deliver the old stock that they had accumulated in New York that no one would have. As everyone familiar with the conditions knows, in 1910 we had a comparatively short crop—about 10,500,000 bales of cotton. At that time over in England the International Federation of Spinners and Weavers met. The situation which confronted the mill people was freely discussed, and it was stated that on account of the increased business, on account of the increased demand for cotton on the market, and on account of the unprecedented or comparatively unprecedented short crop the probabilities were that cotton would go up rapidly. They agreed that in order to obviate this disaster to them in their profits, without regard to the grower, they would run on short time. I believe that was the universal agreement, covering every mill both in Europe and in this country. They agreed in their association that they would run on short time in order to curtail the consumption of raw cotton, so as to increase the price of the manufactured product, and to decrease the price of

raw cotton, also to preserve the stock to be carried to another year.

During this time certain individuals in New York were selling hundreds of thousands of bales of cotton under the spot price in the spot centers, expecting, by virtue of loading the market with what is called short sales, to break the price to a point where they could buy the spot cotton on a lower basis than that on which they sold and deliver this cotton to the European spinners. Certain men realizing that the crop was short and that the demand of the world was large profited by the experience of one Daniel J. Sully, who believed that the world had never set a proper estimate upon the value of American cotton and who undertook to corner the future market, not the spot market, and succeeded in demonstrating that the value of cotton was far beyond the prices ordinarily offered. But Sully failed because he had not made preparation for receiving and disposing of the actual cotton that might be tendered on his contracts. But he demonstrated one fact, and that was that we had not nearly approached the real intrinsic value of American cotton as expressed in the terms of the world's needs. Under the Sully boom cotton went to 17¼ cents a pound; the mills bought up hundreds of thousands of bales of cotton at that price, converted it into goods, and sold them in the market without any mills, so far as we heard of, going into bankruptcy.

When this present combination of manipulators or speculators got together they took into their confidence, as is alleged, or into their agreement, certain mills throughout the country, saying to them: "These parties are offering this cotton cheaper than you can buy it in your home market. Now, as the season has been open, the grade of this year's cotton good, and it is almost impossible for the exchange to load up its warehouses with undesirable cotton and offer it on contract, if you will agree to take this cotton as it is offered or as we demand it, we will deliver it to you or force them to deliver it to you." Under this arrangement when the April notices came due the parties having sold these contracts gave notice of delivery of the cotton. The buyers absorbed practically all the stock that there was in the warehouses at New York. The price at which they bought this cotton was lower than they could buy spot cotton in the South. Then the sellers stood face to face with one of two situations, either to pay the premium on their contracts demanded by the parties that bought them, or to go into the markets of the South and buy spot cotton as best they might to fulfill their contracts. This meant an inevitable rise in the price of cotton throughout the cotton markets in the South. In place of that, however, they got a certain manufacturer in Alabama—I believe it was—to disclose to them what the agreement was, namely, that the men buying the contracts should demand the cotton and deliver the cotton to the spinners. The result was that in place of the contracts being filled these men who bought the cotton were indicted for criminal practices under the terms of the Sherman antitrust law and haled into court.

Mr. CLARK of Wyoming. Mr. President, will the Senator from South Carolina allow me to ask him a question?

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

Mr. SMITH of South Carolina. I do.

Mr. CLARK of Wyoming. What effect does the Senator seek to accomplish by this resolution?

Mr. SMITH of South Carolina. I introduced a similar resolution in 1910 and had it referred to the Department of Justice. The then Attorney General informed me that he could not investigate the matter; that that was outside of his province. Having a new Attorney General in office at this time, I interviewed him this morning, and he said he was inclined to take the same position taken by the previous Attorney General. I then interviewed the Department of Commerce, and they assured me that, if I could secure the passage of this resolution by the Senate, they would investigate to find out all about the sale and those who sold the cotton. Here we are indicting men for putting up the price of an American product, two-thirds of which we sell abroad, and letting go scot-free the men who have attempted to put the price down and to ruin those who produce the raw material.

Mr. CLARK of Wyoming. I think the Senator did not understand the purport of my inquiry. The inquiry was what practical effect does the Senator hope to accomplish by this resolution?

Mr. SMITH of South Carolina. The practical effect which I hope to accomplish is this: If the Department of Commerce does its duty thoroughly, and can find out who the parties were who sold to this alleged pool, how much they sold, how much they owned at the time of sale, and what was the price at which they sold as compared with the price of the actual product, it would get data enough to indict them in the courts and give the people of this country to understand that those who produce the raw material, the ordinary farmer and laborer of this country, have as fair a show in the courts of this country as the men who manipulate the other end.

Mr. CLARK of Wyoming. Will the Senator yield for another question?

Mr. SMITH of South Carolina. Certainly.

Mr. CLARK of Wyoming. I am not at all familiar with the situation of which the Senator speaks. Are the indictments to which the Senator has referred still pending?

Mr. SMITH of South Carolina. They are still pending. The reason I have brought the matter up is because it is alleged that there were some flaws in the previous indictment of the men who were attempting to make foreigners pay a legitimate price for an American product. There are witnesses who have been subpœnaed to go before the grand jury of the district of New York in order that they might perfect the indictment and hale these parties into court under a perfected indictment.

Mr. CLARK of Wyoming. Mr. President, another question. This matter is, then, still under consideration and action by the Department of Justice?

Mr. SMITH of South Carolina. Yes; so far as the alleged conspiracy in restraint of trade by cornering the cotton market is concerned; but that is as absurd as to talk about cornering the wind.

Mr. CLARK of Wyoming. Does not the Senator think that the Department of Justice, having one branch of the case in hand, ought to be allowed to pursue its orderly course as to the whole matter?

Mr. SMITH of South Carolina. The Department of Justice refused to investigate the other side of the case.

Mr. CLARK of Wyoming. I understand the Senator to say that the present head of the Department of Justice is not in accord with the Senator on this proposition?

Mr. SMITH of South Carolina. No; the Senator misunderstands me. The Department of Justice in 1910 said that it would not investigate; that this indictment that is now pending was investigated by other parties; that the charges were laid before the grand jury; and that they are simply proceeding under the law to the prosecution of the case.

Mr. CLARK of Wyoming. Will the Senator allow me to interrupt him right there? The Senator has the facts in his own knowledge, or thinks he has, in regard to the operation. Does not the Senator think that, if he had presented those facts to the Department of Justice and those facts should constitute a cause of action against these parties, the Department of Justice would proceed?

Mr. SMITH of South Carolina. I have not got the facts; I want to get the facts. The Senator from Wyoming knows that no man can buy a thing unless somebody sells it; and I know that that pool bought more cotton than was then on the market, and somebody had to sell more than they had in order to do that. I want to know who sold the cotton.

Mr. CLARK of Wyoming. I am inclined to agree with the Senator in that; but it occurs to me that in investigating an offense against the Sherman Antitrust Act the Department of Justice has by far the better machinery and is the better qualified and equipped to investigate and to take advantage of its own investigation. I do not object at all to the Senator's resolution.

Mr. JOHNSTON of Alabama. Mr. President——

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

Mr. SMITH of South Carolina. Certainly.

Mr. JOHNSTON of Alabama. I understand from what the Senator from South Carolina has said that he believes that the men who attempted to depress the price, as well as those who attempted to raise it, should be included in the prosecution?

Mr. SMITH of South Carolina. To be sure. The whole question is, Who are the more guilty—the men who attempted to raise the price of this commodity or those who attempted to depress the price below the legitimate value of the cotton as measured by the law of supply and demand; who were selling, contract upon contract, thousands upon thousands of bales, when no such amount of cotton was in sight? I have here a letter to the effect that over 384,000 bales were sold and actually delivered, and that that did not come near exhausting the contracts. In other words, those who were interested in getting cheap raw cotton for European exportation were selling their contracts without limit on the New York Exchange, knowing that they could stand behind a breastwork of undesirable grades and could sell the market far below the real value. But on account of the splendid season and the unusually good quality

of the cotton for the year 1910 the alleged "pool" bought these contracts, demanded specific fulfillment, cleaned out the warehouses, left the men that had sold short without any breastwork to stand behind, and were in a fair way to put cotton up to its legitimate price during that season. Then, in order to stop them, these men were indicted as being in a combination and conspiracy in restraint of trade; whereas those who had been depressing the price of the cotton, who had been decreasing the balance of trade in favor of America, the men who were using their money and their prestige and their power to put down an American product, were allowed to go scot free.

Mr. CLARK of Wyoming. I suppose we all know, as the Senator from South Carolina knows, that there are plenty of people who are engaged day in and day out in the business of selling things they have not got. I am quite with the Senator in hoping that that sort of business will be broken up. My thought was that the department of the Government that is charged with that very thing of breaking up unlawful combinations was the department to be intrusted with this investigation. That was the only reason for which I rose. It appears, however, that it is not.

Mr. SMITH of South Carolina. I should like to state that while I did not bring it over with me I had before me this morning a transcript of the report of the Attorney General on my previous resolution, stating that all he could do was to give his opinion to the proper authorities or proper department, when asked, on a specific case; that he could not investigate.

Mr. CLARK of Wyoming. Mr. President, I suppose the Senator has such a statement as that, because he says he has; but if he has such a statement as that, it is entirely without foundation, because the Department of Justice is bound to investigate these allegations of violation of the Sherman Antitrust Act whenever they are brought to its notice.

Mr. SMITH of South Carolina. Then, why did not the Attorney General direct it to be done?

Mr. CLARK of Wyoming. I do not know why he did not. I am not speaking of the past; I am speaking of the present. I believe the Department of Justice, as now constituted, will be faithful in the performance of its duties, as it has been faithful in the performance of its duties in the past as formerly constituted.

Mr. SMITH of South Carolina. I am glad to hear the Senator from Wyoming say that he thinks the present Department of Justice will come nearer doing its duty than the previous one, for I assure him that the previous head of that department said that this matter was outside of his jurisdiction, and he absolutely refused to have anything to do with it.

Mr. CLARK of Wyoming. If the Senator can find any more effective way of preventing the Department of Justice from pursuing its inquiries in this direction than his present resolution, I am unable to see it. He takes the investigation out of the jurisdiction of the Department of Justice and imposes it upon the Department of Commerce.

Mr. SMITH of South Carolina. I should like to state to the Senator from Wyoming that I interviewed the Attorney General this morning, and he said that, without going into the matter or investigating it further, he was rather inclined to the opinion that the Department of Justice could not make investigations which in turn would become the foundation for an indictment in that department; that they simply had to depend upon facts presented to them. But be that as it may, upon the statement of the Department of Commerce that they would thoroughly investigate this matter——

Mr. BORAH. Mr. President——

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

Mr. SMITH of South Carolina. I do.

Mr. BORAH. Did I understand the Senator to say that the Attorney General was of the opinion that the Department of Justice could not make an investigation of the conditions and then use the facts which they ascertained as the basis of an indictment? That is, that the department could not initiate an investigation and lay whatever facts it secured before a grand jury?

Mr. SMITH of South Carolina. I will state to the Senator from Idaho that that opinion was set forth in detail by the previous Attorney General, Mr. Wickersham. The opinion, as expressed by him, was printed in the report. I inadvertently left it in my office this morning. That was his opinion, however, stated over his signature.

Mr. CLARK of Wyoming. I understood the Senator to say that the present head of the Department of Justice told him the same thing.

Mr. SMITH of South Carolina. This morning, when I went to interview the present Attorney General, he was of opinion, without investigating this specific case, that the previous Attorney General was right.

Mr. BORAH. Did he maintain that the Department of Justice could not make an investigation and use the facts which it had for the purpose of prosecuting?

Mr. SMITH of South Carolina. I am simply making a statement of what I understood the former Attorney General's report to mean. I will send and get, and ask the privilege of having incorporated in my remarks, the opinion expressed by Mr. Wickersham on this identical resolution.

Mr. CLARK of Wyoming. Why can we not have the opinion of the present Attorney General? Mr. Wickersham has passed out of office.

Mr. SMITH of South Carolina. It has not been before him to pass upon. This was simply a private conversation.

Mr. CLARK of Wyoming. I understood that the Senator wanted this investigation made by the Department of Commerce because the present Attorney General was of the opinion that he had no authority to make the investigation.

Mr. SMITH of South Carolina. That was his tentative opinion. He did not know what was involved in it. I stated to him that the reason I came was that the previous Attorney General had expressed this opinion, which I will have brought in and read before you, in which he cites case after case in which he is sustained by previous Attorneys General, to the effect that the function of that office is not to investigate except under an order from the President. He cites the kind of investigation he can make, but holds that he can not go in and investigate to find out facts for any other department, even at the order of Congress.

Mr. CLARK of Wyoming. Then I understand the Senator from South Carolina wants this investigation made by the Department of Commerce, in order that the results of that investigation may be given to the Attorney General for the purpose of bringing an indictment against the parties if guilty?

Mr. SMITH of South Carolina. I do.

Mr. CLARK of Wyoming. Mr. President, I think the Attorney General himself should make the investigation.

Mr. KENYON. Mr. President——

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

Mr. SMITH of South Carolina. I do.

Mr. KENYON. I am surprised by the statement of the Senator from South Carolina. It is rather an amazing one, and it seems to me he must be mistaken. I can not believe that the Attorney General has laid down the doctrine that the Department of Justice can not investigate and then use the material it secures for the purpose of prosecution or suit.

Mr. SMITH of South Carolina. Except on the order of the President.

Mr. KENYON. If the Senator will permit me a moment further, I was connected with the Department of Justice for about a year, and I know that is not the practice. There is a corps of investigators especially organized for the purpose of making investigations, and those investigations are acted upon either by placing the facts before a grand jury or by starting a suit in equity. In the Cotton-Pool case, to which the Senator refers, as I remember, there was a plea of guilty entered by some of the gentlemen who I assume he believes were unjustly prosecuted.

Mr. SMITH of South Carolina. If the Senator will pardon me a minute, I want to correct his statement that I assume that those who are now indicted are not guilty. I am not making any assumption pro or con as to that, but I do claim that if those who bought this cotton were guilty of a restraint of trade those who sold it were guiltier still. That is the allegation I make.

Mr. KENYON. I should like to see them all prosecuted, and I was very glad to see these men prosecuted. The conspiracy was cold-blooded and it levied tribute upon everybody in this country who was compelled to buy cotton goods. As a matter of fact, some of these men themselves plead guilty and paid fines, acknowledging their own guilt.

Mr. BORAH. Mr. President——

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

Mr. SMITH of South Carolina. I do.

Mr. BORAH. I suspect that if we could get the Attorney General's opinion we would find that the Attorney General said no more than that the facts that were gathered by the department would have to be laid before a grand jury before an indictment could be found.

Mr. SMITH of South Carolina. I prefer to get the opinion and read it, and that will set at rest all this controversy as to what he did say. Then we will all stand corrected. I will send and have it gotten.

Mr. CLARK of Wyoming. I do not understand that the Senator has the opinion of the present Attorney General. The opinion the Senator refers to is the opinion of former Attorney General Wickersham.

Mr. SMITH of South Carolina. I have the opinion of the former Attorney General in printed form over at my office.

Mr. CLARK of Wyoming. But what we are interested in is the opinion of the present Attorney General. If the present Attorney General thinks he has not the power to make this investigation, then by all means let us give him the power, or give it to somebody else; but if in his opinion he has the power he can make the investigation, and no other department can make it.

Mr. SMITH of South Carolina. I should infinitely prefer a department where there would be no doubt as to its authority to get the facts I want than to refer it to one where there is already an adverse opinion, and where the present Attorney General has not had sufficient data to know whether his opinion would be adverse or not. This is a matter that needs to be attended to now. Therefore, if these facts can be gathered by the Department of Commerce as expeditiously as they can be gathered by the Department of Justice, and perhaps more so, when they are ascertained they can be laid before the Attorney General for such action as may be proper in the premises.

I shall ask the privilege of reading the opinion as soon as it comes into the Chamber. In the meantime I ask that this resolution be acted upon.

Mr. KENYON. Mr. President, may we have the resolution read again?

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary again read the resolution.

Mr. BORAH. Mr. President, I do not desire to oppose this resolution, but does the Senator think this resolution is necessary in order to enable the Department of Commerce to make an investigation?

Mr. SMITH of South Carolina. I think it is. I talked to the Secretary; we went over those points, and he said he would take them up and gather the facts and see just who the parties were, and all the circumstances surrounding the alleged sale.

Mr. BORAH. If the resolution is necessary, it will be a source of great relief to the manufacturers of this country who are about to be investigated.

Mr. SMITH of South Carolina. Yes.

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

Mr. CLARK of Wyoming. I think it ought to go over, at least until we can find out about the difference between the two departments.

The VICE PRESIDENT. There being objection, the resolution goes over.

Mr. SMITH of South Carolina subsequently said: Mr. President, I now have the opinion of the Attorney General, and I want to incorporate it with the remarks that I made in reference to my resolution this morning. I gave notice while I was speaking that I would have it done.

I will take this occasion to say, as there was some confusion as to what I did say in reference to the opinion of the present Attorney General, that he has given no opinion in reference to it at all. He only suggested that the former Attorney General was right, and he did say to me that on account of the press of business in his office he was afraid he could not give it attention; that later on he might do so.

In view of this opinion of the former Attorney General, which I ask to have printed, I want to state that I took it upon myself to call upon the Department of Commerce to have them investigate and find the data that I am looking for. I think those who will read the opinion as coming from the former Attorney General will find that the position he took in reference thereto was exactly as has been stated.

The VICE PRESIDENT. If there is no objection, the opinion of Attorney General Wickersham will be printed in the RECORD.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

DEALING IN COTTON FUTURES.

Letter from the Attorney General, in response to a Senate resolution of April 29, 1910, directing the Attorney General to report to the Senate the names of the party, parties, or corporations that sold cotton alleged to have been bought by a pool, together with the prices.

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
*Washington, D. C., May 6, 1910.*

SIR: I am in receipt of a resolution adopted by the Senate on April 29, 1910, in the following language:

"*Resolved*, That the Attorney General be, and he is hereby, directed to inquire fully as to the names of the party or parties or corporations that sold the cotton alleged to have been bought by a pool of purchasers who are now under investigation by the Department of Justice, and at what prices these parties sold this cotton, and whether or not they owned the cotton at the time of the sale thereof, and the price of spot cotton in the South on the date of the making of these contracts or the sale of these contracts, and to report the same at the earliest possible moment to the Senate."

The investigation now being carried on by this department concerning a so-called "pool" in cotton is for the purpose of ascertaining whether or not a crime against the laws of the United States has been committed. That investigation is being conducted with the aid of a grand jury, whose proceedings are necessarily secret, and the testimony adduced before it, under well-settled rules of law, is for the use of the grand jury, whose functions are purely judicial and may not be used in aid of legislative inquiry. (Re Summerhayes, 70 Fed. Rep., 769; U. S. *v.* Kilpatrick, 16 Fed. Rep., 765; Fotheringham *v.* Adams Express Co., 34 Fed. Rep., 646.) Nor can I lawfully conduct such an inquiry as the resolution describes, for the purpose of ascertaining and reporting facts for the consideration of the Senate.

The powers and duties of the Attorney General are prescribed by law.

He is required to give his advice and opinion upon questions of law whenever required by the President, or by the head of any executive department. (U. S. R. S., secs. 354, 356.) He may conduct and argue any case in any court of the United States in which the United States is interested. (Id., sec. 359.) By no statute is he required or permitted to conduct an investigation in aid of the legislative branch of the Government. While under the Constitution, and independently of statute, the President may call upon the Attorney General or any other head of one of the departments of Government for his opinion "upon any subject relating to the duties of their respective offices" (Const., Art. II, sec. 2; 23 Opin., 360), yet it has been uniformly held by my predecessors that the laws do not permit the Attorney General "to give advice at the call of either House of Congress, or of Congress itself, but only to the President or the head of an executive department" (18 Op., 87), and that he can not undertake to investigate and report upon questions of fact, even for the head of one of the other departments of the Government (17 Op., 436; 19 Op., 465; 20 Op., 253–384; 23 Op., 231).

As early as 1820 Attorney General Wirt, in reply to a resolution of the House of Representatives requesting him to report his opinion with respect to a certain petition and documents referred to him by the House, requested to be excused from so doing upon the ground that there was no provision of law imposing upon him the performance of such duty as would be required in order to comply with such resolution. (1 Op., 335.)

In 1854 Attorney General Caleb Cushing advised the Secretary of the Interior that he was not bound to consider a resolution of the House respecting a claim against the Government which, under the law, was within the jurisdiction of his department, as mandatory on him or compelling him to liquidate the claim against his judgment of the right of the case. The Constitution, he said, "has not given to either branch of the Legislature the power, by separate resolution of its own, to construe judicially a general law or to apply it executively to a given case. *And its resolutions have obligatory force only so far as regards itself or things dependent on its own separate constitutional power.*" (6 Op., 680, 684.)

Attorney General Williams, in 1872, declined to examine certain papers referred to him by the House Committee on Foreign Affairs, touching the claims of several insurance companies growing out of the loss of a vessel in Chinese waters, and to give the committee his opinion concerning the same, upon the ground that it was not only not his duty but that he had no right to give his official opinion with respect to such matters (14 Op., 17); and the same Attorney General, in advising the Secretary of the Interior with respect to a similar report, said:

"Several of my predecessors have decided, and on three different occasions I have affirmed their views, that the Attorney General was not authorized to give his official opinion upon a call of either House of Congress or any committee thereof as to any matter pending before Congress. * * * I fully recognize the right of the head of any of the departments to call upon me for an official opinion in respect to any question of law pending before the department by whose head the call is made and I consider it my duty promptly to respond to such a call; but I can not recognize the right of any committee of Congress to call for such an opinion for their own use in matters of legislation." * * * (14 Op., 178.)

In 1861 Attorney General Bates acknowledged the receipt of a resolution of the Senate, referring a petition to him and requesting him to inquire into the facts and law of the case and report his opinion to the Senate at its next session, but respectfully declined to comply with such request on the ground that, in the absence of any statutory authority to give official opinions to the legislative department of the Government, the assumption of such a power by the Attorney General would be in violation of his oath of office and of dangerous example; and that, moreover, he was not provided by law with the means of obtaining the information desired.

He said:

"The statutory provision, and the only one which authorizes the Attorney General to give opinions, is contained in the act of September 24, 1789. By that act he is required to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments. (1 Stat., 93.) Being thus limited to the duty of giving opinions upon questions of law, the Attorney General has not been clothed with the power to investigate matters of fact. He has no authority to compel the attendance of witnesses or to administer oaths to them; and, in short, has none of the machinery by which, through the control of persons and papers, truth may be elicited and falsehood exposed. Thus deficient in the means of ascertaining the facts, his conclusions upon the law would necessarily be valueless, since their accuracy would depend on the fullness and certainty with which the facts were established. It will therefore be seen that however strongly my own feelings may incline me to accept the commission with which the Senate has honored me, the want of power to execute it effectively compels me to decline it; and I trust that the Senate will find, in the reasons which I have taken the liberty to suggest, a sufficient justification for so doing." (10 Op., 164.)

The views expressed in this opinion, so far as I am able to ascertain, have been uniformly acted upon by my predecessors, and I have found no case where an inquiry such as the Senate resolution of April 29, 1910, calls for has been conducted by the Attorney General

For these reasons, with the greatest respect, I am constrained to inform the Senate that it will be impossible for me to comply with the request contained in that resolution.

Respectfully, GEO. W. WICKERSHAM, *Attorney General.*

The PRESIDENT OF THE SENATE.

ADDITIONAL DISTRICT JUDGE, CALIFORNIA.

Mr. WORKS. A few days ago I asked for the present consideration of the bill (S. 485) to amend section 1 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, which was reported from the Judiciary Committee. The Senator from Arkansas [Mr. CLARKE] asked for an opportunity to look into it and objected to its consideration at that time. The bill was read. I understand the Senator from Arkansas will not make further objection. I therefore ask unanimous consent that the bill may be placed upon its passage.

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

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

Mr. WORKS. The bill has already been read. It is simply to add an additional judge for the southern district of California.

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

THE TARIFF.

Mr. CUMMINS. Mr. President, I desire to ask a question of the chairman of the Finance Committee, if he will give me his attention.

The Finance Committee has recently published a comparison between the existing tariff law and the proposed tariff law in which the specific duties in the existing law are converted into what are called equivalent ad valorems. I think it would be helpful to those of us who expect to give that subject some thought and study if the chairman of the Finance Committee would tell the Senate the plan that has been adopted under which these specific duties have been so transformed; that is to say, by what method is the equivalent ad valorem duty ascertained.

I do not ask for this information in any captious spirit. It will frequently be referred to in the future, and I think all Senators ought to know how this has been done, in order that we may prepare ourselves for whatever observations we see fit to make upon the work of the committee.

Mr. SIMMONS. Mr. President, I do not know that I am able to give the Senator the exact method by which the specific and compound duties were reduced to ad valorem equivalents. The Senator knows that that has been done in connection with every revision of the tariff in recent years. It was worked out when the present tariff law was considered in 1909. It was worked out when we were attempting to revise the tariff in 1912 by the schedule-bill process.

These calculations are made by Government experts. I am not able to tell the Senator exactly the basis upon which the experts make these conversions. I think, however, I am correct in the general basic statement that they calculate upon the basis of the actual imports of the specific article for the specific year. In the comparative statement that the committee has caused to be prepared and printed I think they selected two years instead of one, the actual importations in 1911 and the actual importations in 1912.

Now, the exact mathematical process by which the expert reaches his conclusion as to what is the ad valorem equivalent of each specific duty I am not able to tell the Senator, but if he desires that information specifically I will have the expert who is doing the work furnish the Senator the information, or if he prefers I will have it furnished to me and I will state it to the Senate.

I will state at this time that an expert assigned by the Treasury Department, an expert in whom I have great confidence, is going over the items. I think that he has assisted nearly all the committees who have prepared statements within the last four years in getting up the data showing the ad valorem equivalents.

I will say in this connection that the print we have had made is simply a tentative print. It is to be revised. There may be errors in it. It was gotten up probably a little hurriedly and probably in advance of some other facts that will necessarily cause it to be revised. I am having this particular expert go over the calculations to be sure that they are accurate.

Mr. CUMMINS. Mr. President, I do not know that there has been a mistake made——

Mr. SIMMONS. None has been called to my attention.

Mr. CUMMINS. I do not suggest that there is any error in the computation itself. I know that the information in this comparison is very misleading, just as similar information in a former comparison was very misleading. I know how the attempt was made a few years ago and I did not know whether the committee was pursuing the same plan. We will have occasion as we go through the bill to compare the two bills, I assume, very carefully, and every Senator ought to know how these equivalent ad valorems have been reached.

For instance, take a little industry in my own State, known as the pearl-button industry. This comparison states that under the existing law the equivalent of the specific duty which is now imposed is 46 per cent, I think. I may be wrong, but it is about that. It also states that the proposed duty is 40 per cent, showing a reduction of but 6 per cent. That does not state the facts substantially. These specific duties are, with regard to many of these buttons, 100 per cent; with regard to other qualities or grades possibly not 30 per cent, and when they are all grouped and an average ad valorem is given we are led to a conclusion that is not warranted by the facts.

I would be very glad if the chairman of the committee would have the expert who has the matter in charge furnish, so that it will be accessible to all of us, the plan that he has adopted through which he has worked out these equivalent ad valorems. We all want the exact truth; nothing but the truth; and I am sure the chairman of the Committee on Finance wants that quite as much as anybody. It will not be a great labor, and I hope the chairman will see that it is done.

Mr. SIMMONS. The Senator from Iowa is correct in his statement. It is very important that these statements as to ad valorem equivalents should be as accurate as possible. I think, however, the Senator will recognize the fact that there is very great difficulty in securing an entirely accurate statement as to the ad valorem equivalent in respect to some of the paragraphs of the bill.

Mr. CUMMINS. I quite agree with that.

Mr. SIMMONS. For instance, where there is a paragraph grouping a great many different items, imposing upon some a specific duty, upon others a compound duty, upon others an ad valorem duty, it is difficult to ascertain exactly what is the ad valorem equivalent of the duty imposed upon each one of the separate items. In view of the fact that frequently in our reports they are grouped together and an average price of the imports is given instead of the price of the importation of the items in the paragraph, there is some confusion, and the sum becomes an exceedingly complicated one. I will state to the Senator that the expert in charge of that work has said to me that in some instances it was impossible for him to ascertain and calculate accurately the ad valorem equivalent.

But I will be glad, Mr. President, to furnish the Senator with a statement of the method by which our expert has reached this conclusion, and if the Senator has some other method that he thinks will be more accurate I shall be glad to take it into consideration.

Mr. CUMMINS. The Senator from North Carolina will understand that I am not asking for this personally. I want it for the benefit of all Senators and for the enlightenment of the debate that is sure to follow.

Mr. SIMMONS. I understand.

Mr. CUMMINS. I not only agree with the Senator from North Carolina and his expert that it is very difficult, but I go further and say that it is absolutely impossible.

Mr. SIMMONS. In some cases I think it is.

Mr. CUMMINS. In very many cases; and when it is remarked here that the reduction in this bill, as compared with the present law, is 25 per cent or 33 per cent or something of that sort it means nothing whatsoever from the standpoint of one who believes in the doctrine of protection. I do not want either the country or the Senate to be misled in the very beginning of the debate by a comparison that is necessarily misleading and wrong, because I do not believe that there is any person connected with the Treasury Department who can, from the records in the office, state the equivalent ad valorem of many of the specific duties in the present law.

Mr. BACON. Mr. President, with the permission of the Senator from North Carolina, if I recall correctly, four years ago when we had the Payne-Aldrich bill under consideration the Finance Committee submitted to the Senate an elaborate comparative table embracing all the schedules in which specific and composite duties, together with the ad valorem duties, were put down in columns, showing a comparison between the

ad valorem duties of the Dingley law, the then existing law, and the proposed law. Am I not correct? The Senator from Utah [Mr. SMOOT] was on the committee then.

Mr. CUMMINS. That is right.

Mr. SIMMONS. We have had prepared and there has already been printed, subject to revision hereafter, almost an identical——

Mr. BACON. I am simply predicating what I was going to say by what I have said so far. I was not in any manner criticizing what was done or what is proposed to be done.

Mr. SIMMONS. I understand.

Mr. BACON. But what I want to ask is this: The Senator now states as absolutely unreliable, not in any manner to be depended upon, what was presented to the Senate four years ago as a statement which could be depended upon.

Mr. CUMMINS. Mr. President, just a moment. The Senator from Georgia may remember, or may not, that I stated then precisely what I am stating now with regard to the attempt to convert the specific duties into ad valorem equivalents. I do not want to begin the debate upon the bill before us without a thorough understanding upon that point.

Mr. BACON. After the Senator from North Carolina has disclosed the method so far as he can do so under which they are now proceeding to ascertain the ad valorem duties, I was proceeding to ask in what does that method differ from the method which was adopted then.

Mr. SIMMONS. If the Senator from Georgia will permit me, the same gentleman who made those tables before is making them now.

Mr. BACON. I understood the Senator to say so, but the objection having come from the other side, which had previously presented similar statements, I wanted to know in what way what they then represented to us to be authentic differed from the course which is now being pursued.

Mr. SMOOT. Mr. President——

The VICE PRESIDENT. Will the Senator from North Carolina yield to the Senator from Utah?

Mr. SIMMONS. I yield to the Senator.

Mr. SMOOT. I do not want the statement to go out that it is impossible to find the equivalent ad valorem on goods imported into this country. I will admit that ad valorem rates are on their face misleading, but they are not incorrect. Let me give an instance, and then I will explain to the Senator what I mean, and I think he will admit it.

Mr. CUMMINS. I know what the Senator means, and he is right.

Mr. SMOOT. I will explain by referring to the very item that was spoken of by the Senator from Iowa—pearl buttons. The rate provided in the present law begins with the very cheapest button and ends with the most costly button; or, in other words, from the smallest sort of a pearl button to the very largest that is imported.

Under the present law, under the rates provided, the cheap button sometimes carries a rate of 200 per cent—more than the goods cost to make in this country. There are no importations of this class of goods to speak of to this country. But take the expensive button, the large pearl button, the most expensive button used in the most costly dresses for ladies, and the duty does not amount to more than 25 per cent.

But it is a mistake to say that we can not find the equivalent ad valorem of all the goods that are imported into this country; but when we take the high equivalent ad valorem on items having slight importations, such as the cheaper line of pearl buttons, and average it with the low equivalent ad valorem on high-priced pearl buttons, of which there are large importations, it shows a very low equivalent ad valorem rate on cheap buttons and raises the actual rate on high-priced buttons.

Therefore in pearl buttons we find that the equivalent ad valorem of all the buttons that are imported into this country under the present law is 46 per cent, whereas the Underwood bill provides a duty of 40 per cent on all classes of pearl buttons, making no difference between the class of buttons, whether they be cheap or whether they be high priced. The result is an increase from the present duty upon the high-priced button, but an immense decrease on the cheaper grade of button.

That is all there is in this question. The expert of the department is absolutely correct in his figures, as he takes into consideration only the importation to this country. In our comparisons we do not take into consideration the amount of goods made in this country; but to get the information the Senator from Iowa [Mr. CUMMINS] wants and what we ought to have, we should take into consideration in fixing a rate the amount produced in this country, the amount imported, and then we could fairly judge what rate should be imposed, and not base the rate upon an equivalent ad valorem arrived at by comparing importations of goods of different values and some with slight importations and others with large importations.

Mr. SIMMONS. Mr. President, in the very situation and condition to which the Senator from Utah [Mr. SMOOT] referred, in making these calculations these schedules are broken up into fragments, and where there are large importations the ad valorem equivalent is given upon each item in each schedule.

Mr. SMOOT. No; not on each bracket within the paragraph.

Mr. SIMMONS. So far as it can be done. I say where there are importations and the duties are different upon the different items or the different brackets, if the Senator will get the handbook, which is a comparative statement and which follows the same general plan, he will find that the paragraph is broken up as to a number of items, and the calculation of each item is based upon the actual importation of that item. Of course, if there are no importations of any item, then how you are to arrive at the ad valorem equivalent is a very difficult problem.

Mr. SMOOT. Not at all.

Mr. SIMMONS. But, as the Senator says, while these statements can not be considered as absolutely accurate in each case, I think, Mr. President, under the method of calculation that they are substantially accurate.

Mr. CUMMINS. Mr. President, the Senator from Utah [Mr. SMOOT] has not covered the whole difficulty. Where there are no importations, of course the alleged ad valorem, said to be the equivalent of the specific duty, is of no value whatsoever; but it is not a guide in another instance. I put an imaginary case, of course. Suppose that there were a specific duty of 50 cents a yard on woolen cloth, and during the year there were imported woolen cloths of the value of from 50 cents a yard to $5 a yard. The Treasury Department keeps no such record as will enable them to ascertain how much was imported at 50 cents a yard, how much at a dollar a yard, how much at a dollar and a half a yard, and so forth.

Mr. SMOOT. The Treasury Department does keep that.

Mr. CUMMINS. On the contrary, I have a specific statement, or had a few years ago, which I think was put into the RECORD, that the Treasury Department could not give me that information when articles were classified in one class and imported in the way I have described. I do not say that there are not in the Treasury somewhere invoices and matters of that kind from which the Secretary of the Treasury could eventually, by long labor, reclassify and ascertain what he wanted; but there is no such information there now ready for our use. It is perfectly evident that when imports under a paragraph of that kind are aggregated and the amount of duty collected, being specific, is applied to those importations it affords no valuable or material information with regard to the duties at all—I mean as to how much you are actually reducing or how much you are actually increasing such duties when you attach an ad valorem duty alone.

I do not myself believe that the Finance Committee is at fault. All that I ask is that we may all know precisely how this result is reached, so that when we come to discuss the bill we can do it intelligently and do it without that constant contradiction which will arise if we misunderstand each other with regard to the way in which specific duties are converted into equivalent ad valorems.

Mr. SMOOT. Mr. President, if there was no account kept of the number of yards of cloth that were imported into this country and the price per yard, it would be impossible for us to find out what was the amount of the importations, but an account is kept at the Treasury Department. On each shipment into the United States an account is kept of the number of yards, not only of woolen goods but on all other textiles, and the price per yard at which the goods are invoiced and at which they enter the country. It is true that in each bracket—that is, the bracket within the paragraph—the yards and price are kept and reported by the Treasury Department as falling under that particular paragraph. We take the importations and value of unit of each of the brackets of the paragraph to arrive at the equivalent ad valorem. All my calculations and all the experience I have had in the past prove this is the only way that we can arrive at the different equivalent ad valorem rates in the tariff bills.

INVESTIGATION BY FINANCE COMMITTEE.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution (S. Res. 88) submitted by Mr. PENROSE on the 19th instant, as follows:

*Resolved*, That 2,000 copies of the amendment offered by the Senator from Pennsylvania [Mr. PENROSE] as modified by the Senator from Wisconsin [Mr. LA FOLLETTE] to the motion of the Senator from North Carolina [Mr. SIMMONS] that H. R. 3321 be referred to the Committee on Finance be printed for the use of the Senate; together with the two questions suggested as appropriate to be asked of manufacturers by the Senator from Kansas [Mr. BRISTOW] at to-day's session, May 19, 1913.

Mr. GALLINGER. Mr. President, in the absence of the Senator from Pennsylvania [Mr. PENROSE], I ask that the resolution be passed over without prejudice.

The VICE PRESIDENT. The resolution will lie on the table.

PAINT CREEK COAL FIELDS, WEST VIRGINIA.

Mr. SMITH of Georgia. I present the report of the Committee on Education and Labor on the West Virginia investigation resolution.

Mr. KERN. I should like to have the report read.

The VICE PRESIDENT. In the absence of objection, the Secretary will read the report.

The Secretary read the report (No. 52), as follows:

The Committee on Education and Labor, having considered the resolution (S. Res. 37) authorizing the appointment of a committee to make an investigation of conditions in the Paint Creek district, West Virginia, reports it back to the Senate favorably and recommends its passage with amendments so as to read as follows:

"*Resolved*, That the Senate Committee on Education and Labor is hereby authorized and directed to make a thorough and complete investigation of the conditions existing in the Paint Creek coal fields of West Virginia, for the purpose of ascertaining—

"First. Whether or not any system of peonage has been or is maintained in said coal fields.

"Second. Whether or not postal services and facilities have been or are interfered with or obstructed in said coal fields; and if so, by whom.

"Third. Whether or not the immigration laws of this country have been or are being violated in said coal fields; and if so, by whom; and whether or not there have been discriminations against said coal fields in the administration of the immigration laws at ports of entry.

"Fourth. Investigate and report all facts and circumstances relating to the charge that citizens of the United States have been arrested, tried, and convicted contrary to or in violation of the Constitution or the laws of the United States.

"Fifth. Investigate and report to what extent the conditions existing in said coal fields in West Virginia have been caused by agreements and combinations entered into contrary to the laws of the United States, for the purpose of controlling the production, sale, and transportation of the coal of these fields.

"Sixth. Investigate and report whether or not firearms, ammunition, and explosives have been shipped into the said coal fields with the purpose to exclude the products of said coal fields from competitive markets in interstate trade; and if so, by whom, and by whom paid for.

"Seventh. If any or all of these conditions exist, the causes leading up to such conditions."

Said committee or any subcommittee thereof is hereby empowered to sit and act during the session or recess of Congress or of either House thereof at such time and place as it may deem necessary; to require by subpœna or otherwise the attendance of witnesses and the production of papers, books, and documents; to employ stenographers, at a cost not exceeding $1 per printed page, to take and make a record of all evidence taken and received by the committee and keep a record of its proceedings; to have such evidence, record, and other matter required by the committee printed, and to employ such other clerical assistance as may be necessary. The chairman of the committee or any member thereof may administer oaths to witnesses. Subpœnas for witnesses shall be issued under the signature of the chairman of the committee or subcommittee thereof. Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default or who, having appeared, refuses to answer any questions pertinent to the investigation herein authorized shall be held to the penalties provided by section 102 of the Revised Statutes of the United States.

The expenses thereof shall be paid from the contingent fund of the Senate on vouchers ordered by said committee, signed by the chairman thereof, and approved by the Committee on Contingent Expenses.

Mr. KERN. Mr. President, I ask unanimous consent for the present consideration of the report and resolution.

The VICE PRESIDENT. The Senator from Indiana asks unanimous consent for the present consideration of the report and resolution. Is there objection? The Chair hears none. The question is, Shall the report and the resolution as amended be adopted? Is there any objection? The Chair hears none, and the resolution is adopted.

Mr. GOFF. Mr. President, I do not intend to object to the consideration of the resolution, but I desire to make this statement: At the time this matter was first suggested I was, and even now I am, under the impression that it was a matter which the Senate should not undertake to investigate. My reasons I have already given to the Senate. I see, though, from the report of the committee, which is a unanimous report, that there is a disposition that this investigation shall be made.

I desire simply to repeat what I said in the beginning, so as to emphasize it now, that there never has been any objection either on my part or on the part of the governor of West Virginia or any of the officials, civil or military, of that State as to the proposed investigation, except that it was a matter pertaining to the State alone, and that as yet the State has not exhibited to the country the fact that it can not manage its own affairs. Gov. Hatfield invites this investigation.

I am still under the impression that the Senate is undertaking to do something that it ought not to do. I venture the assertion that before long, if this is to be used as a precedent, no one can tell when the end will be; and I say that such a proceeding never yet has been resorted to by the Senate of the United States. No one on this floor can put his finger on a single instance where such an investigation has been undertaken in one of the States of this Nation. Great industries have been investigated, questions that are involved in matters that pertain to all the States and to the Nation have been investigated by committees of Congress, but not a question of this kind. In this case local matters are involved; local matters can be attended to by the courts, and have been attended to by the courts or by the executive, and they have been attended to by the executives of all the States. I simply want to enter my protest against this being considered, then, a precedent of that kind.

Mr. BORAH. Mr. President——

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

Mr. GOFF. I do.

Mr. BORAH. I have not refreshed my recollection as to the precise form of the resolution or just the nature of the investigation undertaken, but I do recall that the Coeur d'Alene matter to which the Senator referred the other day was investigated by Congress.

Mr. GOFF. Yes.

Mr. BORAH. I remember the fact that at the time the trials were proceeding we were honored by a visit from a committee of Congress, and I know that a very extensive investigation was made here after the trials were over. I have not looked into the form of the resolution to see precisely what its wording was, but I know that there was an investigation had of the domestic affairs of the State, based largely, I apprehend, upon the same allegations which have been made in this case.

Mr. GOFF. Mr. President, if the Senator from Idaho will make an investigation, he will find that it was not along the same lines. The Senator will look in vain, I say, for that which duplicates the proceeding that is now to be undertaken.

Mr. BORAH. May I ask the Senator, as he has evidently looked into it, upon what theory did they proceed to investigate the conditions in Idaho at that time?

Mr. GOFF. The theory was not that the State of Idaho was depriving anyone of his constitutional rights, not that the State of Idaho was by its military power or authority doing anything to deprive a citizen of the United States of his privileges under the law, but whether or not the conditions then existing in the mining regions of Idaho were of that character that suggested to the Senate of the United States the importance of an investigation relative to the labor difficulties then existing in that section. The State of Idaho was not arraigned; the governor of the State of Idaho was not arraigned; the authorities of the State of Idaho were not arraigned. That is the position I am taking, and that is what I meant by the reference.

Mr. BORAH. Mr. President, the governor of Idaho was arraigned most severely.

Mr. GOFF. Well, I mean in the resolution.

Mr. BORAH. All his acts were made the subject of inquiry at the investigation. He himself came here and went upon the witness stand; the attorneys representing the State came here and went upon the witness stand; and all the matters such as we are going into now were gone into at that time. Whether the resolution in the first instance seemed to cover the subjects that it is proposed to cover in the pending resolution, the result was that we finally entered into a consideration of the same class of facts that we are proposing to consider now.

Mr. GOFF. Mr. President, I have no further objection to submit to the Senate relative to the proposed investigation. I hope the resolution as proposed to be amended by the committee will be adopted. I pledge that the authorities of the State of West Virginia will give due consideration and every attention to the committee that the Senate will send there.

By the way, it may not be inappropriate for me to refer, as has been so often done in this discussion, to the morning journals. I see in those journals that another committee has preceded the committee to be sent by the Senate into the mining region of West Virginia. At the head of that committee I find one who was lately a candidate for the Presidency of the United States, and with him a distinguished Member of the other House in the last Congress, and still a third member. I see the journals report that after they had visited the region and had advised with the governor they stated that they had been misinformed by the false reports sent out from that section and, based upon that misinformation, that they had severely criticized the governor. I mean, of course, Mr. Debs, Mr. Berger, and another gentleman whose name I do not recall.

Mr. CHILTON. Mr. President——

The VICE PRESIDENT. Does the junior Senator from West Virginia yield to the senior Senator from West Virginia?

Mr. GOFF. I do.

Mr. CHILTON. I want to call the attention of the Senator to that interview. I have it and should like to send it to the desk and have it read as part of the Senator's remarks.

Mr. GOFF. I yield for that purpose.

The VICE PRESIDENT. Is there objection to the reading? The Chair hears none, and the Secretary will read as requested.

The Secretary read as follows:

[From the Parkersburg Sentinel of May 24, 1913.]

SOCIALISTS GUSH OVER HATFIELD—BERGER SAYS HE HAS A DIFFERENT OPINION NOW OF GOVERNOR—DEBS TELLS HATFIELD THAT HE WILL PRINT SOME GOOD THINGS.

CHARLESTON, W. VA., *May 24, 1913.*

Eugene V. Debs, Socialistic candidate at the last national election for the Presidency of the United States; Victor Berger, of Milwaukee, former Congressman and member of the Socialist Party; and Adolph Germer, a Socialist leader of Illinois, all representing the national Socialist Party, accompanied by John Moore, a labor leader representing Gov. Hatfield, and Paul J. Paulson, member of the International Board of United Mine Workers, left this city this morning for the Paint and Cabin Creek coal fields. It is expected that they will return to-night, and to-morrow they will visit the New River fields.

Berger in a statement to-day said: "I have an entirely different impression to the one I previously had of the West Virginia executive and his attitude toward the workingman;" while Debs told the governor: "You have been placed in a false light. I have said some harsh things of you in print, but now I will correct them." Much data and information was laid before the Socialist leaders by the governor.

Mr. GOFF. That, in substance, was the publication to which I alluded, although not exactly the one that I first observed.

I am not going to detain the Senate longer. I only hope that the fears I expressed at the beginning of this discussion, that the passage of this resolution would establish a precedent that before many days will open up a very Pandora's box in the Senate may be groundless.

Mr. BACON. Mr. President, I wish to ask the Senator from Indiana if he will not consent that the resolution may go over? I do not know whether or not unanimous consent has been granted for its consideration.

The VICE PRESIDENT. Unanimous consent was granted, and the Chair announced that the resolution was adopted.

Mr. KERN. The report and the resolution were adopted, as I understand.

Mr. BACON. Oh, no; not by any means.

SEVERAL SENATORS. No.

Mr. SMOOT. The Chair announced that the resolution had been agreed to.

The VICE PRESIDENT. Yes; the Chair so announced.

Mr. CLARK of Wyoming. Mr. President, I desire to——

Mr. BACON. Mr. President, I thought I had the floor.

The VICE PRESIDENT. The Senator from Georgia is entitled to the floor.

Mr. CLARK of Wyoming. The matter is one of immediate concern, in view of the announcement the Vice President made that the resolution had been adopted. It is true that the Vice President made that announcement; but while he was making it, and after he had asked if there was objection, the Senator from West Virginia [Mr. GOFF] was upon his feet and addressing the Chair.

Mr. KERN. And stating that he would not object.

Mr. CLARK of Wyoming. That Senator afterwards stated that he would have no further objection, and hoped the resolution would be adopted.

Mr. BACON. Mr. President, I understood that what the Chair submitted to the Senate was a request for present consideration of the resolution.

Mr. KERN. The request was submitted very distinctly, and the resolution was adopted.

Mr. BACON. I do not think the Senate so understood; I am sure I did not.

Mr. KERN. The RECORD will show the fact to be as I have stated.

Mr. BACON. I desire to say that this is a most important matter. As I gathered from the reading, the report enlarges the scope of the investigation. I think we ought to have an opportunity, at least, to see what it is. We can not very well judge of a matter of this great importance by simply having the resolution read at the desk. I should like very much to have an opportunity to see the resolution as reported from the committee. Of course, there would be no special reason for that if the resolution had been reported back as it was referred to the committee, because it has been pretty elaborately discussed; but I understand that additional subjects of inquiry are incorporated in the resolution as now reported. If so, I certainly think that we should have an opportunity to consider them. I hope there will be no further objection to that. There is plenty of time for consideration of the matter and for action upon it; and I presume, after the elaborate discussion which has been had, even if it goes over, it will not be delayed by any great amount of discussion. It has already been discussed quite elaborately.

I confess I do not now understand the full scope of the resolution. It is impossible, having so many subjects of inquiry embodied in the resolution at one time, to consider and weigh them all properly on the moment. I hope the Senator will consent to the resolution being printed, so that we may look at it. It will be printed in the RECORD, of course.

SEVERAL SENATORS. It has been printed.

Mr. BACON. I understand it has been printed.

Mr. SMITH of Georgia. No, Mr. President; the resolution as reported to-day never has been printed. There are two or three additional provisions entirely distinct from those contained in the printed resolution. So far as I am concerned, I should also be glad to see the resolution printed and go over, so that every Senator might have an opportunity to study it carefully.

I regard the passage of the resolution as a very serious proposition, and one of somewhat doubtful propriety. I was myself necessarily detained at the meetings of the Finance Committee and of subcommittees, but have reported the resolution as perfected. It seems to me that if any Senator wishes to see the resolution and carefully study it, it should go over and be printed, and he should have the opportunity to examine it.

Mr. GOFF. I should like to say to the Senator from Georgia that upon an examination of the resolution as it now appears, in addition to the many separate and absolutely distinct propositions that are embodied in it relating to the affairs of the State of West Virginia, he will find that in the conclusion there is a broad field for investigating any question, from alpha to omega; so it is certainly broad enough for all purposes. But I have no further objection to present to it.

The VICE PRESIDENT. The Chair will inquire of the senior Senator from Georgia whether that Senator was in the Chamber when the resolution was brought up?

Mr. BACON. I certainly was; I was in my seat; and I will state to the Chair that I was paying attention to every word, and that if the Chair submitted the question as to the passage of the resolution I certainly was not able to hear him. I understood the Chair to be submitting simply the question of unanimous consent for present consideration.

The VICE PRESIDENT. The Chair inquired as to whether there was any objection, and, hearing none, announced that the resolution was agreed to. It was not a matter that interested the Chair in the least.

Mr. BACON. I will state, with the permission of the Chair, that I think whenever a resolution is adopted in that way, which is not the usual way, and a Senator in his place says he did not understand it, he is entitled to have the question submitted to a vote. It is only sub silentio that it is permissible to pass a resolution or a bill by saying simply that it is not objected to. That is not the way the rules provide. It is only by unanimous consent that it is ever done in that way, and when a Senator says in his place that he did not understand the matter to be submitted he has a right to have it submitted in the way the rules provide.

Mr. BORAH. Mr. President, I distinctly heard what the Vice President said. The question was put, in the first place, as to unanimous consent, and afterwards the resolution was submitted, and the Chair announced the result. The difficulty arises out of the fact that during the morning hour here we can not ascertain what is going on or know what the Chair rules unless we have telegraphic communication with the Chair. There is so much noise and confusion in the Chamber that the Chair would be without power to transact business at all if he did not transact business as he transacted this particular piece of business. Unless we are willing to have order among ourselves in the Chamber we will often find ourselves in just the predicament that we now find ourselves. There is no doubt but that the Chair submitted the two propositions to the Senate.

Mr. BACON. If the Senator will pardon me, I presume he will also agree that the usual way of submitting the question of the passage of a resolution is to submit it to a vote, and that it is only by unanimous consent that the Chair can declare a matter passed as having had no objection to it. When a Senator rises in his place and says that he did not consent to such a submission, that he did not understand such a submission to be made, he has a right to have the submission made in the way the rules provide, which is by a vote of the Senate. That alone is the way in which anything can be passed, unless everybody agrees to it.

Mr. SUTHERLAND. Mr. President, do I understand that the resolution has been adopted by a vote of the Senate?

Mr. BACON. No.

Mr. SUTHERLAND. I understood the Senator from Idaho [Mr. BORAH] to say that the matter had been put to a vote.

The VICE PRESIDENT. The Senator from Utah understands that this resolution has been adopted as at least one hun-

dred have been adopted since the present occupant of the chair has been here; it was adopted by an inquiry as to whether anyone objected to the resolution. No one objecting, it was announced by the Chair that the resolution was adopted. If we are to have the rule from now forward that everything is to be voted on, it will afford the Chair great pleasure to put the question in each case.

Mr. BACON. If the Senator from Utah will pardon me for just a moment, I will add that Senators around me, like myself, did not understand the Chair to have ever submitted the question on the adoption of the resolution.

Mr. HITCHCOCK. Mr. President——

Mr. SUTHERLAND. Mr. President, I have not yielded the floor.

The VICE PRESIDENT. The Senator from Utah is entitled to the floor.

Mr. SUTHERLAND. I was in my seat, and I did not hear the Chair's statement. I think that is the case with very many Senators sitting about me. I do not know what the resolution is. If it has been read, I have not heard it. I had intended to vote for the original resolution that was introduced and that was discussed for some time. I am personally in favor of this investigation, for reasons which I intend to give, if I have an opportunity, when it is up for discussion. Whether I am in favor of the resolution precisely as it has been reported from the committee I do not know, because I do not know what it is.

I submit that when that is the case, and when there are Senators here upon the floor who say they are not aware of what has been going on, and that they are not familiar with the resolution, the Senator in charge of the resolution ought to submit the matter to the Senate and have the resolution printed, and let the subject go over until we can see what it is. I hope the Senator from Indiana will consent to that course.

Mr. KERN. Mr. President, there is one thing about which there is no sort of disagreement, and that is that unanimous consent was given for the immediate consideration of the resolution. All agree to that. That was distinctly heard and distinctly understood. The only point of difference comes up in respect to those Senators who did not hear the Chair put the question on the adoption of the resolution, or ask if there was objection to the resolution, and declare it carried.

I am entirely willing that the latter part of the action may be recalled; but after these weeks of delay I am unwilling that the unanimous-consent agreement which was entered into shall be set aside. I am willing that the matter shall be open for further debate, but I am not willing that the unanimous-consent agreement shall be set aside, because that was distinctly understood.

Mr. BACON. Mr. President, there is no proposition to set aside the unanimous-consent agreement. Unanimous consent undoubtedly was given for the present consideration of this matter, but that does not in any manner conflict with the request to have it go over. When it is before the Senate, there being no unanimous consent to vote upon it to-day, it is subject to disposition just as any other matter would be when it is the regular order. So there is no conflict in that regard. The proposition to have it go over is not at all in conflict with the unanimous consent which was given; and the Senator would do me an injustice if he understood that I meant anything of that kind, because I did not.

Mr. KERN. Mr. President, I only understood that the Senator wanted further delay. The Senator's attitude during the discussion was that of hostility, and I assume that he desires delay. I insist that any Senator here can, by listening to the reading of this short resolution now, understand it. It is plain. There is no occasion for further delay.

Mr. BACON. I am not sure that I know upon what the Senator bases his statement that in the discussion my attitude was one of hostility. I did not take part in the discussion. I think possibly I asked some question as to a matter of law, or something of that kind; but I certainly did not discuss the resolution in any particular; I took no part in the debate.

The VICE PRESIDENT. The Chair has no pride in his ruling; and as there seems to have been some doubt that Senators heard what the Chair did rule, the Chair now announces that unanimous consent has been given for the present consideration of the resolution, and the resolution is before the Senate.

Mr. BRISTOW. Mr. President, I desire to congratulate the Chair upon his fairness. I remember distinctly that at the last session of Congress, when a question was before the Senate in which I was very much interested and which I had been discussing, a Senator came and distracted my attention for a moment; and while the Senator was engaging me in conversation the Senator who was then temporarily in the chair announced the passage of the resolution in the same way the present occupant of the chair did, and refused to reconsider it upon my protest. Upon a vote of the Senate he was sustained by a majority of 1, and the Senator who has made the greatest objection in this instance then voted to sustain the Chair.

Mr. BACON. I do not know whether the Senator referred to me or not. I do not recall the incident. I was certainly not in the chair.

Mr. BRISTOW. The Senator was not in the chair, but it was a case that attracted a good deal of attention, and we insisted on a roll call as to whether the matter would be reconsidered for the purpose of discussing it further and offering some amendment. I simply wanted to call attention to the fact. I think the Chair has done exactly the right thing.

Mr. BACON. The then occupant of the chair, I presume, must have been my distinguished friend the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I have no disposition whatever to discuss that matter. It is ancient history. As the temporary occupant of the chair I endeavored honestly to administer the rules of the Senate, and I am quite content to leave the matter as it appears in the RECORD.

Mr. CRAWFORD. Mr. President, I think we ought to keep in mind the fact that that was not a parallel case. That was a request for the entry of a unanimous-consent order. This is simply the question of the adoption of a resolution.

Mr. GALLINGER. That is correct.

Mr. CRAWFORD. They are quite different.

Mr. ASHURST. Mr. President, upon the question pending I ask for the yeas and nays.

The VICE PRESIDENT. Now?

Mr. ASHURST. I ask that when the vote is taken it be taken by yeas and nays.

The VICE PRESIDENT. The Senator from Arizona demands the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

Mr. BACON. Mr. President, I regret exceedingly that I do not have the opportunity to know exactly what is in the resolutions. I did not anticipate that so grave a matter would be presented for our decision without the opportunity to read them. I have heard them read and I have some general idea about them.

There has been no question submitted to the Senate since I have had the honor to be a Member of it which is quite as far-reaching in its influences in some directions as these resolutions. It may be that upon an examination of them, if I had the opportunity, I would find some things specified in them that I would be willing to have an investigation about. As I could catch the reading of them, there are some things that there may be properly an investigation of. There may be a question of investigation as to whether or not there was peonage in a State, with a view, I presume, not of correcting the evil by any decision which might be reached by the Senate, because it would have no power in that direction, but for the purpose of seeing whether or not any legislation was required to prevent that which has been agreed upon in this country as a violation of law and a violation of public policy.

There may be other things, as to labor conditions. I do not mean to say that there are none. On the contrary, I think there are some things in the resolutions which can properly be investigated. But as I catch the reading of them there are some other things that I do not think those of us who have as high a consideration as I hope I have for my State would be willing to see pass.

Mr. President, we have reached a very unfortunate stage in our political history if we have come to a point where it is to be a conceded fact that the States have no functions to perform that are not under the supervision of the General Government. The old fable of my ox and your bull is one which has a very great and solemn truth in it. It may seem to be a very simple matter for us to pass a resolution to investigate another State, but it is a very serious proposition when we take it to ourselves whether or not our State is to be investigated.

I am not speaking, Mr. President, as to whether or not conditions should be investigated in a State. I realize the fact that labor has a great battle, and I very largely sympathize with it in that battle, and I have testified to it on this floor not only by my speech but by measures which I have endeavored to have enacted. But for that reason, Mr. President, I am not willing that the great fundamental principles which underlie our great dual system of government should be utterly disregarded and trampled under foot.

Mr. BORAH. Mr. President——

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

Mr. BACON. I do.

Mr. BORAH. What principle does the Senator allude to in reference to these resolutions?

Mr. BACON. If the Senator will pardon me a few moments, although I confess I am unprepared for this discussion, as I did not anticipate it, I will endeavor to state the principle, if the Senator will give me the opportunity.

Mr. BORAH. I do not want to interrupt the Senator, but the reason I asked was that I assumed from the Senator's statement he thinks we are investigating the State as a State.

Mr. BACON. Yes; that is what I am going to try to call attention to, if I can.

Mr. BORAH. I do not think we are.

Mr. BACON. When you investigate the official acts of a coordinate branch of a State, you are investigating that State. When you investigate the decisions of a court of a State, especially when those decisions are, as has been represented here, bound up and included with executive acts, you are investigating a State. What constitutes the State in that sense in which I am speaking of it? There are three coordinate branches of every State—the legislative, the judicial, and the executive. If you investigated the official acts of them all, you certainly would be investigating the State. If you investigate the official acts of one of them, you are investigating the State.

It may be, Mr. President, and may very well be, that a State may be investigated if it relates to a matter in which it has impinged upon or violated something in which the Federal Government is the superior, in which it has ultimate power and control. If it is a violation of a law of Congress enacted in the exercise of its constitutional functions, such for instance as the peonage law, that may be a subject matter of investigation. But when you come to investigate, under a Senate resolution, the question whether a State court has decided right or wrong in the enforcement of a State statute it is another matter altogether.

Mr. President, if there were no other remedy for this alleged wrong there might be some strong defense, if not justification, for any interference on the part of the Federal Government through its legislative branch. But come right down to the point, what is the investigation proposed here with reference to the decision of this court?

Before I go on with that, I want to say that I utterly disagree with the decision of the West Virginia court. I want to go further and say I utterly condemn it. I want to say that only my great respect for the distinguished former jurist and present Senator from West Virginia [Mr. GOFF] causes me to withhold even stronger terms. I do not think it can be justified at all, either in the forum of reason or of precedent, that when there has been domestic insurrection, and when order has been restored and the authority of the State reestablished, that either through executive order or otherwise, although there is martial law, that the laws of a State can be set aside, that the civil authorities of a State can be subordinated, that the civil courts can be for the time abolished, and men can be put upon trial before a military commission and sent to penal servitude for a violation of civil law. I have no patience with that proposition, Mr. President.

Mr. POMERENE. Mr. President——

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

Mr. BACON. I do.

Mr. POMERENE. Mr. President, I note that in this report the fourth paragraph reads as follows:

> To investigate and report all facts and circumstances relating to the charge that citizens of the United States have been arrested, tried, and convicted contrary to or in violation of the Constitution or the laws of the United States.

Does that not present a Federal question under the Federal Constitution of which the Senate can take jurisdiction beyond peradventure?

Mr. BACON. Well, Mr. President, the resolution may be so phrased as to make it technically within the suggestion of the Senator from Ohio, but we know the fact from the discussion which has been had here that the violation of law which is to be investigated is a violation of the laws of West Virginia; not that there is any doubt about that, but the charge is that the court which tried them had no right to try them for the infraction of the laws of West Virginia; that the court which tried them was a military court; that the authority of the State had been asserted and was being maintained; and that the civil courts should have tried them. That, as I understand, is the issue.

Mr. POMERENE. Mr. President——

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

Mr. BACON. I yield.

Mr. POMERENE. It occurs to me that, while it may be true that one of the questions is as to whether the State laws had been complied with, immediately connected with it is the question as to whether or not a citizen of the United States has been deprived of his rights and privileges in violation of the Federal Constitution. As it seems to me, if it be conceded that we have a right to inquire into the latter question, the mere fact that the inquiry may be so broad as to include within it these other matters incidentally should not in the least interfere with the examination.

Mr. BACON. If the Senator will pardon me, I will try to answer him before I get through, but I wanted to go on with some degree of continuity in the line of thought which I was trying to present to the Senate.

Mr. GOFF. Mr. President——

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

Mr. BACON. I do.

Mr. GOFF. Did I understand the Senator from Georgia to mean that it is improper at all times for a military commission to try a civil cause?

Mr. BACON. If the Senator will pardon me, I will endeavor to state what my attitude is in regard to that matter. I understand the question propounded by him, and I think I will reply to it.

Mr. GOFF. Will the Senator from Georgia permit me just to call his attention, then, to one fact, and he can discuss that as he elucidates his position? I will state the position I have taken. Bear in mind the distinction between a court-martial and a military commission. The court-martial tries only those people in the military service. The military commission tries those not in the military service, but within the zone or strip of territory where the insurrection exists. The theory of the martial law is that the civil law in that place is temporarily suspended; otherwise there would be no martial law. Now, then, in that place where martial law prevails our contention has been that the court-martial should try any offenses of a party in the military service, but the military commission or court would try those not in the military service.

Mr. BACON. I will put it on the broadest ground the Senator may desire it. So far as that is concerned, I draw no distinction between a military court-martial and a military commission. They are all of them at last under martial law and operating as under military authority. That is not what I object to. Whether it is a military commission or a court-martial makes no difference to me.

Now, my proposition is this: There is a reason why under certain circumstances civil offenses are taken cognizance of by military authorities, but in every such instance it is because of the fact that conditions are such that the civil power can not be brought into play. For instance, when an army invades a foreign country and takes possession of a certain area of that country and is in control of it, there must be some authority; there must be some way in which controversies can be adjusted, as well as in which order may be preserved. If an army of one country is in possession of the country of another, it can not set up civil authority unless it is going to annex that country. It can not set up civil authority in the foreign country, because the civil authority can only derive its power from the country in which it is situated. The invading people are foreigners to them, and yet they have the responsibility of maintaining order in that country where there can be no civil authority.

Therefore it is that under such circumstances, well recognized in the books and by the universal practice in cases of war, the military authorities exercise control not only for the purpose of punishing offenses, but for the purpose of keeping order in that country; for the purpose, if you please, of adjusting controversies between parties in that country; for the purpose of doing justice between parties in that country so long as military control continues. It is because of the absolute necessity of the case that there can be no civil power there. The only authority which could establish civil power has been overthrown, and when the military power asserts its authority and secures power it can only accomplish all these necessary ends through the means of military authority.

But, Mr. President, in the case of a domestic insurrection the matter is altogether different; the reasoning does not apply. Martial law is declared in a case of domestic insurrection because the civil power is unable to cope with it; but when martial law has been declared and martial power has restored order there is then present the very authority to protect the courts in the administration of the law. That is the distinction. The same military power which would sustain the authority of a

military court is present to sustain the authority of the civil court, which can then resume its functions.

What can be justified in the case of martial law in a foreign country and a military commission and military courts in a foreign country when it has taken possession of a certain part of the territory of that foreign country can not be justified in a case where there has been domestic insurrection and where by means of military power and military authority order has been restored and where the civil court can be protected in the exercise of its functions. This is because the very power which restores order can protect the courts in the exercise of their functions. Therefore there is no excuse whatever; and the position which I take in opposing some of these resolutions has no possible reference to any justification for what I understand to have occurred in that regard in the State of West Virginia, for personally I utterly condemn what occurred in that State.

When the domestic violence was such in West Virginia that the governor, in the exercise of his proper authority, declared martial law and when, in response to that declaration, martial power was interposed and put down the domestic insurrection, and when it not only put down the domestic insurrection but had supreme power over it, the same power, Mr. President, which enabled it to call for a military commission enabled it to call to its courts to resume their function; and that alone, in my opinion, was that which could have been properly and legally done in the State of West Virginia.

So that I come now to the point of condemning as fully as does the Senator from Indiana [Mr. KERN] what occurred in the State of West Virginia. I say "condemning"—I mean personally; I do not think it called upon the Senate officially to do it—condemning what the governor did in authorizing this commission; condemning what was done under and by that commission. Believing, as I do, it to be utterly illegal, believing it to be utterly inconsistent with the genius of our institutions, believing it to be indefensible under any reasoning or under any precedent, the only question is what ought we to do about it?

Mr. President, if the time has come when the official acts of a State through its courts can not be depended upon to establish and do justice and maintain order, if the time has come when that particular function which the Supreme Court of the United States times without number has said to be the function of the State can no longer be left to the States, if the time has come when the States can no longer be relied upon to accomplish and perform that duty, then, Mr. President, we have reached the sad period when our dual system of government is a failure.

Do not let me be misunderstood, Mr. President. I recognize the fact that there are things which can be adjudicated by State courts in which the act of a State court is not and should not be considered as final; I realize the fact that a State court may violate a right which is guaranteed by the United States; I realize the fact that it can and has frequently happened that a State court may decide a question arising under the Constitution of the United States in a manner which I should consider wrong and which the Supreme Court of the United States finally decides to be wrong; but that does not call for or justify an investigation by the United States Congress. Why? Because the law has not left the man remediless who has that injustice done to him, whether it be one man or a thousand men. The law has not left him to a State court if the State court violates a right under the Constitution of the United States or under a law passed in pursuance thereof, but it has provided a means by which the great tribunal which sits in this building can review the action of that State court and set it aside and annul it if wrong has been done.

Mr. President, when the Supreme Court of the United States reviews such an action and determines that that action of a State court or that judgment of a State court is an illegal judgment, what they say about it amounts to something; what they say about it corrects the evil; what they say about it remedies the wrong. But, Mr. President, when we investigate the action of a State court and pass our judgment upon it, what does it amount to?

Sir, it is alleged—and I have no doubt it is true—that certain parties were arrested in West Virginia; that they were tried by a military court or a military commission; that they were sentenced to the penitentiary for violation of the laws of West Virginia; and that they are now in confinement in the penitentiary under that sentence. I believe that judgment absolutely illegal. I have not a doubt to-day that they are illegally detained under that judgment.

If we shall pass this resolution and the committee shall come to the conclusion that I have already reached, that it is illegal, and they come back to the Senate, and the Senate passes a resolution affirming and agreeing with what that committee says, and announces that their confinement is illegal; that the court which assumed to try them had no jurisdiction; that the court violated every principle of our Government; and that those men should be released; does our finding in that matter help those men? Does it release them? Does it unlock the prison doors? Certainly not.

But, Mr. President, if the course is pursued which the Constitution of the United States intends and prescribes shall be pursued; if from the judgment of the Supreme Court of West Virginia an appeal on writ of error is taken to the Supreme Court of the United States, and the Supreme Court of the United States says that that State court had no jurisdiction; that that court violated every principle of Federal or State Government known to the United States, and particularly the provisions of the fourteenth amendment, and not only so, but violated the traditions and the principles which have come down to us from an ancestry of hundreds of years—which I think they have done—when the Supreme Court of the United States says that, the prison doors are unlocked and the men go free.

Mr. SUTHERLAND. Will the Senator from Georgia permit me to ask him a question?

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

Mr. BACON. I do.

Mr. SUTHERLAND. I understand the Senator from Georgia to take the position that the action of the governor in providing for this military commission and the action of the military commission in undertaking to try people for offenses under the civil law is wholly unwarranted, and, if I understand him, constitute a violation of the due process of law clause of the Federal Constitution.

Mr. BACON. Yes; I do.

Mr. SUTHERLAND. I quite agree with the Senator as to that. The Senator says, however, conceding that to be so, Congress has no function to perform in the matter at all, as I understand him. The Senator says that these men have a remedy; that they can go to the Supreme Court of the United States. That is quite true. He says that Congress can do nothing so far as those individual men are concerned; and I think that is true. We could enter no order here, we could enter no judgment, that would liberate those individuals. But may not Congress, after it has gathered the information upon this subject, have some other function to perform in connection with it?

Mr. BACON. I grant you that.

Mr. SUTHERLAND. I invite the Senator's attention to the language of the first section of the fourteenth amendment of the Constitution, which is:

> Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

And the concluding clause of the fourteenth amendment is:

> SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

May it not be that circumstances may develop in this case or in some other case where the provisions of the fourteenth amendment are being violated, that Congress may have some legislative duty to perform; and in that view may it not be valuable to Congress to procure accurate information with reference to these transactions in West Virginia?

Mr. BACON. Oh, yes; Mr. President, there is no doubt about it that under the particular provisions of that amendment there is scarcely anything affecting human personal rights that would not possibly give opportunity for some legislation by Congress; but there is a greater question than that in this. As I have had occasion to say about other things, even if we have the power, it is not always expedient to exercise it. But, Mr. President, the Senator does not deceive himself; that is not at all the purpose of this resolution. There is no thought that the laws of the United States are not now sufficient to protect, under a judgment of the Supreme Court, a man from illegal imprisonment following a trial by a military court in a State. Does the Senator think there is?

Mr. SUTHERLAND. Does the Senator ask me that question?

Mr. BACON. I do.

Mr. SUTHERLAND. There is no doubt that the particular individuals who have been convicted by this military tribunal have a perfect remedy. They may by writ of error carry their case from the State court to the Supreme Court of the United States, and if the Supreme Court finds that the action of the

military tribunal was in violation of the due process of law clause of the Constitution, it may order them released.

Mr. BACON. Very well. Now, I hope the Senator will simply answer that question and not undertake to make a speech in the middle of my remarks, because it is very difficult to make a speech unless one can proceed with some continuity.

Mr. SUTHERLAND. If the Senator did not want me to make a short speech in answer to the question, he ought not to have asked me the question.

Mr. BACON. I asked the Senator the question if he thought there was any doubt about the fact that there are now upon the statute books laws which would give a remedy and permit the Supreme Court of the United States to release any man from imprisonment in any State where he had been condemned to that imprisonment under circumstances such as those under which these men in West Virginia were convicted.

Mr. SUTHERLAND. Not at all.

Mr. BACON. And the Senator said "yes." I wanted him to answer that question; and when he answered it I thought that I ought to go on.

Mr. SUTHERLAND. The difficulty is that the Senator undertakes to say when I am through answering, instead of permitting me to say so.

Mr. BACON. I understood the Senator to say that there was a remedy for these men.

Mr. SUTHERLAND. Yes.

Mr. BACON. That is the only question I asked him.

Mr. SUTHERLAND. The answer might have been sufficient for the Senator's purposes; but I had not completed it. If the Senator objects, however, I shall not proceed.

Mr. BACON. I will not object to the Senator at the proper time elaborating that just as much as he wishes, but in the course of my argument I wanted to know whether there is any issue on that question.

Mr. SUTHERLAND. So far as these individuals are concerned, I answer the Senator that they have a perfect remedy; but whether or not the laws are sufficient to deal with this whole subject matter, I do not know. It may be that we could enact laws that would deal with similar situations in the future, that would deal in some way with these illegal tribunals that are attempted to be set up.

Mr. BACON. Mr. President, I have no possible sympathy with what has occurred in West Virginia. So far as I have heard the discussion and so far as I have heard the statements made by the Senator from Indiana as to what has occurred, I condemn it without the slightest qualification. I think these men have been treated with great injustice—and when I say "these men" I am speaking of the general mass. The particular men who have been arrested and tried by the military courts I think have been tried in violation of law and in violation of every principle which underlies free government, and particularly our free Government. I can not be misunderstood about that. I want to see every remedy applied that is a proper remedy; but, Mr. President, we have no higher duty than to maintain the relative authority and the powers of the Federal Government and of the States. As I heard a Senator remark this morning, such a proposition as this a few years ago would have absolutely set the whole country in a ferment; but step by step we are proceeding to the utter overthrow of every power which it was sought to retain for the States. They had these powers originally; it was sought to retain them in the States, and the Constitution expressly provided that they should retain them; yet, Mr. President, we are confronted with a situation here where as grave a matter as this was to be passed upon sub silentio, without a word.

Sir, I feel the embarrassment which every Senator must feel when he knows the powerful sentiment there is behind these resolutions. Every Senator must feel an embarrassment when he stands up in antagonism to them.

Mr. KERN. Mr. President——

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

Mr. BACON. I do.

Mr. KERN. Has the Senator stopped to consider the powerful influences that are opposed to this resolution?

Mr. BACON. I will consider them, too.

Mr. KERN. I will ask the Senator if he would weigh the power of capital, the power of great organized wealth, on one side against the power of the workingman on the other as to which way the scales would preponderate?

Mr. BACON. No; not at all. I will not be misunderstood on that point before I get through; I do not think my record in the Senate will cause me to be misunderstood on it; and I do not think the implication in the inquiry of the honorable Senator will cause me to be misunderstood on it.

I repeat, Mr. President, that I fully realize the embarrassment to which I have referred. I presume that I feel it as much as any Senator here, but there are other things to be considered, not what the Senator from Indiana would seem to imply, not that it is a question of the rights of the laboring man on the one side and of capital on the other, but it is the question of whether or not to accomplish what is a good purpose on the part of the Senator from Indiana—one that does credit to his heart and to every impulse of his nature—we should recklessly or carelessly endanger the great institutions of this country. I repeat, Mr. President, that we are not without a remedy for the existing evils. The laws are sufficient as they stand, and, if not, circumstances are sufficiently known for us to enact other laws to remedy them. When a man has suffered a wrong there ought to be a remedy for it, and when a man has suffered a wrong the right remedy should be applied; and who doubts, Mr. President, what that right remedy is here?

I am not speaking about many of the subdivisions of this resolution. I would vote for the resolution if it were confined within the limits of some of its parts. I should have no objection to voting to find out whether or not peonage existed in West Virginia. I should not object to voting for any part of the resolution which relates to matters properly within Federal jurisdiction and where a proper remedy can be applied as a result of the investigation. It may be that a remedy is necessary in the way of further legislation in order to protect these people against peonage. Therefore I should not object to that and to some other parts of the resolution relating to Federal questions.

There are other branches of the resolution to which I do not object. But the particular part of the resolution to which I do object is the part which undertakes to investigate the official acts of the officials of the State of West Virginia. That is what I object to, and that is all I object to. I object to an investigation by the Senate of the official acts of the officials of a State.

I do not mean to say that they should never be investigated. Occasions may arise when they should be investigated; but they should be very extreme cases to justify it, and they should be occasions where no other remedy could be applied.

Mr. BORAH rose.

Mr. BACON. The Senator from Idaho rises. I do not know whether he wishes to interrupt me or not. I shall not object if he does. I hope, however, it will not be for anything more than a question.

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

Mr. BACON. I do.

Mr. BORAH. I was going to ask what more critical situation could arise than that of trying citizens by military tribunal in time of peace and when the courts are open.

Mr. BACON. Any situation where the law does not apply the remedy or does not provide for it.

Mr. BORAH. Of course the law may apply the remedy, provided the man who is in jail has a sufficient amount of money to hire lawyers and to get to the Supreme Court of the United States; but in the meantime he is in jail, and if he happens to be out of money he may remain there indefinitely.

Mr. BACON. Mr. President, that is an argument that I should not have expected from the Senator from Idaho.

Mr. BORAH. If the Senator will allow me to develop it for just a moment, perhaps I can win back his respect.

Mr. BACON. The Senator would have to do a great deal to forfeit my respect.

Mr. BORAH. I undertake to say to the Senator that where a State has fixed and established the status of its citizens as the State of West Virginia seems to be doing, it is not the business of the United States Government to stand by and let the individual citizens fight it out. It is the business of the Federal Government as such to take note of it, and fight for the status of the citizens regardless of their individual rights. It becomes a matter of protecting citizenship and not simply of releasing a particular individual.

Mr. BACON. The Senator has my unbounded respect and admiration as a lawyer, but I confess that what he has just said does not contribute toward increasing it.

Mr. BORAH. The Senator says I had his respect. I hope I still have it.

Mr. BACON. The argument of the Senator is just this, Mr. President, that wherever a man in a State was illegally imprisoned, wherever a court had acted without jurisdiction and a man had been imprisoned as a result of it, the Congress of the United States could investigate the matter for the purpose of releasing him and finding out whether or not he had money to take his case to a higher court.

Mr. BORAH. No, Mr. President; the Senator states it a little bit strongly. What I mean to say is that where the provisions of the United States Constitution have been suspended—where men are being tried, as the Senator says, in violation of every principle known to our free institutions—it is not the business of the Federal Government to stand idly by and say to the citizen, "You, in your individual capacity, shall fight out this thing."

There are two citizenships in this country; there is a dual citizenship. There is one citizenship of the State and one of the Federal Government. Wherever the citizenship of the Federal Government is interfered with it is the business of the Congress of the United States to find out what are the facts, and, if legislation is necessary, to legislate upon the subject.

I do not contend that we can go there and release the citizen who is in jail in that individual instance. But there is a future, and we investigate for the purpose of legislating with reference to the future. The court simply deals with the facts as they appear in the past. We investigate with a view of providing against recurring incidents, if legislation can do so.

Mr. BACON. It is simply a question of degree whenever a man is illegally confined. It is simply a question of degree whenever a man is confined under an alleged usurpation of power by any tribunal. The case we have in view is one extreme in degree. The case of a man arrested and tried by a military tribunal is extreme; but that is no more illegal than the case of the incarceration of any other man by any court that did not have jurisdiction. It is simply a question of degree, as I say. One may be a minor matter which does not excite our indignation. Another may be a grave matter, an extreme matter, which does excite our indignation to the highest point; but in each case it is simply a question of illegal imprisonment. In each case, to bring it down more directly to a Federal question, it is a case of a man being deprived of his liberty without due process of law. And the Senator's proposition would justify Federal interference in the minor case as fully as in the extreme case. The principle is the same in each.

The books are full of cases of men who were in imprisonment and who raised the issue that they were deprived of their liberty without due process of law. I have no doubt that every State in this Union has cases now pending where that question can be raised. But while it is a question of degree, the principle does not apply to one of high degree any more than it does to one of low degree.

If it be true, as the learned Senator from Idaho says, that whenever a man is in prison in violation of law it is within the proper province of the Senate of the United States to investigate it, there is just as much right to investigate a case where a man has been deprived of his liberty without due process of law under civil authority as where he has been deprived of his liberty without due process of law under military authority. One excites our indignation more than the other, but the principle applies to the one as strongly as it does to the other.

I repeat, Mr. President, I realize the fact that this is an embarrassing thing to do. I repeat that it embarrasses me, and I am not indifferent to that embarrassment. But I want to say that I consider that the obligation upon me is one which I can not ignore. If any man or any organization in the world has a high obligation, a Senator of the United States above every other is under obligation to see to it that the rights of the State he represents shall not be jeopardized, either by direct invasion or by giving consent to that which may thereafter justify the invasion of his own State. Further than that, not only is he under an obligation to see to it that the rights of his State are not invaded, not only is he under an obligation to see that a precedent is not set which may thereafter cause or justify an invasion of his State, but he is under a high obligation to see to it, even where technically it may be justified, that that right is not exercised unless it is absolutely necessary for the purposes for which the Congress of the United States was organized, or for which the Government of the United States exercises its powers.

I have stood on this floor endeavoring within my limited abilities to speak for the rights of labor. I believe in the right of labor to combine. I think the power of capital is so great and so easily exercised, concentrated as it is in the hands of a few men, that this great army of laborers can properly protect themselves only by organizing and by having their representatives to speak for them, and by so arranging that when they speak for them they will be in a position to command the respect and the acquiescence of those for whom they speak. Not only in the last Congress, but in this Congress, I introduced a bill, and to the extent of my ability I expect to press it to a successful conclusion, which embodies the principle which is contained in the amendment which was put in the appropriation bill which we had under discussion a short time since and puts that principle in a practical and effective shape—that for laborers to meet together and to agree upon measures which shall protect their interests, which shall enable them to have more time for recreation and shorter hours for labor, and shall enable them to secure an adequate return for their labor, shall not render them amenable to any construction which may be put upon the antitrust law commonly known as the Sherman law.

I have faced harsh criticism by some friends at home because I have thus stood for the rights of labor. I have had those, not simply at home, but in the large centers, visit their criticisms upon me because I would not do what the question of the Senator from Indiana would imply that I should do—weigh the rights of these men against the power of capital. I have not hesitated to stand for these men, although capital said "no." I have not been one, either here or elsewhere, to weigh the rights of these men against the power of capital and to give my judgment in favor of capital. I have weighed, Mr. President, and as a result of that weighing I have thought it to be my duty to stand in my place and see to it that these men have the right to combine. I do not think they have the right to combine to the extent of violence, to the extent of saying that another man shall not work if he desires to work. I do not approve of anything of that kind. But I do believe men should have the right peacefully to assemble and to agree upon measures by which they can more effectively cope with the great power of the concentrated capital with which they are engaged in productive enterprise. I do believe that they should have the right to do that which is necessary to contribute to their comfort, to their improvement, and to their having more time for recreation and for reading and for study and for shorter hours of labor.

All that, Mr. President, I approve. I have weighed the contest between capital and labor to the extent that I have come to the conclusion that they are to be justified in all proper and peaceful measures to bring about such ends.

But, Mr. President, is the fear, the apprehension that I feel—I do not say anybody else feels it—that those whom I have thus sought to defend may be offended by what I now do, to cause me to fail to stand for what I believe to be not only the interests of my State but the interests of this whole Government; that the line between Federal and State authority should not only be clearly drawn but observed; and that where one crosses the other we should be careful to do nothing which shall disturb the great fundamental principle that as to all local matters the State is supreme and has the responsibility, and that wherever it is charged that the State has invaded powers which the Constitution of the United States confers upon the Federal Government the test as to whether or not there has been a violation shall be made strictly in accordance with the provisions of law made for the purpose of correcting an evil of that kind?

Mr. BORAH. Mr. President——

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

Mr. BACON. I do.

Mr. BORAH. It seems to me the Senator's argument finally reaches this result, and that is the impropriety of the Senate doing it rather than the invasion of the rights of the State. The Senator says there is a tribunal which may do all these things and set aside all these acts of the State officers?

Mr. BACON. Yes.

Mr. BORAH. If it were done through the Supreme Court or the proper judicial tribunal, as I understand the Senator, he would not consider it an invasion of State rights?

Mr. BACON. I certainly would not.

Mr. BORAH. Then does not the argument of the Senator resolve itself into the impropriety of the Senate doing it, rather than the proposition that it is an invasion of State rights?

Mr. BACON. Not at all; it does not follow at all as the Senator suggests.

Mr. BORAH. If the Supreme Court, in a case——

Mr. BACON. If the Senator will pardon me, he has asked me a question, and I will submit to another interruption when I have answered it.

The Senator from Idaho asked me the question whether I would consider the intervention of the Supreme Court, through regular processes, by which the act of a State should be reviewed and overturned, an invasion of State rights. I said no. Then the Senator asked the question, if I understood him correctly, whether it would not be any more an invasion of the rights of a State if done through an investigation by the Senate. Am I correct in my statement of the Senator's position?

Mr. BORAH. I did not hear the Senator.

Mr. BACON. I think I am correct, and therefore I will proceed, Mr. President.

It is not an invasion of State rights for any constitutional power to be exercised by the Federal Government in the way in which the Constitution and the laws provide that they shall be exercised. There are some things which can be done by courts which can not be done by legislatures. There are some things that can be done by courts or legislatures which can not be done by the executive. It would not be an invasion of State rights for the Supreme Court of the United States to declare illegal the judgment of the Supreme Court of West Virginia upholding the judgment of this court-martial or commission and to set these men free. That would not be an invasion of State rights. But for the President of the United States to send an army there to turn them loose would be; and for the Senate of the United States to send its marshal there and turn them loose would be; and for the Senate of the United States to make an investigation which can not even go to the extent of turning anyone loose is none the less an invasion of the rights and dignity and responsibility of the State.

Mr. BORAH. Mr. President——

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

Mr. BACON. I do.

Mr. BORAH. If the Senator will refresh his recollection of the argument which was made by the very able attorneys in the old case of Cohens against Virginia, when the Supreme Court of the United States had before it the question of reviewing the action of the State court, he will find it was contended precisely as the Senator is now contending, that it was an invasion of State rights.

Mr. BACON. Oh, yes; but, then, it has been settled the other way.

Mr. BORAH. Exactly. Then, as I say again, it resolves itself into the proposition rather of the impropriety of the Senate doing it than the fact that the action of the State authorities is set aside.

Mr. BACON. No, Mr. President; I do not think the Senator is logical. I do go to the extent of saying that. It is an impropriety for us to do a great many things which we have the power to do, if perchance it is not necessary to be done and if the evil of doing it is great. I put my objection to this particular part of the resolution—and there are some parts I do not object to—upon two grounds; first, that it is not a legal act, that it is not a proper act; and, second, that, even if legal and proper, it is not a necessary act, and no good can come from it, but great harm may come of it. I put it on both grounds, if that will suit the contention of the learned Senator.

Mr. President, we ought not to shut our eyes to the possibilities which may flow from a precedent set here nem con. I do not know, if the yeas and nays had not been called, that I would have said anything. Possibly I might have yielded to my feeling of embarrassment, as uncourageous as that would have been; possibly I might have stood still and said nothing. I certainly would not have voted yes if there had been no yeas and nays ordered; I might have remained silent, as little as I would have been satisfied to do so; but when I am put to the responsibility, being compelled to either say "yes" or "no," I am not going to say something which in some future day may be presented to me when they seek to investigate my State; and I want my reasons known.

Mr. President, I am never going to stand on this floor and either myself consent to an investigation of the authorities of my State nor am I going to consent to any investigation of another State and establish a precedent under which the authorities of my State can hereafter be investigated.

I repeat, I do not say that I would never consent to any investigation in my State. There are conditions which may arise that would justify an investigation there or in any other State. But I am talking about an investigation of the official acts of my State. I am not going to do it. I am not going to let the embarrassment that I feel in casting this vote induce me to do it.

Mr. President, let every Senator stop and think. Do they want to establish a precedent by which congressional committees are going to investigate the action of their courts and of their legislatures and of their governors, especially when it is not necessary and when the law points out the plain way in which the remedy can be applied? And, sir, the more especially as the Senator from Idaho rises in his place and says these men have already been released. You establish such a precedent when men have already been released which will come back to plague us. A time when the poisoned chalice is to be commended to our own lips may come; and, Mr. President, if so, and if I have to drink the bitter dregs, no man shall say that I first pressed it to the lips of another.

Mr. GALLINGER. Mr. President——

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

Mr. BACON. I do.

Mr. GALLINGER. I have sometimes, Mr. President, thought that I am more of a State-rights man than many Senators on the other side of the Chamber. I have listened with a great deal of interest and profit to the argument the Senator from Georgia has made. I now rise to ask the Senator from Georgia if he will not carefully examine the resolution and move to strike out such portions of it as cover the ground he has traversed?

Mr. BACON. I would be more than delighted to do it if I had time. It was for that reason I asked the Senator from Indiana [Mr. KERN] to let it go over. I would not have said a word if there had been an opportunity to examine the objectionable parts of the resolution and if the objectionable parts could have been eliminated.

Mr. GALLINGER. Some parts of the resolution we can vote for.

Mr. BACON. Some of them I could vote for.

Mr. GALLINGER. Others we ought not to vote for, as I interpret them, and we ought to have an opportunity to divide them and to have a separate vote on those parts.

Mr. BACON. I will say to the Senator from Indiana that if the resolution goes over I will endeavor to confine my objections to certain features of the resolution and give my support to others, although they may even be of doubtful character; but if those about which I have no doubt and those which I think would be extremely dangerous should be adopted and established as a precedent, I must object. If I am compelled to vote on the resolution as a whole, I must vote against it as a whole, even if I stand alone in the Senate.

Mr. GALLINGER. If the Senator will permit me, I will formally ask unanimous consent that the further consideration of the resolution be postponed until after the morning business on the next day that the Senate meets.

Mr. BACON. I hope the Senator from Indiana will agree to that course. There will be no delay about it.

Mr. KERN. That would necessitate a meeting of the Senate to-morrow.

Mr. GALLINGER. Not necessarily. It would be taken up the next day the Senate sits.

Mr. KERN. I can not consent to any further procrastination about the matter. The resolution was objected to. It was amended to suit the Senators from West Virginia, and they have both said that they have no objection to the consideration of the resolution. I have no objection to having it go over until to-morrow, but I must insist that the resolution shall be disposed of.

Mr. GALLINGER. I have no disposition, the Senator knows, to procrastinate the consideration of the resolution.

Mr. KERN. Of course I do not attribute anything of that kind to the Senator. If it is convenient to Senators and to the Senate to meet to-morrow——

Mr. GOFF. Mr. President——

The VICE PRESIDENT. Will the Senator from Indiana yield to the Senator from West Virginia?

Mr. KERN. If the Senator will allow me, I will take the sense of the Senate on the proposition. I move that when the Senate adjourns to-day it be until to-morrow at 2 o'clock p. m.

The VICE PRESIDENT. The Senator from Indiana moves that when the Senate adjourns to-day it adjourn until 2 o'clock p. m. to-morrow.

The motion was agreed to.

Mr. GALLINGER. Now, I ask unanimous consent—and I appeal to the Senator from Indiana—that the further consideration of the resolution be postponed until after the morning business to-morrow.

Mr. KERN. And let there be unanimous consent that it shall be the unfinished business.

Mr. GALLINGER. Yes; and it will be taken up immediately after the morning business.

Mr. KERN. If there is unanimous consent, very well.

The VICE PRESIDENT. It will be understood, by unanimous consent, that the resolution is the unfinished business for to-morrow. The Chair hears no objection.

Mr. SMOOT. Mr. President, in conformity to the notice I gave on May 22 I now move that the Senate proceed to the consideration of Senate resolution No. 19, to authorize the allowance of an additional clerk to Senators having less than three.

Mr. BORAH. I have no objection to considering that resolution, but if the Senator's motion prevails the unfinished business will be displaced.

Mr. SMOOT. Not necessarily, if we dispose of the resolution to-night.

Mr. BORAH. If we dispose of it; but if the motion prevails and we do not dispose of it, then it becomes the unfinished

business and the resolution which we have had up to-day is displaced.

If the Senator will ask unanimous consent that it be taken up and considered, in that way it would not have the effect of displacing the unfinished business.

Mr. SMOOT. I am perfectly aware of that, but I have already received notice I would not have a unanimous-consent agreement for the consideration of the resolution.

Mr. GALLINGER. I suggest to the Senator from Utah that he give notice he will move to proceed to the consideration of this resolution after the other matter is disposed of.

Mr. SMOOT. Very well. Then, in order not to interfere with the unanimous-consent agreement that the resolution which has been up shall be the unfinished business, I give notice that immediately upon the disposition of the unfinished business to-morrow I will make the motion.

Mr. WILLIAMS. What is the Senator's notice?

Mr. SMOOT. I simply gave notice that to-morrow at the conclusion of the unfinished business I shall move to take up Senate resolution 19.

Mr. WILLIAMS. The Senator will move to take it up?

Mr. SMOOT. Yes.

EXECUTIVE SESSION.

Mr. BACON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 15 minutes spent in executive session the doors were reopened and (at 5 o'clock and 28 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, May 27, 1913, at 2 o'clock p. m.

## NOMINATIONS.

*Executive nominations received by the Senate May 26, 1913.*

APPRAISER OF MERCHANDISE.

George E. Welter, of Oregon, to be appraiser of merchandise in the district of Portland, in the State of Oregon, in place of Owen Summers, deceased.

COLLECTOR OF INTERNAL REVENUE.

William C. Whaley, of Montana, to be collector of internal revenue for the district of Montana, in place of Edward H. Callister, superseded.

UNITED STATES ATTORNEY.

Edward C. Love, of Florida, to be United States attorney for the northern district of Florida, vice Fred. C. Cubberly, whose term has expired.

APPOINTMENT IN THE ARMY.

COAST ARTILLERY CORPS.

Walter Owen Rawls, of Alabama, late midshipman, United States Navy, to be second lieutenant in the Coast Artillery Corps, with rank from May 21, 1913.

PROMOTION AND APPOINTMENTS IN THE NAVY.

Second Lieut. Alfred McC. Robbins to be a first lieutenant in the Marine Corps from the 22d day of August, 1912.

The following-named citizens to be assistant surgeons in the Medical Reserve Corps of the Navy from the 14th day of May, 1913:

Thomas C. Pounds, citizen of California.
Jesse B. Helm, citizen of Tennessee.
John W. Bovee, citizen of District of Columbia.
Charles I. Griffith, citizen of District of Columbia.

Albert T. Weston, a citizen of New York, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 17th day of May, 1913.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate May 26, 1913.*

COLLECTOR OF CUSTOMS.

John W. Martin to be collector of customs at Jacksonville, Fla.

REGISTER OF THE LAND OFFICE.

Richard Strobach to be register of the land office at North Yakima, Wash.

COLLECTORS OF INTERNAL REVENUE.

Louis Murphy to be collector of internal revenue for the third district of Iowa.

Samuel A. Hays to be collector of internal revenue for the district of West Virginia.

POSTMASTERS.

ARKANSAS.

N. H. Mitchell, Gentry.

CALIFORNIA.

John A. Rollins, Tulare.

FLORIDA.

Samuel J. Giles, Carrabelle.
Eva R. Vaughn, Century.
William R. Roesch, Eau Gallia.
P. S. Coggins, Madison.

NEW JERSEY.

Charles Rittenhouse, Hackettstown.
Joseph B. Cornish, Washington.

NORTH CAROLINA.

W. C. Hall, Black Mountain.
Lee H. Yarborough, Clayton.
Plato C. Rollins, Rutherfordton.
P. J. Caudell, St. Paul.
William H. Etheredge, Selma.
Duncan L. Webster, Siler City.
Howard C. Curtis, Southport.
W. D. Pethel, Spencer.
Joseph S. Stallings, Spring Hope.
John L. Gwaltney, Taylorsville.
W. H. Stearns, Tryon.
Hector McL. Green, Wilmington.

SOUTH CAROLINA.

S. M. Ward, Georgetown.
Louis Stackey, Kingstree.
Pierre H. Fike, Spartanburg.
Julius F. Way, Holly Hill.
Joseph M. Poulnot, Charleston.

SOUTH DAKOTA.

Mary Brennan, Lake Preston.

## WITHDRAWAL.

*Executive nomination withdrawn from the Senate May 26, 1913.*

COMMISSIONER OF CORPORATIONS.

Joseph E. Davies, of Wisconsin, to be Commissioner of Corporations in the Department of Commerce, vice Luther Conant, jr.

# SENATE.

TUESDAY, *May 27, 1913.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Forrest J. Prettyman, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. SMITH of Arizona. I present a joint memorial of the Legislature of Arizona, which I ask may be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the joint memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Senate joint memorial 1.

*To the Congress of the United States of America:*

Your memorialists, the Legislature of the State of Arizona in session assembled, do hereby memorialize and petition your honorable body that—

Whereas a great hardship has been caused to certain occupants on school land who settled thereon before the survey thereof, and who subsequently discovered that they had settled on school land, and were unable to secure title to the land so occupied as a town site, and that the State is unable to select lands in lieu of the land so settled upon: Therefore

Your memorialists respectfully pray that such legislation be enacted by Congress as to enable the State to select other lands in lieu of school sections settled upon and occupied as towns, to the end that the State may be able to make such lieu selections and leave the lands so occupied open for entry for town-site purposes, and that the occupants may thereby be enabled to obtain title to the lands occupied by them.

The secretary of the senate is hereby directed to forward a copy of this memorial to the President of the Senate and to the Speaker of the House of Representatives of the United States, and a copy to Hon. HENRY F. ASHURST and Hon. MARCUS A. SMITH, United States Senators from Arizona, and to Hon. CARL HAYDEN, Representative in Congress from Arizona, and our Senators and Representative are earnestly requested to do all in their power to bring about the legislation herein prayed.

May 9, 1913. Read third time in full and passed the house by the following vote: 29 ayes, — noes, 4 absent, 2 excused.

H. H. LINNEY,
*Speaker of the House.*

Passed the senate May 3, 1913, by a vote of 14 ayes, — noes, 4 absent, 1 excused.

W. G. CUNNIFF,
*President of the Senate.*

Mr. SMITH of Arizona. I present a concurrent resolution adopted by the Legislature of Arizona, which I ask may be