Arthur H. Schneider, J. H. Moeller, Walter L. McCordle, John B. Allis, Alta Payne, Alfred J. Winzeler, Edward A. Street, Joseph W. Bussings, Richard Kiley, Pete Heitzman, John Jervis, Ernest Ferington, Cornelius Cross, John Birnoi, M. Smith, W. M. McPhillips, Alexander Pritchett, C. H. Bussin, L. Gastennel, A. H. Bunkwinkel, Louis Leechner, Joseph Klein, Charles Baff, Thomas Floyd, F. J. Schmitt, C. F. Grier, A. N. Gilead, Reuben Ruston, Benjamin Fleirlage, Clyde Bittoeff, Gus Kertzman, George Rice, Fred W. Habbe, Charles F. Doerr, R. F. Collins, George Hertweck, E. O. Hopkins, Henry Herndorn, I. A. Wernert, G. C. Jones, Jacob Dulez, E. R. Lett, Henry Desch, Charles R. Bussing, W. C. Lett, R. Quinn, L. J. Gabelman, W. H. Stallings, Otto Korn, T. Siorn, Edward Henke, Ernst Rahm, A. C. Ekerburch, S. Richarson, Ray Ahlering, Henry Buchwinkel, F. Mangold, Fred Hoehl, J. Schentrup, Tony Mathews, Edwin C. Ritt, Nick Lannert, Jacob Haller, Louis Trapp, Henry Johnson, August Schuch, Valentine Weber, P. Paul Schatz, F. Drote, Henry P. Fuchs, Phillip H. Fuchs, Frank Herman, John Kalser, Andrew Fisthmister, Bieford Wakins, John Hanz, Fred Werre, F. H. Kratz, F. X. Becker, John Bell, William Kureger, Oscar Tegtmeier, John Armstrong, C. L. Canturter, J. E. Stickelman, Joseph A. Kewer, Christ Wimduheh, W. Smith, F. J. Schlinter, U. G. Redman, Ernest J. Robertson, John D. Hillenbrand, J. McCaw, E. Rauchmeier, H. A. Kenn, jr., John Beol, George Scholen, W. D. Arnold, J. W. Irons, and Charles Rettinger, all of Evansville, Ind., protesting against the passage of Randall mail-exclusion bill, Bankhead mail-exclusion bill, Sheppard District of Columbia prohibition bill, Webb nation-wide prohibition bill, and Howard bill to prohibit commerce in intoxicating liquors between the States; to the Committee on the Judiciary.

By Mr. LINTHICUM: Petition of Townsend, Grace & Co., of Baltimore, Md., in reference to supply of peroxide of sodium; to the Committee on Foreign Affairs.

Also, memorials of sundry organizations of Baltimore, Md., opposing Steenerson amendment to Post Office appropriation bill affecting catalogues; to the Committee on the Post Office and Post Roads.

Also, petition of Baltimore Aerie, No. 5, Fraternal Order of Eagles, opposing increase in second-class postage rates; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of the State of Maryland, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of John G. Murray & Co., Oswald Pfau, W. Scheffenacker, and others, of Baltimore, Md., against mail-exclusion bills; to the Committee on the Post Office and Post Roads.

Also, petitions of International Union of the United Brewery Workmen of America and Baltimore Photo Engravers' Union, against prohibition bills; to the Committee on the Judiciary.

Also, petitions of Baltimore Federation of Labor and the Albrecht Co., of Baltimore, Md., against passage of House bill 18986; to the Committee on the Post Office and Post Roads.

Also, petition of Young Women's Christian Association, favoring woman's department in the Department of Labor; to the Committee on Labor.

Also, petitions of sundry business concerns of the United States, favoring support of the water-diversion bill at Niagara Falls, N. Y.; to the Committee on Rivers and Harbors.

Also, petition of Charles W. Hess, of Baltimore, Md., favoring increase in pay of railway mail clerks; to the Committee on the Post Office and Post Roads.

Also, petitions of sundry business men of Baltimore, Md., favoring appropriation for improvement of Chesapeake and Delaware Canal; to the Committee on Rivers and Harbors.

By Mr. MOORES of Indiana: Petition of 1,425 citizens of Indianapolis, Ind., protesting against House bill 18986, House joint resolution 84, and House bill 17850; to the Committee on the Post Office and Post Roads.

By Mr. MORIN: Petition of Miss Jeannette M. Eaton, principal of the Belmar School, of Pittsburgh, Pa., and signatures of 41 others, with reference to Federal suffrage amendment; to the Committee on the Judiciary.

By Mr. OAKEY: Memorial of sundry citizens of Farmington, Conn., favoring national prohibition; to the Committee on the Judiciary.

By Mr. OLNEY: Petition of citizens of Sharon, Mass., favoring national prohibition; to the Committee on the Judiciary.

By Mr. PRATT: Petition of Hornell Aerie, 701, Fraternal Order of Eagles, Hornell, N. Y.; Elmira Aerie, 941, Fraternal Order of Eagles, Elmira, N. Y.; and Ithaca Aerie, Fraternal Order of Eagles, Ithaca, N. Y., opposing section 10 of the Post Office appropriation bill, "unless first paragraph is amended to exclude from the operation of the bill fraternal magazines published by fraternal orders not for profit but solely for education and information"; to the Committee on the Post Office and Post Roads.

By Mr. SMITH of Michigan: Petition of H. H. Clarkson, of Hillsdale, Mich., against zone rate in Post Office appropriation bill; to the Committee on the Post Office and Post Roads.

Also, petition of A. R. Rodgers and 300 citizens of Kalamazoo, 275 citizens of Coldwater, 32 citizens of Hillsdale, and 299 citizens of Battle Creek, all in the State of Michigan, against Post Office appropriation bill increasing rate on fraternal magazines; to the Committee on the Post Office and Post Roads.

By Mr. SNELL: Memorial of Frank L. Baker, president, and Henry Larock, secretary, Local Union (Plattsburg, N. Y.) No. 1042, V. B. of C. and J. of A., protesting against the adoption of mail-exclusion bills; to the Committee on the Post Office and Post Roads.

By Mr. SNYDER: Petitions of sundry citizens of the thirty-third district of New York, favoring woman suffrage: to the Committee on the Judiciary.

Also, petition of Pesidents L. Hommedieu and Moy, of the Baptist and Methodist Episcopal Churches of Herkimer, and Men's Bible Class of Plymouth Church, Utica, N. Y., favoring prohibition; to the Committee on the Judiciary.

Also, memorial of Empire Society, Sons of American Revolution, of New York, and Schenectady Chapter, Daughters of the American Revolution, favoring national park on the site of the battle field of Oriskany; to the Committee on Military Affairs.

Also, petition of Utica (N. Y.) Order of Eagles, against increasing postal rates on second-class matter; to the Committee on the Post Office and Post Roads.

By Mr. STINESS: Petition of Rhode Island Press Club, against changing the system and rate for carriage of second-class mail matter; to the Committee on the Post Office and Post Roads.

Also, petition of Warwick (R. I.) Aerie, No. 1313, Fraternal Order of Eagles, against changing system and rate for carriage of second-class mail matter; to the Committee on the Post Office and Post Roads.

Also, petitions of sundry citizens of the second Rhode Island district, against any prohibition bill; to the Committee on the Judiciary.

Also, papers to accompany House bill 19773, for relief of Thomas F. Jennison; to the Committee on Invalid Pensions.

By Mr. TREADWAY: Petition of sundry citizens of North Adams, Mass., favoring suffrage amendment; to the Committee on the Judiciary.

By Mr. WARD: Petition signed by 160 residents of Kingston, N. Y., protesting against the passage of House bill 18986, Randall mail-exclusion bill; Senate bill 4429, Bankhead mail-exclusion bill; Senate bill 1082, Sheppard District of Columbia prohibition bill; House joint resolution 84, Webb nation-wide prohibition bill; and House bill 17850, Howard bill, to prohibit commerce in intoxicating liquors between the States; to the Committee on the Judiciary.

By Mr. WILLIAMS of Ohio: Petition of members of the I. B. E. W., against prohibition bills; to the Committee on the Judiciary.

Also, petition of 135 citizens of Akron, Ohio, against prohibition bills; to the Committee on the Judiciary.

SENATE.

FRIDAY, *January 12, 1917.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we come to Thee for the great gift of life, for the fuller and more abundant life Thou hast revealed to us in Thy Word. Thou hast given to us in our power of self-expression something of the Divine. We pray that our hearts may be so attuned to the Divine Nature as that their outward expressions may be Godlike. Give to us Thy grace that our lives may be conformed to Thy will, and that the acts of our lives may stand the test that Thou hast given to us, a test which brings in its train the blessings of civilization and all the higher blessings and comforts and happiness of life. Hear us in our prayer for the forgiveness of sins and for the Divine guidance. For Christ's sake. Amen.

The PRESIDENT pro tempore. The Secretary will read the Journal of the proceedings of the preceding day.

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

The PRESIDENT pro tempore. The Secretary will call the roll.

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

Ashurst	Hitchcock	Oliver	Smith, S. C.
Bankhead	Hollis	Overman	Smoot
Beckham	Hughes	Page	Sterling
Brady	James	Poindexter	Thomas
Brandegee	Johnson, Me.	Pomerene	Thompson
Bryan	Johnson, S. Dak.	Ransdell	Tillman
Chamberlain	Jones	Robinson	Townsend
Clapp	Kenyon	Saulsbury	Vardaman
Clark	Kirby	Shafroth	Wadsworth
Culberson	Lea, Tenn.	Sheppard	Walsh
Curtis	Lodge	Sherman	Watson
Dillingham	McCumber	Simmons	Williams
Fernald	McLean	Smith, Ariz.	Works.
Fletcher	Martine, N. J.	Smith, Ga.	
Gallinger	Nelson	Smith, Md.	
Hardwick	Norris	Smith, Mich.	

Mr. LEA of Tennessee. I desire to state that the senior Senator from Indiana [Mr. KERN] is detained by illness from the Chamber. I will let this announcement stand for the day.

Mr. SMITH of Arizona. The Senator from Tennessee [Mr. SHIELDS] is absent from the Senate on account of illness. I ask that this announcement may stand for the day.

Mr. MARTINE of New Jersey. I rise to announce the absence of the Senator from Oklahoma [Mr. GORE] owing to illness. I will let this announcement stand for the day.

Mr. CLARK. I desire to announce the unavoidable absence of my colleague [Mr. WARREN] from the city, and to have this announcement stand for the day.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. There is quorum present. The Secretary will proceed with the reading of the Journal of the previous day.

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

NOMINATION OF WINTHROP M. DANIELS—CORRECTION OF RECORD.

Mr. HUGHES. Mr. President, I rise to a correction of the RECORD. In the proceedings in executive session on the 10th the RECORD states that—

On motion of Mr. HUGHES the injunction of secrecy was removed from Miscellaneous Executive Document No. 2 and Miscellaneous Executive Document No. 3, and they were ordered to be printed as Senate documents and also in the RECORD.

I wish the RECORD to show that that action was taken by unanimous consent. Under the rule of the Senate it could not be done in any other way.

The PRESIDENT pro tempore. Without objection, the permanent RECORD will be changed to conform to the suggestion of the Senator from New Jersey.

WITHDRAWALS OF PUBLIC LANDS (S. DOC. NO. 677).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on land withdrawals from settlement, location, sale, or entry under the act to authorize the President of the United States to make withdrawals of public lands in certain cases, which, with the accompanying paper, was referred to the Committee on Public Lands and ordered to be printed.

CHESAPEAKE & POTOMAC TELEPHONE CO. (H. DOC. NO. 1931).

The PRESIDENT pro tempore laid before the Senate the annual report of the Chesapeake & Potomac Telephone Co. for the year 1916, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 7536. An act authorizing the Western New York & Pennsylvania Railway Co. to reconstruct, maintain, and operate a bridge across the Allegheny River, in the borough of Warren and township of Pleasant, Warren County, Pa.; and

S. 7538. An act authorizing the Western New York & Pennsylvania Railway Co. to reconstruct, maintain, and operate a bridge across the Allegheny River, in Glade and Kinzua Townships, Warren County, Pa.

The message also announced that the House further disagrees to the amendments of the Senate to the bill (H. R. 10384) to regulate the immigration of aliens to, and the residence of aliens in, the United States, asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BURNETT, Mr. SABATH, and Mr. HAYES managers at the further conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House has signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 6864. An act providing for the continuance of the Osage Indian School, Oklahoma, for a period of one year from January 1, 1917;

H. R. 1093. An act for the relief of James Anderson; and

H. R. 10007. An act for the relief of William H. Woods.

PETITIONS AND MEMORIALS.

Mr. SHERMAN. I present a petition of the Commercial Club, of East St. Louis, Ill., praying for the placing of an embargo on food products. I present this petition because it has been sent to me, and not because I have any sympathy with it. I will state that I am utterly opposed to an embargo on the exportation of food products.

The PRESIDENT pro tempore. The petition will be referred to the Committee on Foreign Relations.

Mr. SHERMAN presented a petition of sundry citizens of Vienna, Ill., praying for the enactment of legislation to reduce the high cost of living, which was referred to the Committee on the Judiciary.

He also presented petitions of the Peoria and Champaign Branches of the National Letter Carriers' Association of Illinois, praying for an increase in the salaries of postal employees, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the City Council of Chicago, Ill., praying for the enactment of legislation to permit checking accounts in the Postal Savings Bank System, which was referred to the Committee on Post Offices and Post Roads.

Mr. McLEAN presented petitions of sundry citizens of New Haven and Milford, in the State of Connecticut, praying for national prohibition, which were ordered to lie on the table.

Mr. POINDEXTER presented the memorial of Dr. J. V. Steele and sundry other citizens of Waitsburg, Wash., remonstrating against the creation of zones for postal rates on second-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of John L. Harris, of Kelso, Wash., praying for the establishment of peace in Europe and submitting a plan for the promotion thereof, which was referred to the Committee on Foreign Relations.

Mr. PHELAN presented a petition of the State of California National Society, United States Daughters of 1812, praying for the enactment of legislation to permit the publishing yearly of the work of that organization under the auspices of the Smithsonian Institution, which was referred to the Committee on Printing.

Mr. BRANDEGEE. I present a petition of the Chamber of Commerce of Hartford, Conn., praying that the railroads be relieved from State regulation. I ask that the petition be printed in the RECORD and referred to the Committee on Interstate Commerce.

There being no objection, the petition was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

Whereas the dual system of Federal and State control of the railways of the country has in some sections retarded railway development, with the result that the railways, because of conflicting regulations of various State commissions, and conflicting laws of such States, are hindered in caring for the business requirements of the country; and

Whereas the railways will be an important factor in the commercial development of the country and will either aid or hold back the manufacturers of the country who are planning to meet foreign competition in New World markets: Therefore be it

Resolved, That the Hartford Chamber of Commerce urge upon Congress the necessity of relieving the railways of the country of existing State regulations, by giving the Interstate Commerce Commission such powers as may be deemed necessary to unify regulations of all railway affairs which directly or indirectly affect interstate commerce.

Mr. BRANDEGEE. I present a petition of the Chamber of Commerce of Hartford, Conn., praying for universal compulsory military training. I ask that the petition be printed in the RECORD and referred to the Committee on Military Affairs.

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

Whereas it appears that at the present time the United States is without any definite military policy for the training of its manhood to meet the possible military needs of the country; and

Whereas the volunteer system of recruiting as used can not be relied upon to furnish a sufficient number of trained men in an emergency: Be it

Resolved, That the members of this chamber of commerce believe that Congress should take immediate and effective steps to provide for the universal compulsory training of the young men of the country.

Mr. POINDEXTER. I present a telegram in the nature of a petition signed by the president of the Federal Employees' Union, of Tacoma, Wash., which I ask may be printed in the RECORD and referred to the Committee on Appropriations.

There being no objection, the telegram was referred to the Committee on Appropriations and ordered to be printed in the RECORD, as follows:

TACOMA, WASH., *January 11, 1917.*

Senator MILES POINDEXTER,
Washington, D. C.:

We protest reported action Senate Democratic caucus in agreeing to defeat all increases pay for Government employees, including some passed by House. Leading corporations making substantial increases. Government employees' pay stationary many years. Constantly increasing cost of living makes increase pay necessary. We ask your support.

FEDERAL EMPLOYEES' UNION,
D. C. IMRIE, *President.*

Mr. POINDEXTER. I present a telegram in the nature of a memorial from Arthur Perrine, president of the Federal Employees' Union, of Spokane, Wash., favoring increases in the salaries of all Federal employees. I ask that the telegram may be printed in the RECORD and referred to the Committee on Appropriations.

There being no objection, the telegram was referred to the Committee on Appropriations and ordered to be printed in the RECORD, as follows:

SPOKANE, WASH., *January 11, 1917.*

Senator MILES POINDEXTER,
Washington, D. C.:

Informed Democratic caucus has agreed to defeat increases of pay for Government employees. Urgently request that you use every means to secure increase commensurate with increased cost of living. Condition of custodian employees in this city is pitiable; salary, $55 per month.

ARTHUR PERRINE,
President Federal Employees' Union.

WHITE-PINE BLISTER RUST.

Mr. GALLINGER. Mr. President, some days ago I presented a proposed amendment, which was referred to the Committee on Agriculture and Forestry, proposing to increase the appropriation for the examination and suppression of white-pine blister rust. The American Forestry Association estimates that there is a great danger of the loss of $260,000,000 in the near future unless prompt and efficient steps are taken to arrest that disease. It will be remembered that the chestnut-tree blight was neglected and the chestnut trees of the country are practically destroyed at the present time.

I now rise, Mr. President, to present a paper from the American Forestry Association concerning this matter, which I ask to have printed in the RECORD and referred to the Committee on Agriculture and Forestry.

There being no objection, the paper was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., *January —, —.*

With the New England States as the bull's-eye of their attack, 300 delegates to the international forestry conference will meet here next Thursday and Friday (18 and 19) to consider ways and means of checking the spread of the white-pine blister disease which has gained such a strong foothold in the Northeastern States.

Every State in the group will have delegates, appointed by the governors, at the conferences. The committee for the suppression of the white-pine blister disease, of Boston, will have a delegation here headed by Harris S. Reynolds. To-day Gov. Milliken, of Maine, sent in his nominations as follows: L. A. Pierce, Houlton; James W. Sewall, Oldtown; Charles F. Eaton, Princeton; S. S. Scammon, Franklin; S. W. Philbrick, Skowhegan; Blaine S. Viles, Augusta; Elwyn K. Jordan, Alfred; Y. A. Thurston, Andover; Leslie Boynton, Jefferson; Everett E. Amey, Portland.

Lumber associations, too, are sending delegations, and there will be joint sessions of several forestry associations cooperating with the American Forestry Association. Canada will have a representation of 20 delegates.

Charles Lathrop Pack, president of the Forestry Association, announces a program which contains the names of many of the most widely known experts on this continent. P. S. Ridsdale, the secretary, has provided for a showing of 40 paintings of national forests to be shown the delegates at the New National Museum.

The western governors have all appointed delegates, for there is a particular effort on foot to keep the disease out of the sugar pines on the Pacific coast. The first of the delegates will begin arriving next Wednesday.

The two big questions to come before the conference will be State quarantine against the States now infected with the white-pine scourge and also nation-wide quarantine against the shipment of all seedlings and plants that bring these pests from other countries.

"The chestnut blight," said President Pack to-day, "we all know, and we also know what the boll weevil did. It is the failure to act in time that costs the country millions of dollars. The white-pine blister disease is a fungus that grows upon the leaves of the currant and gooseberry bushes. It goes from pine to bushes and back to the pine. It gets under the bark and bursts it. Thus far there has been nothing found that will save a tree thus attacked.

"The thing to do is to inaugurate a nation-wide campaign to arouse the people to do everything possible to check the spread and hold the disease where it is now the worst—New England. The Department of Agriculture has issued a warning which says there must be action at once, for if the disease gets from the home and farm area into the dense timber country there will be no stopping it. This is not belief or rumor; it is the words of the experts of the department as set forth in Bulletin 742, which anyone can have for the asking.

"I know men who have sacrificed valuable decorative trees on their estates and ordered all currant and gooseberry bushes cut down in an attempt to check the spread of this pest. It is only by the concerted action of the Federal Government and the States interlocked with an aroused public opinion that will save these trees for the country and posterity."

The conference will be called to order on Thursday morning at 10 o'clock, and after a short business session the main object of the conference will be taken up.

YOSEMITE NATIONAL PARK.

Mr. PITTMAN. Mr. President, I present a resolution adopted by the Reno Commercial Club with regard to the proposed extension of the Yosemite National Park, and also a short letter I have written in answer to it. I will not ask that they be read, but I ask unanimous consent that they be published in the RECORD.

Mr. SMOOT. I did not hear what the request was. There was so much confusion in the Chamber I could not hear what the Senator said.

Mr. PITTMAN. I have here a resolution from the Reno Commercial Club protesting against the enlargement of the Yosemite National Park. It is rather a long resolution, and I have asked unanimous consent to have it published without reading, together with the acknowledgment by me of its receipt.

Mr. SMOOT. The Senator asks to have them printed in the RECORD?

Mr. PITTMAN. Yes.

Mr. SMOOT. Very well.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

RENO COMMERCIAL CLUB,
Reno, Nev., December 23, 1916.

Hon. KEY PITTMAN,
United States Senate, Washington, D. C.

MY DEAR MR. PITTMAN:

Whereas it has come to the attention of the Reno Commercial Club that certain persons are endeavoring to stir up public sentiment against further development of hydroelectric power upon Rush and Levining Creeks, in the county of Mona, State of California; and

Whereas it is definitely stated by said certain persons that such development should not be permitted on account of the alleged destruction of the "beautiful scenery" connected with the waterfalls on said creeks; and

Whereas it has come to the attention of this commercial club that said certain persons are making an invidious effort to have the eastern boundary line of the Yosemite National Park extend to include the falls and hydroelectric development plant in question, thereby depriving the present power companies of their water supply; and

Whereas it appears that the hydroelectric development has been made by Pacific Power Corporation by virtue and under authority invested by certain permits granted by departments of the Federal Government having jurisdiction thereof, in due and regular form, as in such cases by law made and provided; and

Whereas it has been conclusively shown that the electrical energy now generated at the plants of said corporation are being used for the development of agriculture, operation of mines, industries, lighting of streets, homes, and other useful purposes of the many communities and towns in Nevada, including Fairview, Wonder, Tonopah, Goldfield, and Hawthorne; and

Whereas it appears that the service to be thus supplied by the Pacific Power Corporation and its associated and interconnected companies is absolutely essential to the complete development of important and growing districts of Nevada; and

Whereas it is the sense of the Reno Commercial Club, after a full investigation of all the facts in the matter, that it is unalterably opposed to any interference with the lawful undertakings of said corporation, and that it should be the policy of our State and Federal Government to foster and encourage in every proper manner the development of the latent resources of Nevada, to the end that its citizens may receive the full benefit and enjoyment of the conveniences thereby afforded and the taxable wealth of our State increased by the large investment required to bring such developments to fruition: Therefore be it

Resolved, That the Reno Commercial Club is opposed to any action being taken by the Federal authorities or others that would have the effect of hampering or preventing the lawful undertakings of said Pacific Power Corporation in the development of useful hydroelectric power, and respectfully requests the Secretary of the Interior and the California State Water Commission to take no action looking toward the revocation of the permits under which the said developments are made; and be it further

Resolved, That the secretary be instructed to spread this resolution upon the minutes of the Reno Commercial Club and mail a copy thereof to Hon. Franklin K. Lane, Secretary of the Interior, Washington, D. C.; secretary of the California State Water Commission, San Francisco, Cal.; Hon. KEY PITTMAN, United States Senator; Hon. FRANCIS G. NEWLANDS, United States Senator; Hon. E. E. ROBERTS, United States Congressman; and a copy to the office of the Pacific Power Corporation at Goldfield, Nev.

Yours, very truly,

RENO COMMERCIAL CLUB,
By G. A. RAYMER, *Secretary.*

UNITED STATES SENATE,
January 8, 1917.

Mr. G. A. RAYMER,
Secretary Reno Commercial Club, Reno, Nev.

MY DEAR MR. RAYMER: The receipt of the resolution of your club under date of December 23, relative to an effort being made to extend the boundaries of Yosemite National Park so as to include certain hydroelectric-power development that will supply power in the State of Nevada, has already been acknowledged. I now take this occasion to communicate personally with your club with regard to my position in the matter.

I am heartily in favor of establishing national parks for the preservation of objects of peculiar beauty and national interest. I believe

that under national-park control these parks can better be made to serve the use of the entire public. However, in no case should these parks be established when their creation would retard the physical development of the natural resources of the sections in their vicinity. In other words, our natural desire to preserve the beautiful and interesting and to provide parks for the recreation of all of our people must give way to the higher use of providing the necessities of life at reduced cost.

Our State, unfortunately, is not possessed of oil, coal, gas, or extensive forests of timber and we must depend upon hydroelectric power to a very large extent for our motive power. The highest development of our State depends upon the extensive development of such power. I therefor will not consent to the passage of any legislation for any purpose whatever that will reduce or restrict the opportunities for such development.

I have already taken this matter up in person with Mr. Mather, assistant to the Secretary of the Interior, and I will immediately present the subject to the Secretary of the Interior.

You would aid me materially in this matter if your body would provide for a thorough investigation of this subject and furnish me with the necessary data.

Very sincerely, yours, KEY PITTMAN.

IMPORTATION OF SISAL AND MANILA HEMP.

Mr. SMITH of Michigan. Mr. President, the Farm Implement News of December 28, a paper very largely circulated among the agricultural people of the country, contains the following:

Has the American farmer no friends in Congress? Is there not one Senator with sufficient courage to defy tradition if necessary and demand that the committee which investigated the Sisal Trust submit a report forthwith?

Is there no Member of Congress who dares to demand that the authorities take such steps as they may to rescue the farmer from the clutches of this predatory combination?

Is there not one Senator or one Representative who is big and brave enough to demand that the Government put an end to extortion in the sale of binder-twine material?

I have read this quotation from the Farm Implement News because it challenges the courage of Senators and Representatives, and I desire to meet this challenge in the name of my colleagues and to demand to know what has become of this investigation. If I can get an answer from some member of the committee I shall be very glad.

Mr. RANSDELL. As the chairman of the subcommittee authorized to investigate the sisal-hemp situation, I shall be very glad to answer any question the Senator may desire to propound, but I did not hear distinctly the question which he has just put.

Mr. SMITH of Michigan. The Farm Implement News, a very worthy agricultural publication, makes the charge that no Senator has sufficient courage to ascertain the present status of the investigation; and I rose, on behalf of a number of my colleagues who are interested equally with myself in seeing that the subject does receive thorough and fair treatment, to demand to know the present condition of that investigation—whether it has been concluded.

Mr. RANSDELL. Mr. President, the investigation was concluded some time ago; but for reasons which the committee thought entirely good and satisfactory the report was not submitted to the Senate until yesterday. It is now in the hands of the printing clerk to be printed. I presume it will be in the hands of every Senator this afternoon, or certainly not later than to-morrow morning.

Mr. SMITH of Michigan. Has the committee reached a unanimous conclusion about it?

Mr. RANSDELL. It has.

Mr. SMITH of Michigan. Has the Senator any objection to saying about what they have concluded?

Mr. RANSDELL. I will read our final recommendations, which will give our conclusions perhaps better than if I should attempt to put them into my own words. The following are the recommendations of the subcommittee:

1. It urges the Department of Justice to examine carefully the record in this investigation and to take such action as the law and the facts may warrant. The committee hopes that some means of checking the power of this monopoly may be found.

"This monopoly" refers to the Comision Reguladora, which we found to be a monopoly that was very oppressive to the American people, costing them at the present time something like $26,000,000 per annum.

To aid in this, it directs that a copy of all hearings held before it, all briefs filed by the various parties, and this report be sent to the Attorney General.

2. The committee feels that the facts set forth herein demonstrate that the American people are being forced to pay for one of the necessities of life many millions more than the fair value thereof, and it therefore refers this report to the State Department, with the suggestion that the matter be taken up through diplomatic channels to see if some measure of relief can no be obtained.

Our reason for making this recommendation is that the monopoly seems to have been created in the State of Yucatan, one of the States of Mexico. It was conceived and carried out there under a law passed by the legislature of that country. It has agents in this country, who are located in the city of New York, who sell the sisal. It therefore seemed to us that this was a matter in which the diplomatic agencies of our Government could probably be successfully invoked; at least, we hope so, because we are not certain that the Comision Reguladora can be reached by our antitrust laws. The acts of the agents of the comision in this country may, however, come within the purview of our laws; and hence we referred the matter to the Department of Justice.

3. The committee urges the farmers of the country to make every effort to find a suitable substitute for sisal which can be grown within the United States at reasonable cost, in order that they may no longer be in the power of a foreign monopoly for so essential a product as binder twine.

Mr. GALLINGER. Mr. President——

Mr. RANSDELL. I shall yield to the Senator from New Hampshire in just one moment, when I finish reading the recommendations of the committee:

This report is referred to the Department of Agriculture with the recommendation that it make special investigations toward this end.

Now I yield to the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I observe that this Yucatan monopoly has agents in this country representing it.

Mr. RANSDELL. Yes, sir.

Mr. GALLINGER. Did the investigation develop the fact as to whether there is much American capital invested in the enterprise in Yucatan, or is it wholly a Mexican affair?

Mr. RANSDELL. From all the evidence before us, as I recall it—I will ask my colleagues on the committee to correct me if I make a mistake—the business is conducted by the Yucatan planters. The plantations are owned by Yucatecans and the labor is performed by the peons. So far as I recall there is no American capital invested in the business in Yucatan.

Mr. GALLINGER. If I reach the correct conclusion from the discussion that has already taken place, the price of this necessary article has about doubled since this investigation began. Am I correct in that statement?

Mr. RANSDELL. Yes; the price has practically doubled since we closed our investigation. The price was quoted on the market at 7⅞ cents at that time and it is now 14½ cents; the price has increased practically 100 per cent.

Mr. SMITH of Michigan. I presume that the report will become the subject of further consideration. Does the Senator propose to offer any bill or resolution upon the subject?

Mr. RANSDELL. I will say to the Senator that my two associates on the committee and myself have not fully considered that question. We thought we were certainly doing the very best we could for the benefit of the American people and that the practical recommendations we made could best be taken up by the three departments named without the aid of any legislation. If the Department of Justice finds that there is no law under which relief can be afforded and can recommend to us the passage of additional laws which well permit it to reach this monopoly, that, of course, would be considered. We should be very glad to have the advice of the department in that respect; but your subcommittee did not care to recommend at this time any special legislation.

Mr. SMITH of Michigan. Mr. President, I think that the statement of the Senator from Louisiana answers the question which was propounded to me by an honored constituent. While the outcome of the investigation may not have justified all their hopes, still if it has been thorough and painstaking and recommendations have been made in accordance with the power of our Government and its duty, I do not see what further can be done. I am greatly obliged to the Senator from Louisiana for his answer to this interrogatory.

Mr. RANSDELL. Mr. President, in further answer to the Senator, especially with regard to the thoroughness and fairness of the investigation, I would like to say that the committee spent nearly three months making the investigation. The testimony taken covers two large volumes of considerably over 2,000 pages. We heard everybody on both sides of the case who desired to be heard; we notified all the people interested in the growth of sisal to come and testify before us if they so desired; we notified the men in this country who are handling the raw product and selling it to the manufacturers; and all the manufacturers of sisal, not only those who produce binder twine, which was the product in which we were especially interested, but also the manufacturers of rope, some sisal being used for this purpose; in fact, I may say, we opened the doors just as widely as possible and went into the subject as thoroughly as we knew how.

Mr. SMITH of Michigan. Mr. President, I should like to ask the Senator if he found it possible to ascertain the question of the wage scale of the people employed in the industry in Yucatan?

Mr. RANSDELL. A great deal of testimony was taken in regard to that. It was difficult to find the exact wage scale, but we did take very considerable testimony to ascertain the cost of sisal in Yucatan; and that is very fully set out in our report.

Mr. SMITH of Michigan. As a matter of fact, is not the labor largely semipeon labor—low-priced labor?

Mr. RANSDELL. It is; but the price of labor has gone up somewhat in recent years.

Mr. SMITH of Michigan. The price of labor has gone up even there?

Mr. RANSDELL. Yes, sir; it has gone up, but is still comparatively low priced. We had very full testimony in regard to the cost of sisal, and our report goes rather fully into that testimony, so that the Senator will not have to read the evidence, but he can get from our report what we think was the fair cost of making sisal.

Mr. McCUMBER. Mr. President, I desire to ask the Senator if the increase in the price of nearly 100 per cent refers to the increase in the price of sisal in Yucatan or the increase in the cost of the twine here?

Mr. RANSDELL. I will say to the Senator that that increase of 100 per cent applies to the price at which the raw product, the sisal, is now sold to the American consumer as compared to its price when our hearings closed last April. It is very difficult to state the actual cost of producing sisal in Yucatan. The Yucatecans figure out that it was costing in the neighborhood of 6 cents per pound.

Mr. McCUMBER. That is, to produce it?

Mr. RANSDELL. To produce it. Then, of course, the cost of transportation to this country was rather high, owing to the war and the shortage of ships. Many witnesses, however, testified that it did not cost as much as 6 cents per pound to produce sisal. All of that is fully set out in our report. However, it was being sold at the time we closed our hearings at 7⅞ cents, which seemed to allow——

Mr. McCUMBER. In Yucatan?

Mr. RANSDELL. No; in New York—which seemed to allow a very fair profit to the growers of sisal. Now it is quoted in New York at 14½ cents.

Mr. McCUMBER. To what extent has the price of the twine itself increased since the subcommittee began its investigation?

Mr. RANSDELL. We have had no report on that point; at least, I do not recall any report on the increase in the price of the twine itself. I will say to the Senator that the manufacturers of sisal twine, particularly the International Harvester Co., which is the largest manufacturer, the Plymouth Cordage Co., the next largest, and penitentiaries in the big wheat growing States, nearly all of which have binder-twine factories, make their contracts at the beginning of the season and deliver the twine throughout the season at the contract price agreed upon in advance. They make their contracts for twine for the season closed only a short while ago on the prices of last spring and early summer. I do not know just what the price would be now. I will ask my colleague on the committee [Mr. GRONNA] if he can answer that question.

Mr. GRONNA. I will say to the chairman of the subcommittee that the prices have not yet been made by the manufacturers.

Mr. McCUMBER. But, as I understand, it has been indicated what the prices will be.

Mr. GRONNA. No indication has been given. They have been unable to make the prices because the Reguladora, which controls all the sisal, the raw material, has been increasing the price of sisal from time to time. The statement made by the Senator from Louisiana, that it has increased 100 per cent, has reference only to the raw material, the sisal.

Mr. McCUMBER. Of course, that would not justify an increase of 100 per cent in the price of twine?

Mr. GRONNA. No; it would not.

Mr. McCUMBER. Can the Senator tell us about what would be a reasonable advance in the price of twine on the supposition that the increase in the price of the material in Yucatan is about 100 per cent?

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

The PRESIDENT pro tempore. The Senator will state it.

Mr. THOMAS. Is the discussion now going on in order as a part of the morning business?

The PRESIDENT pro tempore. If any Senator should make a point of order to that effect, the Chair would probably have to sustain it.

Mr. THOMAS. I do not want to do that if the matter will not take much longer, but I have some morning business which I desire to present.

Mr. RANSDELL. I hope the Senator from Colorado will defer his point of order for just a moment, as this is a very interesting question.

Mr. THOMAS. I did not make a point of order, and I assure the Senator I have no intention of making a point of order, but I wanted to discover what was going on and whether it was a part of the regular morning business.

Mr. SMITH of Michigan. It is a part of the regular morning business, and arises because of a memorial which I have here and which I have read to the Senate.

Mr. GRONNA. If I may be permitted to answer the question of my colleague, I can only say that it would be almost impossible for the committee to arrive at any conclusion as to what the increase should be in twine manufactured from sisal, because the manufacturers hold some of the sisal at 7⅞, some of the sisal at 7⅞, some of it at 10½, some of it at 13½, and now they have to pay 14½ for it in New York.

Mr. CURTIS. Mr. President, I should like to ask a question in regard to this matter. Did not the evidence show that this corporation was financed largely by bankers in New Orelans and other bankers in the State of Louisiana?

Mr. RANSDELL. It did. That is brought out fully in our report.

Mr. CURTIS. Did not the evidence also show that but for this financial assistance from the United States this business could hardly be carried on?

Mr. RANSDELL. We state very emphatically in our report that this American corporation, known as the Pan-American Co., gave existence, gave absolute life, to the Yucatan Co., and that but for the financial aid given to the Yucatan monopoly by the Pan-American Banking Co. it could not have done business successfully. We show that the Comision Reguladora was created in 1912 and practically had no life until some time in 1915, when it made its negotiations with the Pan-American Co., and thereafter proceeded to do business along good old-fashioned trust lines, and handled the whole business from that time on. That is all brought out in our report.

Mr. CURTIS. What is the recommendation of the committee to the Attorney General?

Mr. RANSDELL. We refer the whole matter to him. We say it is such an intricate and complicated legal question that we do not pretend to determine what are the rights of the matter, but we refer the whole thing to him and ask him to take such action as the law and facts warrant.

Mr. SMITH of Michigan. Mr. President, I should like to ask the Senator if his committee did not find that the American market was practically the only market that the Yucatan producers had for this product?

Mr. RANSDELL. It did.

Mr. SMITH of Michigan. And it produces about a million bales a year?

Mr. RANSDELL. In the neighborhood of a million bales; each bale weighing 375 pounds.

Mr. SMITH of Michigan. And most of that is taken by one American corporation?

Mr. RANSDELL. A good per cent by one corporation. The International Harvester Co. takes a rather large per cent; but there is also a great deal taken by the Plymouth Cordage Co., and also by the factories in penitentiaries.

Mr. SMITH of Michigan. Mr. President, I only desire to add that I am greatly obliged to the Senator from Louisiana for the information he has given us, and I hope that something will come of the recommendations which the committee have made, either in the Attorney General's Office, through the State Department, or in some other way, so that this matter may be at least given the attention which its importance deserves.

The PRESIDENT pro tempore. Reports of committees are in order.

REPORTS OF COMMITTEES.

Mr. SMITH of Maryland, from the Committee on the District of Columbia, to which was referred the bill (S. 6750) to provide for the appointment of the register of wills of the District of Columbia by the justices of the Supreme Court of said District, reported it without amendment and submitted a report (No. 922) thereon.

He also, from the same committee, to which was referred the bill (H. R. 11288) for the relief of S. S. Yoder, reported it without amendment and submitted a report (No. 920) thereon.

He also, from the same committee, to which was referred the amendment submitted by himself on December 19, 1916, relative to damages and payment for ground owned by Thomas W. and

Alice N. Keller on account of condemnation proceedings, etc., intended to be proposed by him to the District of Columbia appropriation bill, reported it with an amendment, submitted a report (No. 921) thereon, and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. LEA of Tennessee, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 286 to authorize the Sergeant at Arms of the Senate to appoint a superintendent of the folding room, reported it without amendment.

EMPLOYMENT OF ADDITIONAL CLERK.

Mr. LEA of Tennessee. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably Senate resolution 310. I call the attention of the Senator from Ohio [Mr. POMERENE] to the report.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read Senate resolution 310, submitted by Mr. POMERENE on the 9th instant, as follows:

Resolved, That the Committee on Civil Service and Retrenchment be, and it is hereby, authorized to employ an additional clerk at the rate of $100 per month, to be paid out of the contingent fund of the Senate, for a period of two months.

Mr. POMERENE. I ask unanimous consent for the present consideration of the resolution.

Mr. THOMAS. Mr. President, is that resolution from the Committee on Retrenchment?

The PRESIDENT pro tempore. The Chair is informed that the resolution is reported from the Committee to Audit and Control the Contingent Expenses of the Senate, and provides an additional clerk for the Committee on Civil Service and Retrenchment.

Mr. THOMAS. I suppose, then, that they offered it from the civil-service side, and not from the retrenchment side.

Mr. OVERMAN. Mr. President, I will ask the Senator from Ohio if he desires a continuation of this employment over this session, or is it just for the session?

Mr. POMERENE. I ask for the services of an additional clerk for two months. I am obliged to have this clerical assistance in my office. I want to say to the Senate with perfect frankness that it is not so much due to the work of the committee as it is to the general correspondence, the work that I have with the departments, and the work of the office generally.

Mr. OVERMAN. I have no objection, if the Senator desires it; but I thought perhaps he needed the assistance only during the session.

Mr. POMERENE. It can be limited in that way if the Senator desires. I have been obliged to have an extra clerk all this time at my own expense.

Mr. OVERMAN. I have no objection to the resolution if the Senator will make it during the session of this Congress.

Mr. POMERENE. It may be so limited if desired.

Mr. THOMAS. Mr. President, I shall not object to the resolution, but I should like to inquire of the Senator whether the amount of compensation is sufficient upon which an appointee can subsist? We are told now that without a general horizontal increase the welfare of Government employees will suffer.

Mr. POMERENE. I think the clerk will be entirely content with the amount specified.

Mr. THOMAS. The chances are that he will be back asking for an increase.

The PRESIDENT pro tempore. The Senator from Ohio asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. McCUMBER. What is the question, Mr. President?

The PRESIDENT pro tempore. The Senator from Ohio asks for the present consideration of a resolution reported from the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. McCUMBER. I have no objection if the Senator from Florida [Mr. BRYAN] has none.

The PRESIDENT pro tempore. The Chair hears no objection. The resolution is before the Senate and open to amendment.

Mr. BRYAN. Mr. President, I believe I will not object to the resolution. I think that committee stands on a little different basis from the Committee on Transportation Routes to the Seaboard or the Committee on Revolutionary Claims. As I understand, the Committee on Civil Service and Retrenchment is now engaged upon a bill to provide a retirement plan for Government employees. If the Committee on Transportation Routes to the Seaboard is engaged in any work so important as that, I should not object to it having an additional clerk during the session.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Ohio if he has offered an amendment to the resolution? Amendments to the resolution are now in order.

Mr. POMERENE. The resolution, as submitted, provides for the employment of an additional clerk for two months. I have had this extra clerk in the office ever since the first of this session, and the resolution was purposely drawn in this way to provide two months' salary to this clerk. If there is any objection to it, I do not want it passed.

The resolution was agreed to.

BILLS INTRODUCED.

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

By Mr. CHAMBERLAIN:

A bill (S. 7825) to provide for the erection of a public building at Astoria, Oreg.; to the Committee on Public Buildings and Grounds.

By Mr. HARDWICK:

A bill (S. 7826) to authorize the President of the United States to advance officers on the retired list who were wounded in battle in the service of the United States; to the Committee on Military Affairs.

By Mr. WALSH:

A bill (S. 7827) authorizing the sale of certain lands at or near Yellowstone, Mont., for hotel purposes (with accompanying paper); to the Committee on Public Lands.

By Mr. OVERMAN:

A bill (S. 7829) to create two additional associate justices of the Supreme Court of the District of Columbia; to the Committee on the Judiciary.

By Mr. SHEPPARD:

A bill (S. 7830) designating October 27 of each year as National Fraternal Day, to be devoted to conserving the home, fraternalism, and happiness; to the Committee on the Judiciary.

By Mr. SAULSBURY:

A bill (S. 7831) to provide retirement in certain cases for judges of United States district courts in the Territories (with accompanying papers); to the Committee on the Judiciary.

By Mr. MYERS:

A bill (S. 7832) granting a pension to Fred M. Armstrong; to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7833) authorizing the Chippewa Indians in the State of Minnesota to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. STONE:

A bill (S. 7834) granting a pension to Adolphus Lesperance (with accompanying papers); to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 7835) granting an increase of pension to William C. Hoffman; to the Committee on Pensions.

By Mr. LEA of Tennessee:

A bill (S. 7836) for the relief of Barneybass Eastridge; to the Committee on Military Affairs.

A bill (S. 7837) granting a pension to Herman L. Harrell; to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 7838) to amend the act approved December 23, 1913, known as the Federal reserve act; to the Committee on Banking and Currency.

STANDARD TIME.

Mr. GALLINGER. Mr. President, I introduce a bill for reference to the Committee on Interstate Commerce.

The bill (S. 7828) to provide standard time for the United States was read twice by its title.

Mr. GALLINGER. I will say that this is a duplicate of the bill introduced in the House of Representatives by Mr. BORLAND, of Missouri. I have a brief letter from Mr. A. B. Jenks, president of the New Hampshire Board of Trade, which I will ask to have read and referred to the Committee on Interstate Commerce.

The PRESIDENT pro tempore. Without objection, the Secretary will read the letter.

The Secretary read the letter, as follows:

NEW HAMPSHIRE BOARD OF TRADE,
January 10, 1917.

Hon. JACOB H. GALLINGER,
United States Senate, Washington, D. C.

DEAR SIR: There has been introduced in the House of Representatives bill 19431 by Mr. BORLAND, of Missouri, to provide standard time for the United States.

I am writing you particularly about that part of the bill which reads as follows:

"During the summer months, i. e., during a period starting at 2 o'clock a. m. on the last Sunday in April and ending at 2 a. m. on the first Sunday in September, the standard time for each of the zones

would be advanced one hour from the mean astronomical time of the controlling time meridian."

This bill was referred to the House Committee on Interstate and Foreign Commerce.

I am especially interested in the passage of this bill or any amendment to it that will not affect the clause referred to.

Last summer, as president of the Manchester Publicity Association and Chamber of Commerce, I inaugurated a movement better known as the movement for setting the clocks ahead one hour and saving one hour of daylight here in New Hampshire. Without exception, every manufacturing concern of any importance in Manchester, of which you know there are some sizeable ones, including the Amoskeag Manufacturing Co., W. H. McElwain Co., and our own company, the F. M. Hoyt Shoe Co., were heartily in favor of the movement. I tried to get in touch with other boards of trade and chambers of commerce throughout the State, and did to some extent with a favorable reply.

At that time the New Hampshire Board of Trade took favorable action on the movement, but owing to the lateness in the season and the complications that we felt might arise from putting the same into effect as an independent State, it seemed to be wise to abandon the project until such time as there was some kind of national legislation.

I can assure you that the sentiment in New Hampshire is overwhelmingly favorable to this daylight-saving plan.

Since that time I have been elected president of the New Hampshire Board of Trade, and it is in my official capacity that I ask you to not only vote for this bill but to do everything you can to secure its passage, believing it to be for the best interest of every class and condition of people in our State.

Sincerely, yours, A. B. JENKS, *President.*

Mr. GALLINGER. I ask that the bill be referred to the Committee on Interstate Commerce, and I trust the committee will take it up and act upon it.

The PRESIDENT pro tempore. It will be so referred.

SUFFRAGE FOR THE DISTRICT OF COLUMBIA.

Mr. CHAMBERLAIN. Mr. President, I introduce a joint resolution and ask that it be read.

The joint resolution (S. J. Res. 196) proposing an amendment to the Constitution of the United States giving to Congress the power to extend the right of suffrage to residents of the District of Columbia was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the following amendment to the Constitution of the United States be proposed for ratification by the legislatures of the several States, which, when ratified by the legislatures of three-fourths of the States, shall be valid as a part of said Constitution, namely, insert at the end of section 3, Article IV, the following words:

"The Congress shall have power to admit to the status of citizens of a State the residents of the District constituting the seat of the Government of the United States created by Article I, section 8, for the purpose of representation in the Congress and among the electors of President and Vice President and for the purpose of suing and being sued in the courts of the United States under the provisions of Article III, section 2.

"When the Congress shall exercise this power the residents of such District shall be entitled to elect one or two Senators, as determined by the Congress, Representatives in the House according to their numbers as determined by the decennial enumeration, and presidential electors equal in number to their aggregate representation in the House and Senate.

"The Congress shall provide by law the qualifications of voters and the time and manner of choosing the Senator or Senators, the Representative or Representatives, and the electors herein authorized.

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing power."

The PRESIDENT pro tempore. The joint resolution will be referred to the Committee on the District of Columbia.

Mr. SMITH of Georgia. Mr. President, should that joint resolution go to the Committee on the District of Columbia or to the Committee on the Judiciary?

The PRESIDENT pro tempore. It depends on the desire of the Senator who introduced the resolution.

Mr. CHAMBERLAIN. I rather think, Mr. President, that the Judiciary Committee would be the proper committee to consider that joint resolution, although the general subject has been heretofore considered by the Committee on the District of Columbia. I suggest that it go to the Judiciary Committee.

The PRESIDENT pro tempore. The joint resolution will be referred to the Committee on the Judiciary.

AMENDMENT TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. BORAH submitted an amendment proposing to appropriate $500,000 for the construction, operation, maintenance, and incidental operations at the Black Canyon extension, Boise project, Idaho, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

RIVER AND HARBOR APPROPRIATIONS.

Mr. GRONNA submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

NAVAL OIL SUPPLY.

Mr. THOMAS. Mr. President, on last Tuesday morning I called the attention of the Senate to an editorial regarding what is popularly known as the Phelan leasing bill, at which time I made this statement:

Now, let me say, Mr. President, that this entire subject is within the jurisdiction of the Department of the Interior. The Department of the Interior is satisfied, not entirely so but as a compromise is satisfied, with the amendments which the Committee on Public Lands considered and which were recently reported by the Senator from California [Mr. PHELAN].

I made that statement, Mr. President, because the amendments which the Senator from California presented were discussed in the presence of a representative of the Interior Department, and, as I understood, they met with his approbation. I am in receipt this morning of a letter from the Secretary of the Interior informing me that I misapprehended to some degree the attitude of the Interior Department, and I ask, therefore, that his letter to me and the memorandum accompanying it be published in the RECORD. I will not detain the Senate by asking to have it read.

Mr. JONES. Mr. President, I should like to hear it read.

Mr. THOMAS. I have no objection.

The PRESIDENT pro tempore. The Secretary will read the letter, in the absence of objection.

The Secretary proceeded to read the letter. During the reading,

Mr. JONES. Mr. President, I thought this letter referred to amendments in the water-power bill, and, so far as I am concerned, I do not care for the further reading of it.

Mr. POINDEXTER. I should like to have it read, Mr. President.

The PRESIDENT pro tempore. The Secretary will continue the reading of the letter.

The Secretary resumed and concluded the reading of the letter, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, January 10, 1917.

Hon. CHARLES S. THOMAS,
United States Senate.

MY DEAR SENATOR: In looking over the CONGRESSIONAL RECORD this morning I note a statement by you to the effect that—

"The Department of the Interior is satisfied, not entirely so but as a compromise is satisfied, with the amendments which the Committee on Public Lands considered and which were recently reported by the Senator from California."

This refers to the oil-leasing bill. This statement, or something similar, was made last summer in one of the newspapers, and at that time I sent out the inclosed notice which stated then and states now my position with relation to the so-called Phelan amendment. Perhaps that is not the amendment to which you refer as having been "recently reported," for I know that an effort has been made lately to reach a compromise agreement with the Navy Department through the Public Lands Committees of both Houses. My position as to the oil situation is expressed in my annual report of 1915 on pages 13, 14, and 15.

Cordially, yours, FRANKLIN K. LANE.

MEMORANDUM FOR THE PRESS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
July 3, 1916.

A statement has been brought to my attention that I am in favor of the so-called Phelan amendment to the oil leasing bill. Where the warrant comes for such a statement I do not know. The only time that anything like it was ever presented to me was when Lieut. Gov. Eshleman, of California, brought a similar proposal to me, and I told him that I would not stand for it. The Phelan amendment has never been referred to me by Congress, nor does any person who ever talked with me labor under the delusion that I favor it. I am in favor of passing an oil leasing bill, however, along the lines of the one passed by the House twice in the last two years, known as the Ferris bill. The difference between the Phelan amendment and the provisions of the Ferris bill is one of liberality in treatment of claimants.

My position is a matter of record and can be found by examining my reports upon the measure before Congress and my annual reports. In my last annual report I expressly stated that I would not "assume to say what policy should be followed as to the naval reserve lands." There is no danger of the Navy being short of oil, for there are nearly 3,000,000 acres of public oil lands now withdrawn. Included therein are two special naval reserves which are practically free from adverse claims. These contain approximately 130,000,000 barrels of oil, and more of this area can be withdrawn for the Navy at any time by the President whenever he desires to do so.

I have tried to deal with these propositions without regard to politics, and have had the support of such eminent conservationists as Mr. LENROOT and Mr. KENT, whose view has always been the same as mine, that to keep 3,000,000 acres of oil lands locked up indefinitely, while gasoline is climbing higher, is not good sense and plays right into the hands of monopoly. If Congress can at this time of great pressure deal with the matter of leasing legislation, I have no doubt sane and conservative legislation will result that will help every real developer and consumer interested in oil and gasoline and which will prevent waste and monopoly.

FRANKLIN K. LANE.

Mr. SMOOT. Mr. President, I am rather surprised by the contents of the letter, for I understood the source of the amendment was the same as the Senator from Colorado stated.

As a member of the committee, I wish to say that when the amendment was handed to me I was told that it had been prepared in the office of the Secretary of the Interior by a law

clerk of the Interior Department, and that it was satisfactory to the department. It is true that the party so stating did not say to me that it was satisfactory to the Secretary of the Interior, but he did say that it was satisfactory to the department. That being the case, I then offered the proposed amendment, prepared, or supposed to be prepared, by the Interior Department, as a substitute for the House bill, and the committee rejected my offer by a divided vote.

I think that the Senator from Colorado had good grounds for the statement he made, because he was in the room at the same time the statement was made to me, and I have no doubt the statement was made to the Senator from Colorado in exactly the same way that it was made to me.

Mr. WORKS. Mr. President, I want to add to what has been said by the Senator from Utah that that statement was publicly made to the Public Lands Committee in session.

THE MILITIA.

Mr. CHAMBERLAIN. Mr. President, I desire to offer a memorandum sent me by the Secretary of War bearing directly and indirectly upon the militia, and also a discussion from the records of Congress, the Federalist, and other sources bearing upon the constitutional provisions referring to the organization of the militia. I ask to have the matter referred to the Committee on Printing, and I hope that committee at an early day will report favorably for the printing of the document.

The PRESIDENT pro tempore. Without objection, the request of the Senator from Oregon will be complied with.

REPUBLIC OF CUBA V. STATE OF NORTH CAROLINA.

Mr. OVERMAN. Mr. President, I ask unanimous consent to have printed in the RECORD the argument made by the governor of North Carolina on the question of the jurisdiction of a foreign Government to sue a State of the Union. I think it will be very interesting to all Senators, and I ask permission to have it printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the request of the Senator from North Carolina is granted.

The matter referred to is as follows:

MR. BICKETT'S ARGUMENT.

May it please the court, since notice of the motion in behalf of the Republic of Cuba for leave to bring suit against the State of North Carolina has been served upon our State, we have been diligent in the investigation of the authorities bearing upon the question before the court, and all that we have been able to find are set forth in the brief submitted in behalf of the State of North Carolina, and we trust that these authorities may prove helpful to the court in its deliberations.

In the oral argument, I shall not attempt any detailed analysis of these authorities but shall submit briefly several definite propositions, any one of which, if sound, is fatal to this motion, and all of which I believe find substantial support in the main current of the decision of this court, in the public thought and known jurisprudence of the period in which our Constitution was devised, and in that sweet reasonableness which is the breath of equity.

I.

My first proposition is that in this motion the Republic of Cuba is asking this court to recognize between that Republic and the State of North Carolina a relationship obnoxious to section 10 of the first article of the Constitution.

When the men who conceived and constructed the framework of this Government came to consider the subject of controversies between the States and foreign powers, they had a vivid appreciation of the menace to the peace and safety of the Nation such controversies would involve. Therefore, in the very first article of the Constitution, they took steps to exclude, so far as human foresight could exclude, the possibility of such controversies arising. Hence, it is written that under no circumstances *may a State* enter into any alliance or treaty with a foreign power, and that no State may make any compact or agreement with a foreign power without the consent of Congress. The reasoning was that if the States were not permitted to bargain, contract, deal, or dicker with foreign Governments, the most prolific source of controversies would be entirely eliminated. This reasoning finds its jurisdiction in the fact that 127 years have elapsed since this inhibition was made a part of our organic law, and now for the first time a foreign Government knocks at the door of this court and alleges that a controversy has arisen between it and a State of this Union.

This court has never given a comprehensive and conclusive definition of the words "compact" and "agreement" found in the section under consideration. There has been no occasion for doing so, as the court decides cases and not academic questions. In Holmes *v.* Jennison (14 Pet., 540) Mr. Chief Justice Taney, speaking for the court, says:

"But the question does not rest upon the prohibition to enter into a treaty. In the very next clause of the Constitution the States are forbidden to enter into any 'agreement' or 'compact' with a foreign nation; and as these words could not have been idly or superfluously used by the framers of the Constitution, they can not be construed to mean the same thing with the word treaty. They evidently mean something more, and were designed to make the prohibition more comprehensive. A few extracts from an eminent writer on the laws of nations showing the manner in which these different words have been used and the different meaning sometimes attached to them, will, perhaps, contribute to explain the reason for using them all in the Constitution, and will prove that the most comprehensive terms were employed in prohibiting to the States all intercourse with foreign nations (quoting from Vattel). After reading these extracts we can be at no loss to comprehend the intention of the framers of the Constitution in using all these words—'treaty,' 'compact,' 'agreement.' The word 'agreement' does not necessarily import any direct and express stipulation; nor is it necessary that it should be in writing. If there is a verbal understanding to which both parties have assented and upon which both are acting, it is an 'agreement'; and the use of all these terms—'treaty,' 'agreement,' and 'compact'—show that it was the intention of the framers of the Constitution to use the broadest and most comprehensive terms, and that they anxiously desired to cut off all connection or communication between a State and a foreign power; and we shall fail to execute that evident intention unless we give to the word 'agreement' its most extended signification and so apply it as to prohibit every agreement, written or verbal, formal or informal, positive or implied, by the mutual understanding of the parties."

This case was decided in 1840. In a later case, Virginia *v.* Tennessee (148 U. S., 503), the opinion of the court leans to a more restricted meaning of the words "compact" and "agreement," and, applying the doctrine noscitur a sociis, gives to the words a meaning akin to the words "treaty" and "alliance" used in another part of the same section. In that case Mr. Justice Fields, speaking for the court, says:

"Looking at the clause in which the terms 'compact' or 'agreement' appear, it is evident that the prohibition is directed to the formation of any combination tending to the increase of political power in the States which may encroach upon or interfere with the just supremacy of the United States. Story, in his Commentaries (sec. 1403), referring to a previous part of the same section of the Constitution in which the clause in question appears, observes that its language 'may be more plausibly interpreted from the terms used, "treaty, alliance, or confederation," and upon the ground that the sense of each is best known by its association (noscitur a sociis) to apply to treaties of a political character, such as treaties of alliance for purposes of peace and war, and treaties of confederation, in which the parties are leagued for mutual government, political cooperation, and the exercise of political sovereignty, or conferring internal political jurisdiction or external political dependence, or general commercial privileges, and that 'the latter clause, "compacts and agreements" might then very properly apply to such as regarded what might be deemed mere private rights of sovereignty, such as questions of boundary, interest in land situate in the territory of each other, and other internal regulations for the mutual comfort and convenience of States bordering on each other,' and he adds:

"'In such cases the consent of Congress may be properly required in order to check any infringement of the rights of the National Government, and at the same time a total prohibition to enter into any compact or agreement might be attended with permanent inconvenience or public mischief.'"

It is interesting to note that in the case of Virginia *v.* Tennessee the earlier case of Holmes *v.* Jennison is not mentioned in the opinion of the court. Undoubtedly there is conflict between the opinions written in the two cases, but between the decisions reached there is perfect harmony. In Virginia *v.* Tennessee the court had before it an agreement between two States with respect to their bounday lines. This agreement grew naturally and necessarily out of the physical contact of the two States. The court was impressed that the section of the Constitution under consideration was designed to prevent controversies between the States, and the nature of the agreement before the court was calculated to serve the purpose of the Constitution in the prevention of controversies between the States, and the court felt that the words of the Constitution should be given, as to the subject matter before it, such a restricted meaning as not to interfere with the manifest purpose of the section.

On the other hand, the subject matter before the court in Holmes *v.* Jennison was a contract with a foreign power, not arising out of the natural and necessary relations of the State to such foreign power, and in that case the court concluded that the main purpose of the Constitution, to wit, the prevention of controversies, would be served by giving to the words "compact" and "agreement" the most extended signification.

Now, applying to these words the elementary rule of construction, that a law should be so interpreted as to suppress the mischief at which it is directed, the conclusion forces that the relationship that Cuba is here seeking to establish between herself and a State of this Union is pregnant with the very mischief the Constitution was designed to prevent.

At the close of the Civil War the whole South was in a condition of public and private bankruptcy. Bill Arp, the Barlow philosopher of Georgia, said that when the Confederate soldier returned home "he had nothing, nothing to get nothing with, and nothing to put it in." The treasury of North Carolina was empty. The State was unable to meet the interest on its admitted obligations, and this condition was universal from the Potomac to the Rio Grande.

Now, suppose while the States were in this helpless and well-nigh hopeless condition a European power had proposed to these States to advance to them unlimited funds with which to rebuild their waste places and take the bonds of such States payable to this foreign power for the money so advanced. Is it debatable that such an arrangement would have been invalid without the consent of Congress, and is it conceivable that Congress would have given its consent? The borrower wears the yoke of the lender. In public as well as in private life it often happens that the first step toward subserviency is the acceptance of a loan. Such an arrangement would have given to a foreign power an interest and an influence in this country that the General Government would not for one moment have tolerated.

Well, if a foreign power can not deal directly with a State, and buy her bonds without the consent of Congress, but may take an assignment of these bonds from an individual, and thereby create the very relationship the Constitution forbids, then the wisdom of the statesmen is canceled by the artifice of the speculator, and a wholesome restraint of the Constitution becomes a rope of sand.

II.

My second proposition is that if a foreign power can maintain at all an action founded on contract against a State of this Union, still such foreign power comes to this court by grace and not by right.

Our Constitution is a compact between the States that agreed to it, and that have since been created under it. No foreign Government has any rights guaranteed to it under the Constitution of the United States. No foreign power was a party to that great compact. To-day no foreign Government recognizes the obligations of the Constitution of this Union, and they are not, as a matter of right, entitled to any of its benefits. Whether or not the Constitution reaches as far as the flag has been the subject of high debate. No one has maintained that it goes any farther. So that when Cuba comes to this court she comes not as a member of the family made one by the Constitution, but she comes as the guest of the Nation by courtesy and not by right, and coming by grace she must come gracefully. She must bring to this court a real cause, and not a naked claim. She must submit to this tribunal a case based not on the technicalities of the commercial law,

but one that appeals by virtue of its inherent righteousness to the conscience of the court.

The famous dictum of Lord Camden, in Smith *v.* Clay (3 Brown, ch. 639) "that nothing can call this court into activity but conscience, good faith, and reasonable diligence," applies with peculiar emphasis to this petition. The Republic of Cuba falls pitifully short of this requirement for admittance to a court of equity.

The facts in regard to the bonds, upon which she bases her declarations, appear in the public statutes and in the Constitution of North Carolina, in the opinions of this court, and in the public reports of the Federal Government. These public documents show that these bonds were conceived in sin and brought forth in iniquity; that they were repudiated by the very legislature that attempted to authorize them, and to-day the State of North Carolina has a declaration in its organic law that not one of them shall ever be paid without a vote of the people of the State. The reasons that justify this repudiaion and made it inevitable appear in a report made to the Senate of the United States by a committee appointed by that body to investigate alleged outrages in the Southern States in 1871, and published in Report No. 1, Forty-second Congress, first session, March, 1871. In a minority or, rather, supplemental report made by Senator Blair, of Missouri, and Senator Bayard, of Delaware, it is said: "These, then, were the methods taken to array the negroes in one compact body against the white people of the State in the election of 1868 under the reconstruction acts of Congress. The election was supervised by Gen. Canby, in command of that military division. Its result is well known. The enfranchised negroes, under the lead of Gov. Holden and his carpetbag allies, backed by the military power of the Government, accomplished an easy victory over the disfranchised white people. But to make it complete Gen. Canby gave orders to exclude a certain number of the Conservatives elected to the legislature. Judge Reade, who administered the oath to the members elect, testifies that he was instructed by Gen. Canby to tell certain persons to whom particular disqualifications attached to stand aside, and he then proceeded to administer the oath of office to the remainder. (See testimony of Judge Reade, p. 412.) Thus was the reconstruction of North Carolina accomplished upon a loyal basis—a basis composed of ignorant negroes and unprincipled carpetbaggers, cemented and sustained by military power. The result might have been foreseen.

The legislature, moved by a "ring" of unprincipled adventurers, went to work to squander the money of the people. They issued twenty-five or thirty millions in the bonds of the State to certain railroad companies; the bonds were issued by Holden to these adventurers without exacting compliance with the law, the bonds were sold, and the money went into carpetbags and flitted away from the State. Ten millions of this issue were subsequently declared unconstitutional by the courts of the State, and of the balance not one million of the entire sum was ever applied to the construction of railroads, the value of the bonds sank in the market to 22 cents on the dollar. These transactions appear from the testimony of nearly all the witnesses examined; men of all shades of political sentiment testify to this shameless plunder of the State, and all unite in denouncing the outrage and deploring the ruin and bankruptcy that has been brought upon the State. The majority of this committee allude to this matter as showing the latitude allowed in examination, and are seemingly unconscious of its significance. They do not appear to be aware of the fact that Congress, by establishing a government wholly irresponsible to the people of the State, composed of ignorant negroes without a dollar of property, and controlled by designing men in search of pillage made the plunder of the State inevitable. The same result has followed the same measures in every one of the reconstructed States. All have been plundered and by the same means.

This report is sustained by every historian who has written with any adequate knowledge of the subject and the period. Mr. James Ford Rhodes, in his remarkable history of the United States from 1850 to 1877, says: "During his (Holden's) administration an era of corruption set in, which was an entire novelty in the Old North State that previously had not on record a case of malversation in a member of the general assembly. The voting of the bonds of the State to aid in building railroads was the most fruitful source of corruption, and no doubt can exist that a large number of the members of Holden's legislature took bribes for their support of these various enterprises. It appeared to an observer, who had the opportunity of seeing different sorts of men in North Carolina, that the dishonesty was unblushing, and that a decent hypocrisy to cover the plundering of the State was entirely absent. The negroes were, of course, apt pupils in the practice of corruption; and Zebulon V. Vance tells a story which, whether exact or not, illustrates a natural attitude of an inferior race raised suddenly from a low to a high estate. A negro member of the legislature was visited one night in his room and found seated at a table 'laboriously counting a pile of money by the dim light of a tallow dip' and chuckling to himself. 'Why, what amuses you so, Uncle Cuffy?' was asked. 'Well, boss,' he replied, grinning from ear to ear, 'I's been sold in my life 'leven times an' fo' de Lord dis is the first time I eber got de money.'"

Senator HENRY CABOT LODGE, in his history of the United States, says: "In North Carolina the chief sin of the reconstructionist was the wholesale squander of public funds. The legislature authorized the issuance of $25,000,000 in bonds for railroad construction, $14,000,000 were actually issued, and not a mile of railroad was built." The compass of this work will not allow a detailed account of the saturnalia of misrule, extravagance, and plunder which afflicted the Southern States during the negro and carpetbag régime.

The conditions in North Carolina were not dissimilar to those in the other Southern States. From the Potomac to the Rio Grande "sufferance was the badge of all our tribe." So that Cuba brings here bonds stamped with dishonor and seamed with infamy. They are not the legitimate issue of a sovereign State, but the unseemly offspring of a band of cunning adventurers and irresponsible blacks, who descended upon a bleeding, poverty-stricken people, seized the sacred school fund of the State, bartered the children's hopes for a midnight debauch, stole everything in sight, and then attempted to sell all our generations into bondage. And yet Cuba brings these papers into this court and gravely heads her petition "In equity."

I prefer not to question the integrity of that Republic. On land and sea North Carolina poured out precious blood that Cuba might take her place in the constellation of free Republics. It is a natural law that we love those for whom we suffer, and I prefer to believe that Cuba has been imposed upon and knows not what she does; but the fact remains, as sad as it is certain, that though her heart may be of purest gold, she stands before this court on feet that are of the commonest kind of clay.

May it please your honors, from the time I was old enough to have any intelligent comprehension of the framework of this Government I have associated the approaches to this tribunal with the celestial inquiry, "Who shall ascend into the hill of the Lord, or who shall dwell in His holy place?" And the answer bars and bans forever this petition, for it is written, "He that hath clean hands and a pure heart."

At a later period the convention referred all of its proceedings to the committee on detail, and that committee made a report back to the convention in which it elaborated the clause with respect to the judiciary that had been referred to it. This report of the committee on detail, after some slight amendments, was adopted by the convention, and became the second clause of the judiciary article, which is as follows: "The judicial power shall extend to all cases, in lay and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming land under grants of different States; and between a State or a citizen thereof and foreign States, citizens, or subjects."

Now, it clearly appears that the principle agreed upon in the very beginning and adhered to throughout was that the jurisdiction of the Federal courts should extend to all cases arising under the national laws and all other questions affecting the national peace and harmony. This principle was indorsed by the committee of the whole and by the convention itself. The report of the committee on detail is simply an elaboration of this principle. In other words, the convention declared that the jurisdiction should extend to all cases arising under the national laws and to all questions affecting the national peace and harmony; this is to say, the questions enumerated in the report of the committee on detail. So that when a foreign Government brings to this court a case against a State of this Union the court is, by virtue of the history of the judiciary article, justified in inquiring whether or not the case is one that affects the national peace and harmony.

The view that in any event the court ought not to entertain this petition unless it discloses a real grievance on the part of Cuba finds support in the genesis of the article declaring the extent of the judicial power. The subject of the jurisdiction of the judiciary was first considered by the committee of the whole, and that committee reported the following clause: "The jurisdiction of the national judiciary shall extend to all cases with respect the collection of the national revenue, impeachment of any national officers, and questions which involve the national peace and harmony."

When this report came to be considered by the convention there was some objection, and Mr. Madison offered a substitute for the report, which was adopted without opposition. The substitute is as follows: "The jurisdiction of the national judiciary shall extend to all cases arising under the national laws, and to such other questions as may involve the national peace and harmony."

The court is justified in giving to the case a consideration not unlike that which would be given it by the Department of State were it presented to that department for settlement by diplomatic negotiations. In the absence of the jurisdiction of this court diplomatic negotiations would be the only avenue through which the claim for the payment of the bonds could be made, and the instant and conclusive answer of the Department of State would undoubtedly be that North Carolina had done nothing to the injury of Cuba, and if that Republic was in any danger of losing any money, it was because of her officious, if not pernicious, interference with a situation that in no way concerned her.

III.

My third proposition is that, without reference to the eleventh amendment, the original clause in the Constitution, extending the judicial power of the Federal Government to controversies between the States of the Union and foreign powers, did not contemplate that a foreign Government could maintain an action in court against a State of this Union, to enforce the payment of a bond floated by such State, without the consent of the State.

This proposition is supported by the following considerations:

1. When this clause was written no such action was known to judicial power. The whole world of jurisprudence conceded and asserted that the King—the Government—was immune from the processes of the courts at the instance of subjects or aliens. The wayfaring man understood that if he loaned money to the Government his sole security was the good faith of that Government. A suit in court by an individual against a government, without its consent, to enforce the payment of a debt was unheard of; a suit in court by one sovereign power against another to enforce the payment of a debt was undreamed of. No European power was more jealous of its sovereignty than were the States of this Union at the time the Constitution was written. No more startling proposition could have been submitted to the fathers assembled at Philadelphia than one to clothe a foreign power with the right to sue a State for debt without its consent. The whole history of the Colonies and of the States shows that such a proposition would have been refuted instantly and with indignation. Every light and shade in the history of the Commonwealth of Massachusetts, the temper of her great leaders, the whole course and color of her civilization show with mathematical certainty that if the proposition now urged had then been presented, Massachusetts would have thrown it overboard as promptly as she dumped tea that she did not like into Boston Harbor.

It is inconceivable to a mind acquainted with the elementary facts of history that the framers of the Constitution intended to clothe, not to say conceal, an innovation so radical in the few simple words of the Constitution. Hamilton could not conceive it. Impressed as he was with the necessity for a strong central Government, he could not understand how anyone could think the Constitution was capable of the construction that a sovereign State could be sued for debt without its consent. He voiced this conviction in his speech before the New York convention when he then said. "It has been suggested that an assignment of the public securities of one State to the citizens of another would enable them to prosecute that State in the Federal courts for the amount of those securities—a suggestion which the folowing considerations prove to be without foundation: It is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent. This is the general sense and the general practice of mankind; and the exemption, as one of the attributes of sovereignty, is now enjoyed by the government of every

State in the Union. Unless, therefore, there is a surrender of this immunity in the plan of the convention it will remain with the States, and the danger intimated must be merely ideal. The circumstances which are necessary to produce an alienation of State sovereignty were discussed in considering the article on taxation, and need not be repeated here. A recurrence to the principles there established will satisfy us that there is no color to pretend that the State governments would, by the adoption of that plan, be divested of the privilege of paying their own debts in their own way, free from every constraint but that which flows from the obligations of good faith. The contracts between a nation and individuals are only binding on the conscience of the sovereign, and have no pretension to a compulsive force. They confer no right of action independent of the sovereign will. To what purpose would it be to authorize suits against States for the debts they owe? How could recoveries be enforced? It is evident it could not be done without waging war against the contracting State; and to ascribe to the Federal courts by mere implication, and in distraction of a preexisting right of State government, a power which would involve such a consequence would be altogether forced and unwarrantable.

These were the views of Hamilton when he was urging the people to accept the work of the Philadelphia convention. Later, in 1795, when he was Washington's Secretary of the Treasury, he reiterated these convictions. In his annual report for that year he said: "Public debt can scarcely in legal phrase be defined either as property in possession or in action. It is evidently not the first until it is reduced to possession by payment. To be the second would suppose a legal power to compel payment by suit. Does such a power exist? The true definition is, such a property subsisting in the faith of the Government. Its essence is promise. Its definite value depends upon the reliance that the promise shall be definitely fulfilled."

Precisely the same views were expressed by Madison and Marshall in the Virginia convention in answer to the criticisms of Patrick Henry and George Mason. Mr. Madison said: "I do not conceive that any controversy can ever be decided in these courts between an American State and a foreign State without the consent of the parties." If they consent, provision is here made. The dispute ought to be tried by the national tribunal. This is consonant to the law of nations." (In 3 Elliott's Debates, p. 533.)

In the same convention Mr. Marshall said: "I hope that no gentleman will think that a State will be called at the bar of the Federal court. Is there no such case at present? Are there not many cases in which the Legislature of Virginia is a party and yet the State is not sued? It is not rational to suppose that the sovereign power should be dragged before a court." (In 3 Elliott's Debates, pp. 555, 556.) At page 557 Mr. Marshall said: "If a foreign State brought a suit against the Commonwealth of Virginia, would she not be barred from the claim if the Federal judiciary thought it unjust? The previous consent of the parties is necessary; and, as the Federal judiciary will decide, each party will acquiesce. It will be the means of preventing disputes with foreign nations."

These views of Hamilton, Madison, and Marshall are in precise accord with the opinion given by Daniel Webster to Baring Bros. in 1839. In that celebrated opinion Mr. Webster said: "The security for State loans is the plighted faith of the State as a political community. It rests on the same basis as other contracts with established governments, the same basis, for example, as loans made by the United States under the authority of Congress; that is to say, the good faith of the Government making the loan and its ability to fulfill its engagements."

This short paragraph sums up the law and the philosophy of the subject. It is a statement clear as day of what was understood to be the law at the time the Constitution was written by all men, from the judge on the bench to the huckster on the streets. These authorities justify the conclusion reached by Thorpe in his constitutional history of the United States: "That the Constitution was adopted with the understanding that a sovereign State could not be sued in a Federal court can not be doubted if the complete evidence is duly weighed." (Vol. 2, p. 270.)

And departure from this interpretation will inevitably produce a brood no man can number of the very controversies the designers of the Constitution endeavored to prevent.

This interpretation placed upon the Constitution by Madison and Hamilton, two of its ablest champions, and by Marshall, its first great interpreter, has been acquiesced in by the whole world by a century and a quarter of inaction. It is a wise and salutary principle that when an alleged power under a statute has never been invoked through a long period of years, a presumption arises that no such power was ever conferred, and this rule is intensified in this case by the fact that Hamilton, Marshall and Madison from the beginning unequivocally denied the existence of any such power.

The proposition that a foreign State can not sue a State of the Union without its consent finds support in the consideration that a binding jurisdiction ought to be binding on both parties to the controversy. No one will say that this court is clothed with any power to call the Republic of Cuba before it. It is equally without power to enforce any judgment of any sort against the Republic of Cuba. As to Cuba, this court must at every stage of the case act only as a court of arbitration, without power to enforce its judgment. Such a status forces the conclusion that Madison, Marshall, and Hamilton were correct in declaring that only when the State consents to it can it be sued by a foreign power.

It is elementary and axiomatic that neither the law nor the Gospel ought to be interpreted in disjointed sections, but that every part should be studied in the light of the whole. Now, if we take Article I, section 10, and Article III, section 2, of the Constitution and read them together and in the order in which they are written in the Constitution, we will have this: "No State shall enter into any treaty or alliance with any foreign power, and no State without the consent of Congress shall make any agreement or compact with any foreign State, and the judicial power shall extend to controversies between a State and a foreign State." Clearly the first clause modifies the second, and it is plain that it was not intended for the judicial power to extend to controversies growing out of relations forbidden by the first clause. The controversies must not be made, they must be born. They can neither be bought nor borrowed, but they must be original controversies growing out of the necessary relations of a State and a foreign Government, while each is in the exercise of its sovereign power, or out of agreements entered into by and with the consent of Congress. Read and interpreted in this way the judicial power is given its full scope, and at the same time the inhibition of the Constitution against all bargains and agreements between a State and a foreign Government is fully observed.

IV.

My fourth proposition is that the Republic of Cuba, in seeking to enforce in this court the payment of repudiated State bonds, with whose origin and initial sale she had absolutely no connection, is guilty of a transparent attempt to nullify the eleventh amendment to the Constitution of the United States.

I assume that the purpose of the eleventh amendment was to protect the States and not to punish individuals. But if bonds bought by individuals can be sold to a foreign Government which can in turn enforce their payment in this court, then the net result of the amendment is to impose a hardship on individuals without securing to the State any immunity it did not therefore enjoy.

Another startling result of such a construction is that a Constitution framed to promote the general welfare of the people of the United States, guarantees to a foreign Government rights and privileges that are utterly denied to a citizen of this country.

There are no facts in our constitutional history better known than those which led to the adoption of the eleventh amendment, and these facts show beyond all question that the purpose of the amendment was to make it forever plain that the plighted faith of the State is the only security for the payment of its obligations.

After the amendment passed the Senate an amendment to the amendment was offered in the House, limiting the exemption from suits in the Federal courts to those States which provided in their own laws for suits to be prosecuted against them to effect. This qualification was rejected by a vote of 77 to 8, and this vote shows how utterly opposed the representatives of the people were to anything that savored of interference with a State in the way and manner in which it should discharge its own obligations.

But such interference is effective and complete if the individual can assign his holdings to a foreign power, which can in turn enforce their payment in this court. Such a construction utterly ignores that maxim of equity so strikingly stated by Mr. Justice Wilson in Chisholm *v.* Georgia—"Causes and not parties to causes are weighed by justice in her equal scales. On the former solely her attention is fixed; to the latter she is as she is painted—blind."

Looking, as this court always looks, with X-ray power through the form to find the very heart of the case, the court must see at a glance that Cuba has no grievance against and no controversy with the State of North Carolina; that she is not the real moving party in the case, but that wittingly or unwittingly she is being made the tool of men who are seeking to plow around the eleventh amendment to the Constitution of the United States. The tactics employed are the reverse of those practiced in an ever memorable fraud, for here the voice is the voice of Esau, but the hand is the hand of Jacob. If such tactics shall prove successful, if foreign powers that have no controversy with a State of this Union can assume or buy one, then I see no insuperable obstacle in the way of creating a principality or republic that out of gratitude for its existence would in turn create whatever controversies may be desired. It does not tax the imagination to see some adventurous spirit gathering up all the repudiated bonds of all the Southern States, carting them across our southern border, and there finding some ambitious patriot who, for the very love of the bonds, will rise up and assert and peradventure prove that he is Mexico.

But the authorities and the reasons that support the proposition that this is an attempt to nullify the eleventh amendment are set forth in the dissenting opinion in the South Dakota case in convincing array. I have studied this phase of the case with religious intensity seeking for some new argument, some new light, but I find myself unable to add one jot or tittle to that opinion. Its logic, and the logic of Bradley in Hens *v.* Louisiana, and of Iredell in Chisholm *v.* Georgia stands unanswered and unanswerable.

May it please your honors, I have never regarded lightly any opinion of this court, even though handed down by a bare majority. My feeling toward this tribunal through all of its history amounts to veneration. My faith is of the quality of the old patriarch when he exclaimed, "Though he slay me yet will I trust him." But despite this veneration—no, I will say because of this veneration—I stand here to-day and ask this court to declare that the opinion in the South Dakota case is not the law. I am driven to ask this by a conviction I can not escape—that when our Constitution was written there was not a man who gave to its making the travail of his soul, not one who championed it in the great debates before the people when the very life of the Nation was at stake, who ever said, or thought, or dreamed that under that sacred compact a foreign power is authorized to forget its sovereignty, descend to the level of a pawnbroker, hang out three balls, and, yielding to lust for unholy profit, traffic in securities so dishonored they can find no other market, and then bring them for enforcement to this high court of conscience, that throughout its history has stood before the whole world, even as the great Law Giver of Israel stood when he came down from the mountain top with the statutes of the Lord God Almighty in his hands and "wist not that his face shone."

V.

My last proposition is that even though the court should feel constrained to adhere to its decision in the South Dakota case, the case at bar differs fundamentally from that case in that so far as the court proceeded at all in the South Dakota case it proceeded in rem, while the present case involves a proceeding strictly in personam.

The difficulties that confront the court in such a proceeding were well stated by Mr. Justice Brewer in the South Dakota case, and he made no attempt to solve them. The only possible way the court could render an affective judgment in this case would be to issue compulsory process against the general assembly of the State, and the whole fabric of English liberty is built up on the principle that this can not be done. The one great right of the Commons, the people, was to say how and when the public money should be collected and paid out, and neither court nor king could coerce them. When the decision of Chisholm *v.* Georgia was handed down the legislature of that State at once enacted a law making it a hanging crime for any officer of the State of Georgia to pay anything on the judgment.

Speaking as an official of the State of North Carolina, and from an intimate knowledge of our people, I can safely say that no matter what the judgment of this court may be, North Carolina will not follow the example of Georgia, nor will it pass any law that could possibly be construed as disrespectful to this tribunal. But as an official of the State the thing that distresses me is that if this court should make it a hanging crime not to pay the judgment, I do not know where I could get the money.

We are doing what we can to bring the old State up and make her a credit to the family, and I know that in running out schools and

courts and public institutions of all kinds after levying the limit of taxation allowed by our constitution, the administrative officers of the State are daily confronted with that sorest task of man alive, to make 3 guineas do the work of 5.

A last word. I said that Cuba comes into this court by grace; North Carolina is here by right. She is of the blood of the covenant. Her name is forever linked with some of the brightest pages of the Nation's history. In 1865 our people accepted in the utmost good faith the arbitrament of the sword. The prejudices and passions engendered by that titantic struggle have passed away, and to-day Connecticut is not more loyal than Carolina. We are not only loyal to the Union but we love it, and are teaching our children to love it more and more. Over every schoolhouse the flag floats, and the first note of the Star Spangled Banner brings every child to his feet. To-day while we debate a question that involves the character of our people and the very destiny of our State, far to the south 3,000 North Carolina boys man the frontier, ready at the word of command to leap forward with "the cry that rang through Shiloh's woods and Chickamauga's solitudes" and do and die for the Nation's weal.

As we are doing our part in making and protecting the Nation, we have a right to look to the Nation to protect us from a band of marauders that by the cause of our alien hand would filch from us both our purse and our good name. We do not flee from this court. We look to it as our hope and our reliance.

"Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with Thee, are all with Thee."

NANTICOKE RIVER BRIDGE.

Mr. FLETCHER. I ask unanimous consent for the present consideration of Order of Business 810, being the bill (S. 7359) authorizing the Delaware Railroad Co. to construct, maintain, and operate a bridge across the Nanticoke River at Seaford, Sussex County, Del.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in the Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment.

The amendment was, on page 1, line 7, after the words "Nanticoke River," to insert "at a point suitable to the interests of navigation."

The amendment was agreed to.

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

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

BASIS OF REPRESENTATION.

Mr. SHERMAN. Mr. President, I submit the following Senate resolution and ask that it may be read by the Secretary and go over under the rule.

The PRESIDENT pro tempore. Without objection, the Secretary will read the resolution.

The Secretary read the resolution (S. Res. 315), as follows:

Resolved, That the following governmental conditions attending the election of President of the United States under the electoral system and the representation of the people of the United States in the House of Representatives imperatively demand in a republican form of government remedial legislation to the end that the representation of population, not merely in the census returns, but who are permitted under undiscriminating laws and the administration thereof to participate in self-government by active and effective voting, so that the controlling vote of no State shall be cast solely by a minority of its population and still retain its full representation and influence in elections on the basis of that population:

First. The returns of successive elections prove conclusively that both presidential electors and Representatives in Congress receive from two to six times a greater percentage of votes to the total population in some States than in others, resulting in overrepresentation in certain States.

Second. Representatives in Congress represent in the districts of certain States a grossly disproportionate actual vote cast compared with the actual votes cast in districts of other States, so that the election of Representatives does not signify popular government, but unfair representation of the people who are not permitted to exercise acts of self-government which would longer justify those who do from having the representative power for those who do not.

Third. The ratio of representation fixed in the last congressional apportionment act is 211,877 for each of the 435 districts in the United States, and the acts of the legislatures of the several States have created districts within their respective States accordingly.

Fourth. The percentage of actual votes to the whole population in some districts and States is so low compared with the actual votes cast in other States and districts proportionate to the latter's population as to demonstrate that in the first-named States and districts the potential vote is habitually suppressed or omitted.

Fifth. The acts of various State legislatures in the States which cast such low percentages of actual votes contain provisions commonly known as "grandfather clauses" or "literacy tests," so applied as to exempt from their operation certain of their population and disfranchise the remainder of the voting population, and those election laws, with certain other well-known conditions attending national elections in such States are the causes of the suppression or omission of such votes, resulting in the unjust overrepresentation named in paragraphs 1 and 2.

Sixth. Recent decisions of the United States Supreme Court prior to the November, 1916, elections have declared in the Oklahoma and Maryland cases that the amendments to the Oklahoma State constitution in one case and the statutes of the State of Maryland in the other unlawfully exempted in their operation certain citizens from the tests there imposed and applied such tests to the remainder in such a way as unlawfully to deprive them of the right to vote.

Seventh. It becomes material to a free representative form of government to know if acts of a nature similar to those referred to in paragraph 6, so declared to be void, were in force and applied by the State election authorities in certain States of the Union in the November, 1916, election of Representatives in Congress and the electoral ticket.

Eighth. If Senate joint resolution No. 193 was offered since the decision of the Supreme Court in the Oklahoma and Maryland election cases, whether it was offered as a notice or a menace to the United States Supreme Court or the members thereof that it or they must not assume, except under penalty of vacating their judicial offices, to decide acts of Congress or statutes or constitutions of States unconstitutional if they, or any of them, are in contravention of the Constitution of the United States.

Ninth. Congress, and especially the Senate, is now concerning itself in the publicity of campaign expenses and the corrupt practices at elections, seeking to regulate and prevent the same. The suppression of the votes of an entire race authorized under the Constitution of the United States to exercise all the rights of citizenship, including that of voting, and preventing them from taking any part in elections in nearly one-fourth of the States of the Union is, in the opinion of this Senate, of equal, if not greater significance and requires legislation more urgently to vindicate representative government than to regulate or suppress the practices complained of in the publicity of campaign expenses and alleged corrupt practices in elections.

Tenth. The second section of Article XIV of the Constitution of the United States provides that—

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State": Therefore be it further

Resolved, That the Senate Committee on Privileges and Elections be, and is hereby, directed to investigate the foregoing conditions and recommend a measure or method whereby either the decisions of the United States Supreme Court may be enforced in the several States of the Union on the matters heretofore named, and the conduct of the several States so persisting, if they do in holding elections under such acts of such States be properly dealt with, so as to secure the rights of all qualified voters, or, in default thereof, that the representation from the offending State or States be reduced pursuant to the mandatory provisions referred to in paragraph 10.

Mr. SMITH of Michigan. Mr. President, I understand the resolution goes to the Committee on Privileges and Elections.

The PRESIDENT pro tempore. The Senator from Illinois has asked that the resolution may lie over under the rule for one day, as though objected to.

Mr. SMITH of Michigan. Mr. President, if the Chair will indulge me for a moment, I see both the Senators from Texas here, and I desire to make an observation pertinent to the question raised by the resolution of the Senator from Illinois. It will take only a moment.

Michigan cast 625,872 votes in the recent presidential election, has 13 Representatives in Congress, and 15 votes in the electoral college. Texas cast 306,420 votes and has 18 Representatives in Congress and 20 electoral votes. With less than half as many votes as Michigan, Texas has one-third more representation here in Congress and counts for one-third more in the election of a President of the United States. One voter in Texas has 33⅓ per cent more voice in the Government than two voters in Michigan.

I wish to state further that under the present administration Michigan has contributed $32,804,000 in internal revenue for the support of the Government, and has received $3,170,000 in Federal appropriations. Texas has contributed $8,898,000 in internal revenues and received $5,231,000 in Government appropriations. With one-half the votes but one-third more representation, Texas has obtained nearly twice as much in Government favor as the State which I have the honor to represent in part. I think that there should be equality among the States—equality of representation and equality under the Constitution and the laws.

If this situation, which I assert with positiveness, does exist, it calls for some remedy at the hands of Congress, which has power to equalize not only representation but, generally speaking, the privileges of government as well.

I may not be on the floor when this resolution comes up for final consideration, but I do hope whenever it is presented it may receive such attention at the hands of Senators as its importance deserves.

Mr. WALSH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Montana?

Mr. SMITH of Michigan. Certainly.

Mr. WALSH. I received a communication from some gentleman the other day which called my attention to the fact that my State did not get as much in appropriations in proportion to its population and voting strength as some other States did. The thing did not appeal to me at all.

Mr. SMITH of Michigan. I will say to the Senator from Montana that would not appeal to me.

Mr. WALSH. Do I understand the Senator from Michigan to take the position that the appropriations made by Congress ought to be distributed around among the several States in proportion to their voting strength?

Mr. SMITH of Michigan. No, Mr. President; if the statement made by the Senator from Montana had been made to me I should regard it as lightly as does the Senator from Montana; but I know of no reason in the world why Texas should have a greater voice in the choice of a President of the United States and greater representation in Congress with only one-half the vote which Michigan casts.

Mr. HARDWICK. Will the Senator yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Georgia?

Mr. SMITH of Michigan. I ought first to yield to the Senator from Montana, who first addressed me.

Mr. HARDWICK. I thought the Senator from Montana was through. Does not the Senator from Michigan know that the voice Texas has in those questions is determined by population and not by voting strength, according to the Constitution of the United States?

Mr. SMITH of Michigan. No; I think it is unfair to count all the people of Texas for purposes of enumeration and representation and then abridge the rights of citizens in Texas.

Mr. HARDWICK. That is not the question. The Senator is complaining about a plain provision of the Constitution of the United States.

Mr. SMITH of Michigan. No; I am not.

Mr. HARDWICK. Representation is based on population.

Mr. SMITH of Michigan. I claim that either the representation of Texas is greater than it should be and out of proportion to her population, or else the voice of her population is stifled in the exercise of a plain constitutional right.

Now, I want to correct my honored friend from Montana. I did not say that appropriations should go with voting strength. That would be absurd. No Senator would say that. But I do say that the burdens of government should be distributed fairly, and it is at least unfair that the State which I have the honor to represent in part should bear a disproportionate share of the burdens and expense of the Government.

Mr. HARDWICK. Will the Senator yield again?

Mr. SMITH of Michigan. Yes.

Mr. HARDWICK. Those laws operate impartially throughout the Union, in every State in the Union.

Mr. SMITH of Michigan. They do not operate impartially. The Senator knows that it has been the policy of his party to pass laws in such form as would bear most heavily on industry in the North.

Mr. HARDWICK. Mr. President, the Senator can not put any such words as that in my mouth. The Senator from Georgia does not know anything of the kind.

Mr. SMITH of Michigan. I will withdraw the imputation. The Senator is always fair.

Mr. HARDWICK. I do not think the Senator from Michigan knows any such thing, either. Of course, the Senator may contend that, but before no thoughtful forum will such a proposition as that ever be successfully maintained.

Mr. SMITH of Michigan. Now, let us see a moment. I do not want to prolong the discussion, and I did not start it; but under the present administration of the National Government my State has contributed $32,804,000 to the public revenue under laws which heavily penalize prosperity.

Mr. HARDWICK. Has the Senator made any such comparison as to show what the States contributed under the last administration and the administration before that? I hope the Senator will do so.

Mr. SMITH of Michigan. Yes; I made a comparison that would be exceedingly interesting to the Senator, because under laws which I have assisted in passing when my party was in power the burdens of public expense have been met by collecting duties on imports according to the historical policy of our Government from its foundation, thus safeguarding our industries and collecting with certainty the necessary revenues.

Mr. HARDWICK. It comes back to the tariff question, then?

Mr. SMITH of Michigan. Yes. I will say to the Senator from Georgia it comes back where you are coming, I think, very slowly, but I think very surely, much against your will. However, necessity prompts you. You must reestablish that principle which your party has torn down with such ruthless hands, or face a demoralized and exhausted Treasury. We never felt called upon to appear before the country as apologists for our financial system; we never have been called upon to face an apparent deficit of over $300,000,000 in the revenue in a single year; and it was because we levied our duties according to the historic policy of this Government for over a century of its marvelous prosperity. I am not going to say any more; I did not intend to say as much, but the resolution of the Senator from Illinois quickened my resentment.

Mr. MARTINE of New Jersey. Will the Senator from Michigan yield to me for a moment?

Mr. SMITH of Michigan. I would yield to the Senator, but I can not do so at this moment, for it would interrupt the continuity of my thought.

Mr. MARTINE of New Jersey. I would not consent to do that on any account.

Mr. SMITH of Michigan. I reassert the statement which I made at the beginning, that while Michigan has contributed $32,000,000 in internal revenue under this administration, that marvelous empire, the imperial State of Texas, a State which I greatly admire and whose people I most highly respect; which is so ably represented upon the other side of the Chamber—Texas, that once felt herself nearly strong enough to stand upon her own feet as an independent entity in the family of nations, actually contributed but $8,898,000 to the internal revenue, and received in return, by the favor of this administration, $5,232,000 of Government appropriations. Perhaps we ought not to complain, but I do not think that is fair. I am willing that Texas should get all the appropriations that she needs; I have voted for a great many of them, but I think that if people are to be counted for purposes of representation they are still citizens on election day; if they are to be counted for purposes of enumeration and representation, they ought to be permitted to vote in accordance with the constitutional right of citizenship.

Mr. HARDWICK and Mr. SHERMAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. SHERMAN. Before the Senator proceeds——

Mr. SMITH of Michigan. Will the Senator pardon me a moment while I interject a very pertinent and appropriate reference to this entire subject, which is found in the Constitution of the United States? The language of the Constitution reads:

> But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

Mr. President, my friends upon the other side of the Chamber may quarrel with the Constitution if they like. We have been supine and indifferent to the rights of our fellow citizens in other States; we have shown a delicate and scrupulous regard for the proprieties of our national situation; but when the great State of Texas has a third more representation in the Congress of the United States than has the State of Michigan, from which I come, and when we cast 668,000 votes for President of the United States while Texas casts but 300,000, I think the situation calls for some attention. There is a very disproportionate representation from many States in the North or a very exaggerated representation from many States in the South. When I say this I do not mean to give offense, I mean to emphasize a glaring inequity in our present plan of representation.

Mr. SHEPPARD and Mr. SHERMAN addressed the Chair.

The PRESIDENT pro tempore. The Chair had recognized the Senator from Georgia [Mr. HARDWICK].

Mr. SMITH of Michigan. I had told the Senator from Illinois [Mr. SHERMAN] that I would yield for a question.

The PRESIDENT pro tempore. The Senator must address the Chair before seeking to interrupt.

Mr. SHERMAN. I wish to inquire of the Senator from Michigan about a matter which I expect to use later in considering the corrupt-practices act; namely, the menace or threat contained in Senate joint resolution 195 to the Justices of the Supreme Court of the United States, that they will be removed from office if they persist in declaring acts of Congress unconstitutional?

Mr. SMITH of Michigan. Well, but such a law has not yet passed Congress, has it?

Mr. SHERMAN. No.

Mr. SMITH of Michigan. Does the Senator from Illinois think that there is any likelihood that it will even receive serious consideration?

Mr. SHERMAN. Mr. President, anything will receive careful consideration in this body, and the more ridiculous it is the more apt it is to receive favorable consideration. [Laughter.]

Mr. SMITH of Michigan. I have been here longer than has the Senator from Illinois, and I have seen a great many foolish things done here, but I have never in my life seen anything quite so grotesque as the proposition the Senator has described.

Mr. SHERMAN. Mr. President, the Senator has served longer than have I, but he never saw such a Senate as this.

Mr. SMITH of Michigan. Oh, Mr. President, I will not say that. I look about this Senate and compare it with those that have preceded it. I do not now see many men of long service here who have made national and international fame. I do not see here the stalwart figure of Roscoe Conkling or that of James G. Blaine or that of David B. Hill, who used to grace a seat in yonder corner of the Chamber, about where the Senator from New Jersey [Mr. MARTINE] now sits. I do not see many eminent men who have come and gone, like Lamar and Vest and Morgan, like Allison and Spooner and Platt; but I do see men with great ability, high character and honesty, integrity, and patriotism here; and if they are permitted to remain as long as their predecessors remained I dare say their fame will be none the less resplendent.

The old method of electing Senators was calculated to season the candidate for future prestige and long service. The new system gives wider scope and greater freedom to the ambitions of our citizens, and the most popular is not always the best fitted. But as I look at the State of New York and its representation to-day I do not think it has suffered. I think it bears very favorable comparison with former days. As I look at the representation from Ohio I do not think it has suffered by the changes that have taken place. I do not think Illinois has suffered in her prestige by the changes here; I do not think that Georgia or Mississippi or Alabama or Colorado or North Carolina or Iowa or any of these great States of the Union have suffered by the changes. The men who are here are intelligent, upright, patriotic men, painstaking in the performance of their duties; but they are dealing with a situation that is very different from that which confronted their predecessors. New questions call for new review.

No; I do not despair of the Senate. And I think action on the measure to which the Senator from Illinois has called my attention will reveal in a new light the patriotism and the intelligence of Senators upon both sides of this Chamber. I do not believe a half dozen votes can be found on either side of the Chamber for such a bill. The attempt to curb and to discipline the Supreme Court of the United States will fail, as it should fail, to receive the approval of the American people or their representatives here.

No; Mr. President, I am not ready to say that there has been any decadence in the public life of our country.

Mr. OWEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Oklahoma?

Mr. SMITH of Michigan. I am through, and I yield the floor gladly to the Senator, unless he cares to interrogate me.

Mr. OWEN. I merely want to ask the Senator whether he is aware that the Congress of the United States, by the Constitution of the United States, has the lawful right to control the cases that should go on appeal to the Supreme Court?

Mr. SMITH of Michigan. Oh, undoubtedly, to a limited extent; but the Supreme Court, in passing upon the cases that come before it for adjudication, always have in mind the constitutional safeguards which have been thrown about the rights of person and property in this Republic, and we are beating our heads against a stone wall when we attempt to coerce or restrict the steady and even flow of justice from a tribunal created by the same hand which gave life to the legislative department of the Government.

Mr. OWEN. Does the Senator take the position that after the Senate of the United States and the House of Representatives of the United States and the President of the United States, upon their oaths, have passed a bill, thereby declaring it constitutional, they are guilty of a violation of their oath of office if the Supreme Court declare it unconstitutional?

Mr. SMITH of Michigan. No; Mr. President, Congress and the President have simply shown their ignorance of the fundamental law, the court must correct them when in error. I take the position that this Government has been divided into three distinct and separate branches, each in its own sphere, independent and supreme. Those three spheres—the executive, the legislative, and the judicial—get their dignity and their strength from their constitutional right of independent action, and it little becomes the Congress of the United Sates or the Executive to undertake to coerce or unduly influence either of the other departments of the Government, and any resolution or any law intended to coerce the judiciary of our country in the performance of its constitutional duty should be and will be discouraged and defeated by intelligent men who love their country and respect its organic laws.

Mr. OWEN. Does the Senator take the position that the Congress of the United States can have its acts nullified at will by the judiciary?

Mr. SMITH of Michigan. Yes, Mr. President. When they are in conflict with the Constitution of the United States, which is the fundamental law.

Mr. OWEN. Then the Senator takes the position that nine gentlemen on that court, or a majority of them, have a greater knowledge of the law, and that they have more power under the Constitution, than the Congress of the United States, which by that instrument was vested in effect with the sovereign power belonging to the legislature which is enumerated there—the right to tax the people of the United States, to expend the money taxed from the people of the United States, to declare war, to make peace, and to make treaties with foreign countries.

Mr. SMITH of Michigan. Oh, Mr. President, it would be a sad day for this Republic when the constitutional power of our highest judicial tribunal is restricted and restrained and its solemn judgment nullified by men holding place in a coordinate legislative or executive department of the Government.

Mr. OWEN subsequently said, Mr. President, I was interrupted when I wanted to put into the RECORD the joint resolution which I introduced bearing upon the question then under discussion, which joint resolution was criticized by the Senator from Illinois [Mr. SHERMAN]. I desire at this point to have that joint resolution inserted in the RECORD without reading. It is Senate joint resolution 195.

The PRESIDING OFFICER (Mr. KIRBY in the chair). Is there objection? The Chair hears none, and it is so ordered.

The joint resolution referred to is as follows:

Joint resolution (S. J. Res. 195) forbidding Federal judges to declare any act of Congress unconstitutional and providing penalties therefor.

Whereas the Constitution of the United States gives no authority to any judicial officer to declare unconstitutional an act which has been declared constitutional by a majority of the Members of the United States Senate and of the House of Representatives and by the President of the United States, who, on their several oaths, have declared the opinion in the passage of such act that it is constitutional; and

Whereas in the Constitutional Convention, in which the Constitution of the United States was framed, the motion was three times made to give to the Supreme Court in some mild form the right to express an opinion upon the constitutionality of acts of Congress and was three times overwhelmingly rejected; and

Whereas such assumption of power by the Federal courts interferes with the reasonable exercise of the sovereignty of the people of the United States and diverts it from the hands of the representatives of the people in Congress assembled to a tribunal appointed for life and subject to no review and to no control by the people of the United States, and is therefore against a wise public policy; and

Whereas the declaration by any Federal court that the acts of Congress are unconstitutional constitutes an usurpation of power: Therefore be it

Resolved, etc., That from and after the passage of this act Federal judges are forbidden to declare any act of Congress unconstitutional.

No appeal shall be permitted in any case in which the constitutionality of an act of Congress is challenged, the passage by Congress of any act being deemed conclusive presumption of the constitutionality of such act.

Any Federal judge who declares any act passed by the Congress of the United States to be unconstitutional is hereby declared to be guilty of violating the constitutional requirement of "good behavior" upon which his tenure of office rests and shall be held by such decision ipso facto to have vacated his office.

SEC. 2. That the President of the United States is hereby authorized to nominate a successor to fill the position vacated by such judicial officer.

Mr. OWEN. Mr. President, since it is perfectly obvious that Congress can make such exceptions and provide the regulations under which the appellate jurisdiction of the Supreme Court may be exercised, if Congress henceforth permits the inferior courts to declare unconstitutional and void the acts of Congress and permits such cases to be appealed to the Supreme Court, any regulations which would permit that court to pass upon the constitutionality of the acts of Congress and to declare such acts unconstitutional and void, then the Congress of the United States will be itself abdicating the sovereign power of the people of the United States. I shall never consent to this. I do not feel willing, as a representative of the people of the United States, to yield the sovereignty vested in the people and in their representatives in Congress.

I think it is against a wise public policy to permit this. It makes it impossible for the people of the United States ever to know what the law is according to our written statutes if we allow this judicial control; it introduces an element of confusion and uncertainty in the meaning of the laws, and makes it impossible for the people of the United States, with certainty and precision, to determine questions of public policy through the National Legislature or to hold the National Legislature responsible to themselves for a failure to make effective such national policies.

In the great questions which are now arising in the country before us, it is, in my judgment, imperative that the people of the United States should be permitted to exercise their sovereign power through their delegates in Congress and to hold such delegates to Congress responsible therefor.

I desire also to have inserted in the RECORD paragraph 2 of section 2 of Article III of the Constitution, reading as follows:

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

So that the jurisdiction exercised by the Supreme Court of the United States is a statutory jurisdiction, made in pursuance of the Constitution, and it is within the power of Congress to preserve its own sovereignty by limiting the cases which may be appealed to that court and by instructing the inferior courts which are established by the statutory power of Congress.

Mr. VARDAMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Mississippi?

Mr. SMITH of Michigan. Certainly.

Mr. VARDAMAN. Mr. President, the Senator from Michigan is always interesting to me. The variety of his information and the boldness with which he expresses or asserts his opinions are not only interesting but very often instructive. Now, I shall not dispute with the Senator this afternoon as to the wisdom of the Supreme Court of the United States exercising the almost despotic power which it assumes to exercise; but I think it is an historic fact that the convention of 1787 which framed the Constitution did not intend to confer that power upon the court. The matter, I think, was four times distinctly submitted to that convention, and four times it was defeated. Notwithstanding the fact that the proposition had the support of such men as James Wilson, of Pennsylvania, and Madison, two of the most learned and influential members of the convention, it only received the vote of three States. In this statement I think I am historically accurate. I might add, also, that it is my opinion that if the Constitution had definitely conferred upon the court the power and authority which the court exercises to-day it would not have been adopted by a single State.

Mr. OWEN. There is no question about that, Mr. President.

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from Utah?

Mr. VARDAMAN. I am through, Mr. President. I simply desired to make that statement that the distinguished Senator from Michigan [Mr. SMITH] might understand that the proposition made by the able and learned Senator from Oklahoma [Mr. OWEN] was not altogether new—it is not novel. On the contrary, it is a subject that has been discussed, and ably discussed, by some of the most learned lawyers that this country has produced. I trust the learned Senator from Michigan in the course of his illuminating discourse may throw more light upon this very important theme. It is entirely worthy of his genius.

Mr. SUTHERLAND. Mr. President——

Mr. OWEN. Mr. President, I might add to the comment——

Mr. SMITH of Michigan. I yield to the Senator from Utah for a moment.

Mr. SUTHERLAND. Mr. President, the statement made by the Senator from Mississippi [Mr. VARDAMAN] has been made by others a great many times. It has been made by the Senator from Oklahoma [Mr. OWEN]. The fact that it is an old statement does not make it a correct statement. I undertake to say that nothing of the kind described by the Senator from Mississippi ever occurred. No attempt was made in the framers' convention either to confer upon or to take away from the Supreme Court in express terms the power to pass upon the constitutionality of an act of Congress or of an act of a legislature of a State. What occurred was an entirely different thing. An attempt was made upon two or three occasions during that convention to confer upon the Supreme Court, in connection with the President of the United States, a veto power; to make, in effect, the Supreme Court a council of revision, and to confer upon that body, in connection with the President of the United States, a veto power over the legislation of Congress. Of course it requires no analysis to demonstrate that the power to say what the law *shall be* is a wholly different thing from the power which the Supreme Court exercises and has exercised for more than 125 years to decide what the law *is*.

The Constitution of the United States itself provides that the Constitution shall be the supreme law of the land. It is more than a compact; it is more than a contract between these 48 States; it is what it declares itself to be, "the supreme law of the land," made by the sovereign lawmaking body of the land, namely, the people themselves. Now, I submit that it is a matter too plain for argument, that when one of the agents of these sovereign people, namely, the Congress of the United States, undertakes to write a statute, and that statute in the regular consideration of a case properly before the Supreme Court is presented to the Supreme Court and the question is properly brought before that body as to whether or not that act of legislation is in harmony with the Constitution of the United States, which is the supreme law, the judicial power of the court to deal with that question at once attaches. If that body in the regular exercise of its jurisdiction is confronted with two instruments—the Constitution of the United States and a statute—the former of which is declared to be the supreme law and to which therefore every statutory enactment must correspond, the Supreme Court must follow the supreme law and not the statute which was passed in contravention of the supreme law. That is the exercise of judicial power. It is the normal and ordinary exercise of judicial power. It is exactly the power which any court exercises when it is confronted with two conflicting statutes, one of which says one thing and another which says an entirely different thing. Both can not stand. Of course the court must determine which shall stand. Ordinarily, it would take the later enactment as the one which stands. It would attempt to reconcile them, but if that were impossible, it would of necessity be obliged to determine that one was valid and the other void, because it is of the essence of judicial power to ascertain and declare what the law is.

Mr. OWEN. Mr. President, the difficulty with the Senator is that he begs the question.

Mr. SUTHERLAND. Just a moment; let me finish the thought, and then I will yield. When, therefore, Congress has passed an act, which is invoked in the course of proceedings before the Supreme Court, and it appears that that act is in contravention of the supreme law of the land, of course the courts can do nothing else except to declare the supreme law controls, and not the statute which is enacted in opposition to the supreme law.

Mr. OWEN. Mr. President——

Mr. SMITH of Michigan. I yield to the Senator from Oklahoma.

Mr. OWEN. The Senator ignores the fact that it is not the Constitution which is the supreme law of the land alone. It is the Constitution and the statutes passed by Congress in pursuance thereof.

Mr. SUTHERLAND. Precisely; and that emphasizes the point that I am making. It is not every statute passed by Congress that is the supreme law of the land, but it is, first of all, the Constitution of the United States, and, second, statutes passed in pursuance of the Constitution of the United States.

Mr. OWEN. They could not pass any statute except in pursuance of the authority granted by the Constitution.

Mr. SUTHERLAND. Certainly not. It is no law, then. It is a void thing. But it is perfectly obvious that if the Constitution be the supreme law of the land, anything else which contravenes it is not the supreme law of the land.

Mr. OWEN. The only authority which has the right to declare a law constitutional is the Congress of the United States.

Mr. SUTHERLAND. The Senator and I are in hopeless disagreement about that, and fortunately——

Mr. OWEN. I observe that, and for that reason I stated the case.

Mr. SUTHERLAND. The Senator is not only in disagreement with myself about that, but he is in disagreement with the best thought of the country for 125 years.

Mr. OWEN. That remains to be seen.

Mr. SUTHERLAND. And he is in disagreement with the decisions of the courts of the country for 125 years and in disagreement with the position occupied by both Houses of Congress and by all the Presidents of the United States from the beginning of this Government down to the present time.

Mr. FLETCHER. Mr. President, a question of order. I raise the point of order that this whole discussion is out of order.

The PRESIDENT pro tempore. The Chair thinks the point of order is well taken.

Mr. SMITH of Michigan. I appreciate the indulgence of the Chair. It was not my intention to proceed any further.

The PRESIDENT pro tempore. Concurrent and other resolutions are in order.

Mr. VARDAMAN. Mr. President, I just want to state at this point, in reply to what the distinguished Senator from Utah has said as to the historical accuracy of what I said regarding the limitation of the powers of the Federal Supreme Court as contemplated by the framers of the Constitution, that

I shall endeavor to establish at some time in the near future the accuracy of my statement.

Mr. SUTHERLAND. I shall be very glad to have the Senator undertake that impossible task.

Mr. SHEPPARD. Mr. President, if the Senate will pardon me, inasmuch as the Senator mentioned my State I want to say that the right to vote is not denied or abridged in any way in the State of Texas, and any intimation to that effect is as unkind as it is without any foundation whatever. The smallness of the vote is due to the fact that the Democratic Party is so overwhelmingly in the majority that less interest is felt in the national election, and less part taken in it, than in States where the contest is close. The population of Texas is over 4,000,000, while that of Michigan is a little over 3,000,000. Besides, any criticism of Texas comes with ill grace from the Senator from Michigan, because we have sent more money into Michigan for Ford automobiles than Michigan ever contributed to the Federal Government above appropriations received. [Laughter.]

Mr. MARTINE of New Jersey. Mr. President, in order that it may not appear that Texas is the only sinning one in the galaxy of our Nation, I have to portray a situation in the State of New Jersey which is very like the stiuation described by the Senator from Michigan [Mr. SMITH].

New Jersey, which cast 580,000 votes in the recent presidential election, has 12 Congressmen and 14 votes in the Electoral College. Georgia, which cast 137,056 votes, has 12 Congressmen and 14 electoral votes. With less than one-fourth as many votes as New Jersey, Georgia has the same representation and counts for as much in the election of a President. One voter in Georgia has the voice in Government of four voters in New Jersey. It may be that he is four times as valuable. I will not attempt to say that, but the people of New Jersey would not believe it.

Under the present administration New Jersey has contributed $47,853,559 in internal revenues to the support of the Government and has received $2,011,424 in Federal appropriations. Georgia paid $3,163,402 in internal revenue and received $1,874,579 in Government appropriations. With less than one-fourth the votes, but the same representation, Georgia has obtained nearly as much in Government expenditures, while paying approximately one-twelfth as much taxes.

Now, I will not attempt to contend that this may not be just or perhaps not fair or legal, but it does seem utterly inequitable and utterly unfair. I do not know. It may be I can attribute it—I thought that I could when I read this first—perhaps to the more industrious activity of the statesmen from Georgia and the statesmen from Mississippi than the statesmen from Michigan and the statesmen from my little Commonwealth. Whatever may be the cause, the result is the same; and I should like to join with the Senator from Michigan—whether he is a Republican or a Democrat, I do not care so much on a question of this kind—in seeing a little more equitable administration of these affairs.

Mr. HARDWICK. Mr. President, I do not feel that my State or the State of Texas, either, for that matter, can be put on trial in this body in any such way; and I am not disposed to accept very seriously the statements of Senators on either side. When the Senator from Michigan was proceeding I somehow or other felt that possibly nothing ought to be said, because after every election we allow certain latitude for disappointed people. They are allowed to kick a little without anything being said about it, very much as in old England it used to be that sailors while they were being flogged could say pretty much what they pleased about the King or the Government. I do not think the Senators expect us to take too seriously these sectional and quasi sectional arguments that they are making.

It is, however, a matter of concern to me that any Senator, whether he sits on one side of this Chamber or the other—and I am very glad, for the purposes of my remarks, that the two Senators who have taken occasion to do so sit on opposite sides of this Chamber, because it will relieve my remarks of anything like a partisan character—I am very sorry always when any Senator on either side of this Chamber uses his great position to create or tend to create in any way sectional rivalries or jealousies or enmites among the people of this country. I thought that in this body, at least, the day was past when statesmen of broad mind and broad view could regard that as a fitting position for them to occupy.

Unfortunately there have been periods in the history of this country when that sort of thing was all too common; but what we sow we reap. We sowed hatred on the floors of both of these Chambers of Congress, and we reaped a whirlwind before we finished. Surely the time has come when the good people throughout this country are sick and tired unto death of all this talk about the North and the South and the East and the West; and surely the day has come when in the Senate of the United States, at least, and in the Congress of our common country, sentiments of that sort are no longer popular, are no longer right, and ought not to be and will not be tolerated.

If the Senator from New Jersey or the Senator from Michigan can assail the justice of any appropriation that has been made the benefits of which extend to any State, North, East, South, or West, I think they will find that there are many Senators on both sides of this Chamber who will join them, regardless of locality or geography. It is utterly unfair, it is utterly ungenerous, it is utterly unstatesmanlike, for Senators to undertake to segregate appropriations by States, and to undertake to create feeling between States as well as between sections, on account of the relative size of appropriations.

If any appropriation that has been made for Georgia is wrong, fight it on its merits, and you will not find me defending it if I think you are right. If any appropriation that is made for Texas is wrong, fight it because it is wrong, not because it is for Texas, and I believe you will find the distinguished and able Senators from Texas agreeing with you if they believe you are right. But this proposition—narrow, infinitesimally small, unutterably little—of taking any State in this Union and saying: "Oh, this State got so much money and paid so much taxes," is one that will not appeal to the good sense of the American people, and will not appeal to the patriotism of the country.

What does it matter if the smallest State in this Union needs for proper Federal appropriations the largest amount of money of any State in the Union? What does it matter to any of us, if we are broad American statesmen, Senators from the whole country, and representing it all? What does it matter whether the State is Democratic or Republican? What does it matter whether it lies in the North or in the South or in the East or in the West? Surely statemanship in this Chamber has not yet sunk to any such level as that.

I say here and now to my friend from Michigan, whom I have known and loved through all these years, and to my friend from New Jersey, whom I have not known quite so well, but I have loved equally well, that if I know my own heart I would not vote against any appropriation for their States, because it went to the North or to the Middle West, nor would I fail to vote for any just and reasonable appropriation for any State in this Union, where I thought it was a proper appropriation of the Federal funds. I think that is true about almost every Senator who sits in this Chamber, whether he comes from one section or from another section of our common country.

One of my friends suggests, in an aside, that possibly some of these very revenues that Senators speak of may have been paid by the people of Georgia or the people of Texas. Quite true. We buy your automobiles, as my friend from Texas [Mr. SHEPPARD] suggested. We buy mules from Missouri. We buy horses from Kentucky.

Mr. SMITH of Michigan. Is that all you get from Kentucky—horses? [Laughter.]

Mr. HARDWICK. Well, it does not look like we are getting much more nowadays. [Laughter.] But I do not think the Senator ought to be entirely jocular about this thing.

Mr. SMITH of Michigan. I am not quarreling with the appropriations. I voted for many of these appropriations. What I am talking about is the distribution of the burdens of Government.

Mr. HARDWICK. Well, now, wait a minute. If the Senator voted for the appropriations, and he thought they were just and right, one by one and all in all, why should he come up and stand before the Senate of the United States and before the people of the United States and point out that a certain amount of dollars went to Georgia or a certain other amount went to Texas? Is that broad patriotism?

Mr. SMITH of Michigan. No; the Senator must state the facts correctly.

Mr. HARDWICK. I certainly would not do the Senator the slightest injustice.

Mr. SMITH of Michigan. The truth is that I said that Michigan had contributed $32,000,000 in internal revenue for the support of this administration, and had received about $3,000,000 in appropriations from this administration.

Mr. HARDWICK. And the Senator cited some other States.

Mr. SMITH of Michigan. While Texas has contributed $8,000,000 in internal revenue, and has taken out $5,800,000 of appropriations. Now, I am not complaining about the appropriations. I am quite liberal in my views of appropriations; but I think that the scheme of government devised by Senators on the other side in a caucus and in closed committee rooms which distributes the burdens of Government so skillfully, and yet so unfairly, that they weigh overheavily upon one State,

and out of proportion to what it should bear, is a proper subject of criticism.

Mr. HARDWICK. Mr. President, after all, I have not misunderstood the Senator's position. I did not think I had. I do not want to do him an injustice. He points to these matters in this way, whether for the purpose or not, certainly with the effect of having a tendency to excite sectional feeling in this country.

Mr. SMITH of Michigan. Oh, no; Mr. President, that is far from my purpose.

Mr. HARDWICK. Well, it was generally done in the recent campaign. I was surprised to see my friend from New Jersey join in it.

Mr. SMITH of Michigan. It was not done by me.

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. HARDWICK. Not, for the moment, to anybody. We whipped that sort of thing in this presidential campaign. To my great regret, almost to my shame as an American citizen, this is the first campaign in many years where I have seen any such sectional arguments made about appropriations and tax burdens as were made in this campaign; and this is the first campaign in many years in which I have seen even a presidential candidate stoop from what I consider his high place in order to revive, or attempt to revive, sectional feeling. The result was not gratifying to you on the Republican side. It was not pleasant to us. It seems to me that the sooner we get away from that sort of thing, and the longer we keep away from it and the farther we keep away from it, the better off we will be in all parts of this country, North, East, South, and West.

Mr. SMITH of Michigan. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia now yield to the Senator from Michigan?

Mr. HARDWICK. For a question.

Mr. SMITH of Michigan. I simply wanted to observe that——

Mr. HARDWICK. I do not yield for an observation just at present.

Mr. SMITH of Michigan. I entertain no hostility toward the South. I am calling attention to an inequitable division of the burdens of Government.

The PRESIDENT pro tempore. The Chair understands the Senator from Georgia declines to yield.

Mr. HARDWICK. If the Senator will pardon me just a moment, I want to finish the train of thought I have in my mind, and then I will yield to the Senator.

Senators assert that they entertain no hostility, yet they point out and insist on pointing out State by State, particularizing the sovereign Commonwealths of the American Union to which appropriations, according to their contentions, are unfairly given and unfairly distributed, and the Government burdens of taxation are also unfairly imposed from a geographical standpoint.

Mr. President, I utterly deny it. I utterly repudiate the suggestion. I do not believe the American Senate and the American Congress has been conducted on any such plane. If the Senator from Michigan or my friend the Senator from New Jersey could have established anything whatever of the contention they seem to have in mind, there has not been a day and there has not been an occasion when the Senate would not have stood ready to *sustain* either one, but because it happened, if it be the fact, that certain of the States are poorer in material resources, poorer in wealth than other States, are you therefore to say to them, "Because you are poor, because your people can not contribute out of their poverty as much as we contribute out of our wealth, therefore we are not going to give you the proper Federal improvements and appropriations in your State"? I do not believe any Senator would care to take such a position.

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

The SECRETARY. A bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

Mr. JAMES. Mr. President, it appears to me that the argument of both the Senators is entirely unfair. All these revenues, while they are paid from the State, are generally paid by the consumers of all the States. Take my own State, for instance. We pay into the Federal Treasury probably over $30,000,000. We pay $25,000,000 of it as an internal-revenue tax. While that was paid by the distillers of Kentucky, they, of course, got it back from the consumers of whisky to whom it was sold.

Now, to say that Kentucky is discriminated against because we paid thirty or forty million dollars into the Federal Treasury and only got a million out of it in appropriations is so manifestly unfair that even for partisan purposes in a hot political campaign it weighs utterly nothing with the fair-minded American people.

Mr. HARDWICK. Not only that, Mr. President, and I quite agree with the Senator's contention about it, it is true not only about the whisky-distilling business he has mentioned, but also every other business in this country. It is true about every form of business where a tax is paid by the manufacturer or the producer and is passed on to the consumer. There is no need to go into that. The spirit I am protesting against is the spirit that it is the duty of the American Congress to draw a balance sheet between the several States. It is not right to inculcate any such spirit as that. It is not right to teach our people any such lesson as that. If there is a single one of these appropriations that is being made for the North or the East or the South or the West that is not right, if it is wrong, if it is too much, fight that appropriation, regardless of geography, regardless of section, regardless of the State.

If there is a single tax that is not fair and just to all the people of the United States and does not operate on them all equally throughout the United States, oppose that, and after you get through do not come up here with a little sum total about what the State of New Jersey or the State of New York or the State of Rhode Island or the State of Arizona or any other Commonwealth has gotten from the American Government or has paid into the American Treasury, and do not bring in support of such contentions figures that are wholly incomplete and totally misleading.

Mr. JAMES. Mr. President, does not the Senator think that these gentlemen, in order to justify their position, ought to show what appropriations have been asked for New Jersey and for Michigan which were denied and what appropriation was given to Georgia which was unjust and which they themselves opposed? That is the way to get at it.

Mr. HARDWICK. Mr. President, undoubtedly; and if I have made myself plain to the Senate, I mean just this: Do not draw up a little, tiny, puny, or sectional balance sheet between the States of this great country, all of which are inhabited by the American people. Do not revive any such sectionalism on any such small, narrow line as that. It is both pitiful and disgusting.

Mr. SMITH of Michigan. Will the Senator permit me to interrupt him?

Mr. HARDWICK. Yes.

Mr. SMITH of Michigan. I do not feel the slightest prejudice against the South. I never have done so. My ancestors on my mother's side were southern people, and I share their affection for the Southland; but I am complaining of an injustice which the Senator from Georgia would be quick to resent.

Mr. HARDWICK. If that is true, the Senator ought not to do what he has been doing to-day.

Mr. SMITH of Michigan. Yes; I ought to do exactly what I have been doing or I would be unfaithful to my duty as a Senator, because in the administration of affairs of this Government your party has so skillfully made its laws that the burdens of government fall heavily upon our section of the country and lightly upon yours.

Mr. HARDWICK. Mr. President, I am not going to yield further.

The PRESIDING OFFICER (Mr. ASHURST in the chair). The Senator from Georgia declines to yield further.

Mr. HARDWICK. As a matter of fact, it is not so. It would be wrong if it was true.

Mr. SMITH of Michigan. I gave you an illustration.

Mr. HARDWICK. I do not believe it, and you can not prove it.

Mr. SMITH of Michigan. The honored Senator from New Jersey gave you an illustration quite in point.

Mr. HARDWICK. Of course that would be very wrong if true; but there is not anything true about it, and it does not prove it. To state that a certain State did not pay into the Federal Treasury as much as some oher State and prove that certain appropriations for Federal purposes in that State were more than in some others does not prove that proposition at all.

Mr. SMITH of Michigan. The Senator from Georgia knows very well that about the first thing that was done after you came into power was to strike down the protection that we had upon our industries.

Mr. HARDWICK. Personally I am devotedly attached to my friend from Michigan, but I can not yield further.

Mr. SMITH of Michigan. Senators of your party in this Chamber exposed our sugar industry to ruin. Only the European war has caused it to revive.

Mr. HARDWICK. Sugar is ruined now, is it? They are making more money now than they ever made in the history of the country, in spite of the Senator's contention.

Mr. SMITH of Michigan. We are enjoying the high protection of the war.

Mr. HARDWICK. They are making more money now than they ever made in the history of the world before.

Mr. SMITH of Michigan. Because there is no world competition on account of the war, and your party has partially restored the threat of free trade.

Mr. HARDWICK. Mr. President, I am not going to yield for any tariff argument. I am going to get through because the Senator from Montana wants to go on with his bill. To my mind, with all due respect to the Senator, this tariff talk is all rot.

Mr. SMITH of Michigan. I think the Senator knows that when they put the tariff back on sugar they did it because the industry had been severely crippled and because you needed the revenue.

Mr. HARDWICK. I am astonished. Certainly that is one schedule the Senator from Georgia knows something about.

Mr. SMITH of Michigan. The Senator knows about it.

Mr. HARDWICK. The exact reverse of the Senator's statement is true, so far as the industry being crippled is concerned.

Mr. SMITH of Michigan. I have read the Senator's report on it.

Mr. HARDWICK. When we put back, or retained, the tax on sugar there was not the slightest excuse for it on this earth from any standpoint I can think of, Democratic or Republican——

Mr. SMITH of Michigan. Then, why did you do it? For revenue?

Mr. HARDWICK. Except for protection; that is all. We could have gotten the revenue by a consumption tax—twice as much revenue—a tax like that imposed in every civilized country on earth that raises any sugar. That is the situation in respect to sugar; but I am not going to be led into that discussion now.

Mr. SMITH of Michigan. I do not blame the Senator from Georgia.

Mr. HARDWICK. The Senator from Georgia is never afraid to face the Senator from Michigan on a tariff argument.

Mr. SMITH of Michigan. I know the Senator. He is very brave and very capable.

Mr. HARDWICK. But we do not want to get off into that now. Of course, if the Senator's complaint is that we have done injustice in that we have cut down the protective tariff a little, I must confess there might be some ground for him to stand on, from his standpoint. We have not reduced the tariff as much, I tell the Senator frankly, as I think we ought to have done, nor as much as I still hope to see it reduced.

Mr. SMITH of Michigan. More than you will ever do again, however.

Mr. HARDWICK. I will say to the Senator that if that is his complaint I can understand him, even while disagreeing. If that is really what you mean, then do not go into this little petty picayunish business of drawing tax and appropriation balances between the States of this great American Union.

Mr. GALLINGER. Mr. Preident——

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

Mr. HARDWICK. Certainly.

Mr. GALLINGER. I observe the Senator from Georgia suggests that the tariff is likely to be still further reduced. Am I mistaken in reading in the daily press that the President of the United States has suggested that the revenue bill will have to be revised and there will have to be greater protection than there is now?

Mr. HARDWICK. I can not tell what the Senator from New Hampshire has been reading in the daily press, nor can I vouch for the accuracy of any such report as that.

Mr. GALLINGER. I can vouch for having read it.

Mr. HARDWICK. I have no doubt the Senator has read it, but I say I can not vouch for any newspaper report.

Mr. GALLINGER. Is it not in contemplation?

Mr. HARDWICK. Not to my knowledge.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Montana?

Mr. HARDWICK. I yield.

Mr. WALSH. I will suggest to the Senator from Georgia that I am very sure the Senator from Michigan [Mr. TOWNSEND] would like to continue the reading of the report.

Mr. HARDWICK. What report?

Mr. WALSH. The report on the bill pending before the Senate.

Mr. HARDWICK. The Senator from Georgia is going to complete his remarks before that is done.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. HARDWICK. I yield.

Mr. TOWNSEND. I have no disposition to interrupt the Senator.

Mr. HARDWICK. I supposed I was doing my friend from Michigan a very great kindness.

Mr. TOWNSEND. I am very much interested in the debate.

Mr. HARDWICK. I am going to say just a few words more that I have risen to say. I am also tired of all this talk about depriving people of their votes. We have had that until it has gotten just a little stale and tiresome, I think. There are 28 States in this Union, if my memory is accurate, that do not allow certain males, 21 years of age, to vote, by various devices. Whenever you get ready to apply any such rule as is contained in the second section of the fourteenth amendment to the Constitution, it may be that we might consider the proposition then; but until you do get ready to do it do not let us talk in this general, vague, indefinite way about it. So far as I am concerned I am not devoted to that section of the Constitution, as the Senator knows. I think it was adopted at a time when passion and prejudice ran riot in this country and obscured the clear judgment of our lawmakers. That, however, might be very well a subject of difference between the Senator and myself; but all this continual attempt to revive sectional feeling and to talk about the States of this country as if they were foreign countries, talk about the people of those States as if they were antagonistic and hostile to each other, does no good, either here or elsewhere; and for one, as a sincere personal friend of all the Senators who have indulged in it, knowing the effect that it has in all parts of the country, I earnestly hope the Senators will not give us a recurrence of this sort of thing.

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from New Jersey?

Mr. HARDWICK. I yield.

Mr. MARTINE of New Jersey. I thought the Senator was about to take his seat.

Mr. HARDWICK. I yield to the Senator.

Mr. MARTINE of New Jersey. I am just as free from sectionalism as the Senator, and I have no desire to revive the argument of sectionalism; but the Senator, with all his argument, will not deny the fact I presented.

Mr. HARDWICK. What does it prove?

Mr. MARTINE of New Jersey. You gentlemen—and I regard you all kindly and am very fond of you, and agree with much of your thought—claim, you say, that all this array and presentation of facts—and, of course, they are compiled by the Treasury Department—is small, unpatriotic, and petty politics. I do not know upon what ground or reason the Senator from Georgia or the Senator from Texas—but the Senator from Texas is a little more modest—on what ground the Senator from Georgia should arrogate to himself all the patriotism and all the broadness and depth in legislation and deny it to all those who happen to disagree with him all along on the other side.

Mr. HARDWICK. Let me say, Mr. President——

Mr. MARTINE of New Jersey. The Senator has had his time.

Mr. HARDWICK. I have the floor.

The PRESIDING OFFICER. The Senator from New Jersey will suspend for a moment. The Senator from Georgia has the floor.

Mr. HARDWICK. The Senator has the floor by my courtesy.

Mr. MARTINE of New Jersey. But you granted the floor to me.

Mr. HARDWICK. Not at all. I merely yielded to the Senator.

Mr. MARTINE of New Jersey. That is my impression, at all events. I do not want to trespass upon the Senator's time if he has not finished. In God's name let him go on; but, if the Senator will permit me to say it, while I am on the side of the Senator from Michigan seemingly on this question, he must not assume. He said he is surprised to find me in my position. I am, I hope, as broad and patriotic as the Senator ever dared to be, but I am contending for our rights on our side in the State of New Jersey. I feel that we are being unjustly discriminated against and unjustly dealt with.

I do not agree with all the doctrine of the Senator from Michigan on the tariff nonsense. I think it is the greatest heresy in the world. He talks about the tariff on sugar. We have had but little tariff on sugar, but it was not done with my vote. I will never vote to increase the tariff on sugar when you can raise in the territory of the United States from 5 to 7 and even 9 tons of sugar per acre. I will never sweat the people of this

country by my vote to grant them any further gratuity. So I do not agree with his doctrine at all. But so far as the facts and figures are presented by the Senator from Michigan there is something unfair in the condition, and so far as these things count I do insist that there is something wrong in that condition; and if you want to rid this country of sectionalism, you can not rid it of sectionalism by taking money out of my pocket and depositing it in yours.

Mr. HARDWICK. That is what we long have thought in the South, but we have even gotten to a point down there where we are willing to give up a little of our cash to the protective interests and to other sections of the country in order to try to get a little better feeling. I am not finding any personal fault with my friend from New Jersey, any more than I did with my friend from Michigan, but the fact remains that if the Senator can see that anything is proven by getting up little balances by States, and that sort of thing, without regard to the justice of the appropriations that go to the States, he is utterly beyond any argument I hope to make upon it. What does it matter if two-thirds of all the Federal appropriations went to any one State if that is the place where that kind of appropriations ought to go, and the appropriation was just and necessary?

Mr. SHEPPARD. May I interrupt my friend from Georgia?

Mr. HARDWICK. I yield.

Mr. SHEPPARD. Is it not a fact that the statements quoted by the Senators from Michigan and the Senator from New Jersey did not include all the small appropriations received by their States?

Mr. HARDWICK. I have not even seen the statements the Senators referred to. The details I regard as of small importance.

Mr. MARTINE of New Jersey. I quoted the appropriations received from your committee.

Mr. HARDWICK. What does it matter? Did the Senator find fault with any one of them? Did he vote against any one of them?

Mr. MARTINE of New Jersey. I say you are claiming all the patriotism and getting all the cash. That is a very serious matter. [Laughter in the galleries.]

Mr. HARDWICK. No; I say the Senator from New Jersey does not do himself great credit in that statement.

The PRESIDING OFFICER. The Senator from Georgia will please suspend. The Chair admonishes the occupants of the galleries not to make expressions of approval or disapproval. The Senator from Georgia will proceed.

Mr. HARDWICK. Of course, it is all very nice to get up here and talk in a sort of slipshod way about this sort of thing. But that does not do the Senator any good, either. If there has been made for Georgia or for Texas or for any other State of the Union an appropriation that is wrong, the Senator ought to point out why it was wrong, and he ought to have fought it, and he ought not to get up here and indulge in this Republican buncombe of drawing these little balances by States.

Mr. MARTINE of New Jersey. Republican what?

Mr. HARDWICK. Buncombe.

Mr. MARTINE of New Jersey. I did not indulge in Republican buncombe. My information about it is something more than Republican buncombe, and it is so stanch that it can not be waived off or combated by a Georgia fusillade.

The PRESIDING OFFICER. Senators must obtain recognition from the Chair before speaking.

Mr. HARDWICK. Of course, I yielded to my friend from New Jersey. No matter where he got it, it proves nothing, and the Senator knows it. If these appropriations were wrong, he ought not to have agreed to make them. I certainly would not ask you to make one for my State that was wrong any more than I think he would ask me to make one for his State that was wrong. If those taxes were unjust, they ought not to have been imposed. That is the proposition. I certainly would not support them, whether they fell on my people or his people, unless they were just and reasonable and fair. But to undertake to draw balances between the States of this Union and to say this one got so much and that one paid in so much and the net result is so-and-so is so nearly peanut politics that I do not think the thoughtful people of the United States can possibly approve it or appreciate it.

Mr. MARTINE of New Jersey. One thing, Mr. President——

Mr. STONE. Mr. President, I rise to a question of order. What is the question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Public Lands.

Mr. SMITH of Michigan. One moment. When the Senate adjourned last night the Secretary was reading from the report of the Committee on Public Lands, on page 14, and had just finished the letter of the Secretary of the Interior.

The PRESIDING OFFICER. Does the Senator ask for the reading of the report?

Mr. SMITH of Michigan. Certainly; and it was asked for by other Senators, several of them. I have listened to the reading very carefully thus far, and I am waiting with a great deal of pleasure to hear the report of the Senator from California [Mr. WORKS] read, which, I presume, will follow, and which I hope may be read without any attempt to delay or prevent its orderly sequence.

The PRESIDING OFFICER. The reading of the report will be continued. Does the Senator from New Jersey desire recognition?

Mr. MARTINE of New Jersey. Mr. President, I have said all I care to say. My constituents in the State of New Jersey asked me——

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Montana?

Mr. MARTINE of New Jersey. Certainly.

Mr. WALSH. Did the Chair recognize the Senator from New Jersey?

The PRESIDING OFFICER. The Chair did recognize him a moment ago.

Mr. MARTINE of New Jersey. I know I am some trouble to the Senator, but I am positively in favor of the measure he is so much interested in. I am not so much interested in your measure as I am interested in the measure I am now talking about. My constituency are asking me continually by letter and voice how this condition is. They ask me, "Are you less attentive and active to the affairs of the Commonwealth of New Jersey and the interests you have at heart than are those from the State of Georgia?" I tell them no; I do not know that I am as zealous and earnest in the matter as I can be. They are finding fault. They ask me how it is. I am not as familiar with legislation nor have I served as long as the Senator from Georgia. He served two or three or four terms in the House. He and his fellow citizens are all fine, splendid men. My constituents asked me how it is. I said, "Those men of the South are a better organized troop than the people of the North and the East." That is about the reason why many of these measures that my people rebel at have come about. They asked me, "Can not something be done to make this a little more equitable and fair?" I do not want to quarrel with the Senator; I feel kindly to him; but I do say do not arrogate to yourself all the patriotism and breadth when at the same time you have got all the cash.

Mr. HUGHES. Mr. President, I can not sympathize very much with what my colleague has had to say in this debate. I do not know of any taxes that have borne more heavily upon the people of our State than upon the people of Georgia. I do not think my colleague knows of any, either. I do not think either of us would vote for the passage of a measure which had for its object and final effect the singling out of one community or one section of the country and compelling it to bear a greater burden than its due share of the taxes of the whole Nation.

I do not like the plane upon which this whole colloquy this morning has been conducted. I thought the Republican Party years ago came to the conclusion that there was not another election to be won by waving the bloody shirt. I thought that the issue of sectionalism had been forever buried. I believe that was the case up to the time the Republican candidate in the last campaign was convinced by somebody that the fires of sectionalism and hatred could once more be fanned into flame and capitalized into Republican votes. I do not think there was anything that did more to bring down upon his head the merited indignation of the American people than the very attitude he took in that matter.

The time has gone by when men from the South can be held up as bogy men, as having horns and hoofs. They go abroad as you and I do; they go into different parts of the country. The most effective speeches I have ever heard made, speeches that were received with more rapturous applause than any other speeches I have ever listened to, were made by these very men laying down the fundamental principles of Democracy to men in communities where there was no material gain to be derived because of their love of those principles.

We have kept the fires on the altars of Democracy lighted in the North and in the East and in the West in this country by means of the patriotic fervor and flame that has been furnished to us by these men from the South. Any student familiar with the early history of this country knows that. If he permits himself to think at all he knows that that section of the country

has been oppressed by laws enacted by men from the other sections of the country. We know that for years and years they were compelled to purchase everything they purchased in the highest taxed markets in the world, and the things which they produced and sold they sold in the free-trade markets of the world.

The Georgia farmer to-day sells his cotton in Liverpool at anywhere from 7 to 20 cents a pound, whatever the price may be, and buys his automobile in the 45 per cent taxed market of America. The figures the Senator from Michigan has laid before the Senate contain no account of that fact. In the price of every automobile that is purchased by a farmer from the South there is hidden the tariff rate that was laid years ago and has continued since to oppress the purchasers of every other section of the country.

There is one thing that comes with particularly bad grace from Senators from my section of the country. It is this continual casting in the teeth of men of another section of the country the fact that they are poorer than their critics. It may be true. John D. Rockefeller pays into the United States Treasury more money than I do. He receives a larger income than I do. But owing to that fact is he to have a battleship placed at his disposal when his yacht floats the high seas? Is he to have a United States deputy marshal protect him? Is he to have rivers upon his private estates deepened at Government expense? Is he to have anything more done for him than is done for me? Are we to check up individuals or communities or States in accordance with the amount of money they pay? Are we to have that cheap and superficial standard? Everybody knows that the people of the State of New Jersey and the State of New York make what they make out of the people of Georgia, the people of the West and the South and the East and the North, and out of their profits they pay this money into the Federal Treasury.

We twit these men with the fact that they are living under a financial and fiscal system which does not permit them to profit to the extent that other and more favored gentlemen profit.

As far as I am concerned, I am an American citizen. I have not a single fiber in my body which entertains or could possibly entertain the slightest prejudice for any section of the country. I love the West, I love the East, the North, and the South. They are all alike. They were welded by a great fire into one Nation, and in spite of anything the gentlemen on the other side of the Chamber can say we are one Nation.

There are to be no more elections won by the bloody shirt. Sectionalism is dead and can never be revived; and the party that attempts it again will be treated as the party that last attempted it was treated. They will bring down upon their heads again the condemnation of the American people, and they should.

WATER-POWER DEVELOPMENT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

The PRESIDING OFFICER. The Secretary will continue the reading of the report.

The Secretary resumed and continued the reading of the report, as follows:

The committee desires to call attention to the further views of Hon. Franklin K. Lane, Secretary of the Interior, on the subject of water-power legislation embodied in a letter addressed by him to the chairman of the Senate Committee on Public Lands during the life of the Sixty-third Congress, while the subject of water-power legislation was under consideration in that Congress, which letter is as follows:

Mr. WALSH. Mr. President, the letter which follows is somewhat lengthy and is rather a general discussion of the entire subject than a discussion of the features of the pending bill. I ask unanimous consent that the reading of the letter be dispensed with.

Mr. TOWNSEND. Mr. President, I did not hear the Senator's suggestion.

Mr. WALSH. I advised the Senate that the letter which follows in the report is somewhat lengthy and is rather in the nature of a discussion of the general subject of water-power legislation than a consideration of the particular features of the pending bill, and I accordingly asked unanimous consent that the reading of that particular letter be dispensed with.

Mr. TOWNSEND. Does the Senator think that anything more instructive can be presented to the Senate or will be presented to the Senate than that letter of the Secretary?

Mr. WALSH. Mr. President, I say, in answer to the question addressed to me by the Senator from Michigan, that there is a stupendous mass of information upon the subject. I have a very high regard for the Secretary of the Interior; I know he has been a student of this question; but this is only a relatively small item out of a total mass of information upon this subject. Accordingly, I find it difficult to institute a comparison concerning the relative worth of the same information that is accessible to Senators from a multitude of sources. I have asked, accordingly, that the reading of it be dispensed with.

Mr. TOWNSEND. I understand that this letter was written when the Ferris bill, so called, was pending before the other House, and that it was written for the purpose of expressing the views of the Secretary of the Interior upon that particular legislation. It, therefore, seems to me that the reading of the letter ought to proceed. Therefore I shall have to object to the Senator's request.

The PRESIDING OFFICER. The Senator from Michigan objects, and the Secretary will continue the reading.

The Secretary resumed and concluded the reading of the report, as follows:

"WATER POWER.

[By Franklin K. Lane, Secretary of the Interior.]

"Should the Government allow its dam and reservoir sites and other lands valuable for power development to pass from its hands forever?

"(1) It has been the policy of Congress from the inception of power development in the United States only to grant permission to use such lands and not to sell or give away the lands in perpetuity. Acts of Congress of May 18, 1896 (29 Stat., 120); February 15, 1901 (31 Stat., 790); February 7, 1905 (33 Stat., 702); May 1, 1906 (34 Stat., 163); and March 4, 1911 (36 Stat., 1253).

"(2) The general law applicable to the use of public lands for the development of electrical power, the act of February 15, 1901, authorizes the grant only of a permission to use public lands and reservations for this purpose, expressly providing that any such permission may be revoked by the Secretary of the Interior, or his successor, in his discretion, and shall not be held to confer any rights or easements, or interest in, to, or over any public land or reservation. The general law now in effect relative to granting of rights of way for transmission lines, the act of March 4, 1911, only permits the approval of such rights of way for periods not exceeding 50 years.

"(3) The future of water power is still unknown. It promises to be an invaluable resource, (a) because it replaces itself, while coal and oil do not; (b) because it can be transported at slight expense and for long distances; (c) because the development of numerous other western resources, low-grade ores, irrigation of arid lands by pumping, and the establishment of manufacturing enterprises are dependent upon cheap and abundant electrical power.

"(4) To at this time grant such lands in perpetuity to private corporations or individuals is to divest the Federal Government, as well as the several States, of a large measure of the control which it might otherwise exercise over this resource by law or regulation, and would place beyond its power the opportunity of providing by law such different method of use or disposition as the future may show to be best adapted to the public interests.

"WHAT HAVE THE STATES DONE WITH THEIR POWER SITES?

"With possibly few exceptions, the valuable power sites on lands not owned by the Federal Government have passed into private ownership in perpetuity. They can not be recovered except at a prohibitive expense, nor can control be exercised thereover in any manner, except it be by regulation of transmission and delivery as a public utility. Out of 7,000,000 horsepower developed in the United States in 1913, 20 companies of groups of interests controlled 2,710,886 developed horsepower and 3,556,500 undeveloped horsepower, or a total of 6,267,386 horsepower. According to a table compiled by the Forest Service, out of a total of 1,135,400 developed horsepower in the States of California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, and Washington, 1,023,700 horsepower is owned by large corporations, while but 111,700 horsepower is owned by small developers. In the State of California, 92 per cent of the developed power is owned by the large corporations and but 8 per cent by small developers. In Oregon, 90 per cent is owned by large companies and 10 per cent by the small developers. In the State of California, one corporation owns 27 per cent of the total developed horsepower in the State and two groups own 57 per cent of the total development.

"WHAT HAS THE FEDERAL GOVERNMENT DONE WITH ITS SITES?

"As stated, it has never been the policy of Congress to dispose of these sites in perpetuity, the laws providing simply for the issuance of limited or revocable permits. Therefore, while some valuable sites have been acquired by private owners through the filing of scrip or entry of the lands under some one of the public-land laws not intended to apply to the development of such a resource, the major portion of lands valuable for this development remains in Federal ownership. A conservative estimate places the total available horsepower at 35,000,000, of which not exceeding 7,000,000 have been developed. Of the total undeveloped horsepower, 28,000,000, about 74 per cent, is in what are known as the public-land States, and 42 per cent of the total is within Government forest reserves. It is thus apparent that the extent and value of this undeveloped resource is large enough to require most careful consideration and disposition.

"HOW DO OTHER GOVERNMENTS DEAL WITH POWER SITES?

"The laws of the Dominion of Canada authorize the issuance of licenses for 21 years, renewable for three further terms of like extent, at a fixed fee, payable annually, and provides that upon the termination of a license the works may be taken over by the Government upon payment of the value of the actual and tangible works and of any lands held in fee in connection therewith. It is expressly provided that the value of the rights and privileges granted or the revenues, profits, or dividends being, or likely to be, derived therefrom shall not be taken into consideration.

"The Province of Ontario authorizes a lease of water-power privileges for periods not exceeding 20 years, with the right of renewal for two further and successive terms of 10 years each, upon the rental stated in the lease and upon such other terms and conditions as the minister may prescribe. Upon the termination of the lease the privileges, together with all dams and other structures or works made or erected by the lessee in connection therewith, revert to and become the property of the Crown, subject, however, to the right of the lessee to remove machinery, failing in which removal it shall become the property of the Crown, also subject to payment of compensation to the lessee of such sums as the minister may deem proper for buildings or structures

of a permanent character and necessary or useful for the development or utilization of the water privilege.

"In New Brunswick the lieutenant governor in council is authorized by law to lease or sell rights and privileges for water-power development upon such terms and conditions as to development and utilization as he may prescribe.

"In the Provinces of Manitoba, Saskatchewan, Alberta, Yukon, and Northwest Territory the governor in council is authorized to make regulations for the diversion, taking, or use of water for power purposes and for the construction of power development works on public lands. He is also authorized to fix the fees, charges, rents, royalties, or dues to be paid, and the rates to be charged.

"In Queensland the law authorizes water-power development under special license, subject to such conditions and provisions as the governor in council shall determine, for periods of 10 years.

"In France power plants on national lands are developed under concessions for periods not exceeding 50 years, at the expiration of which period the grantee, if concession be not renewed, is required to restore the premises to the conditions previously existing or to deliver the plant to the nation without indemnity, as the nation may elect. The amount of rental to be paid is required to be fixed in the articles of concession.

"In Norway the law authorizes the granting of concessions for power development for a minimum of 60 years and a maximum of 80 years. When the concession expires the land, with improvements and works, reverts to the Government. Various payments for the privilege are required, among them being the establishment of a poor fund under public control, the surrender of a certain percentage of produced power to the community, also to the General Government, and in certain specified developments there may be assessed a yearly tax of 1.25 crowns for every horsepower over 500.

"REGULATION AND CONTROL OF POWER DEVELOPMENT AND TRANSMISSION IN THE SEVERAL STATES.

"The States of Arizona, Wisconsin, Michigan, Missouri, New Mexico, Kansas, Oklahoma, Montana, Idaho, Nevada, California, Oregon, and Washington have provided public-service commissions or bodies vested with more or less authority to regulate and control public-service corporations. The other States containing public lands and reservations do not appear to have provided for such control or regulation, nor has same been provided for the Territory of Alaska. In some of the States named as having public-service commissions, it is represented that the control and supervision is entirely inadequate. Be that as it may, legislation to be enacted should provide for appropriate control and regulation, either by the States or by the Federal Government where the States do not act, where the development is of such a nature and extent as to pass beyond the jurisdiction of a single State. Water-power transmission does not stop at State lines. Power development and long-distance transmission connect widely separated localities and communities. The public interest requires that there be no hiatus. Where State control ceases or does not exist, Federal control is essential to protect the people.

"WATER POWER OF THE WEST CAN NOT BE DEVELOPED UNDER THE PRESENT LAW.

"It is generally conceded that the water-power resources upon the public domain can not be developed under existing laws, because of the uncertain tenure involved by revocable permits; (*a*) because the engineer and the promoter fear to embark an enterprise under such conditions; (*b*) because the capitalist will not loan money upon such security; (*c*) because the consumers can have no positive assurance that they will be supplied for a fixed and definite period.

"It is an established fact that numerous responsible persons who have obtained permits to develop power sites under the existing law have been unable to construct because of the foregoing.

"WHAT SHOULD THE NEW LAW BE?

"The ideal law is one which will give to the developer and investor an assured tenure for a period long enough to justify his investment and reward his efforts. It must be under conditions known to him in advance, so that his plans may be laid accordingly. It must encourage development without losing sight of the needs of the consumer and the rights of the people.

"The gift of a franchise means, generally, the gift of additional profit to the promoter. Its benefit is not passed on to the consumer. There is nothing connected with such a gift which obligates or induces the developer to make low rates to the consumer, or which obligates him to deal more favorably with the general public. Municipalities have generally abandoned the practice of giving away franchises. The people expect and demand that valuable rights shall yield something in the way of direct return. A nominal sale charge is equally objectionable. It has the appearance of yielding a return, while in fact it is more trouble than it is worth, and therefore imposes a burden upon the developer while yielding nothing, or substantially nothing, to the people. Such a nominal charge is also worthless as a regulative measure.

"WHAT IS THE VALUE OF PUBLIC LANDS VALUABLE FOR RESERVOIR SITES?

"Nothing as agricultural lands, because, generally speaking, such lands are in canyons or mountainous regions, valueless for agriculture, of little value for grazing, and of little value for other purposes than the development of electric power. Five per cent of this value would be negligible and not worth collecting. One dollar and twenty-five cents per acre has been suggested as the agricultural value of public lands, because homesteaders may commute at that figure. That does not represent a sale of lands. It is an arbitrary price exacted by law as an evidence of good faith in connection with the submission of final proof on a homestead prior to the expiration of the ordinary homestead period. The present real value of a tract of land for agricultural purposes could only be determined through a method of advertisement and open competitive bidding. The Government does not dispose of other lands or values upon this theory at all. Timberland is disposed of at a price fixed after careful examination and appraisement, the sale price being based on the timber value. Coal land is disposed of on an appraisement based upon the amount of the coal content and a royalty of approximately 2 cents per ton.

"The true value of power sites is, then, not the nominal figure of $1.25 per acre, not their value as agricultural lands, timberlands, or coal lands, but their value as dam sites, reservoir sites, or for other uses in connection with water-power development, and for this purpose the larger and more valuable sites are worth millions of dollars. In one existing development the corporation valued the lands acquired for its dam, reservoir site, and plant at $26,333,000, as evidenced by bonds and stock. A private owner would ask not less than 5 per cent of the value of such lands as power sites. Should the Government do so? In my opinion it should not, because that would prevent development or impose an undue burden upon the consumer; nor should the Government give away lands worth millions of dollars for power sites, because that would be unwise, unbusinesslike, and in derogation of the rights of the general public. Such lands can not be sold because developers, except in rare instances, could not or would not pay the real value of the lands as power or reservoir sites. If they did they would endeavor to secure return by imposing higher rates upon the consumers, and in that case would doubtless be permitted to impose higher rates by public-service commissions, on the ground that it represented return upon actual investments. To give the lands away is therefore not right. To sell them at their real value is impracticable and would injure the consumer.

"Why not, then, secure development under a plan which will be fair to the developer, the investor, the Government, and the consumer, by lease or permit for a definite period on conditions fully known in advance? The word 'lease' is hardly properly descriptive of the plan which should be adopted. It is not a lease in the ordinary meaning of that term. It is rather a permission to use—a contract or agreement for the development and use of sites.

THE FIXED PERIOD.

"Careful consideration has been given to the question of what period should be covered by such a permit or agreement, and the general consensus of opinion seems to be that 50 years is the proper one, having in mind the rights and interests of all concerned. This, subject to renewal in the event that the Government and State or the municipality does not desire to take over the plant at the expiration of the original permit period, or for good and sufficient reason it be not found advisable to renew the permit to the original permittee.

"As already shown, other governments make such leases or concessions for periods varying from 10 to not exceeding 80 years. The State of Kansas provides that franchises to those developing or furnishing electric light, power, or heat to any city in that State shall not exceed for a longer period of time than 30 years from the date of a grant or extension thereof. The State of Wisconsin authorizes an indeterminate permit and provides for the taking over thereof by a municipality at any time upon due notice and proceedings. The consensus of opinion on the part of those interested in power development seems to favor, however, a fixed and definite permit rather than the right in the Government, State, or municipality to take over the plant at any time during the period of use and development.

"It is self-evident, however, that the right should be retained to take over the works upon proper terms and conditions, in order that the same may be taken over and operated by the States or municipalities, and to do this the law and the permit must provide such terms and conditions as will be fair to the permittee, and at the same time not forever preclude the exercise of this right by the State or municipality, because of the impossible amounts required to be paid as a prerequisite to the recapture. It is evident that for the use of the public lands to be granted no payment should be made to the permittee on that account. It is further evident that for lands acquired by the permittee during the course of the development payment should be made, but that payment should not include the unearned increment created by the community and not by the power developer, nor should it include payment for 'good will,' franchise values, or intangible elements.

"The laws of the State of Illinois provide that any city is authorized to acquire, construct, own, and operate public utilities and to lease the same for periods not exceeding 20 years. They further provide that there may be reserved in any grant the right to take over all or any part of the property used in operation of a public utility at or before the expiration of the grant, upon terms and conditions provided in the grant, or to grant to a third party, at the option of the city, on the same terms.

"The laws of Massachusetts authorize the acquisition by cities or towns of municipal electric plants, upon payment therefor, specifically providing that the value in so taking over shall be estimated without 'enhancement on account of future earning capacity or good will, or of exclusive privileges derived from rights in the public streets.'

"The State of Wisconsin, as already stated, authorizes the issuance of an indeterminate permit for electrical power, but provides for the taking over of such plants by municipalities at any time, upon payment of just compensation, to be determined by the public-utilities commission and according to terms and conditions fixed by the commission. Every such public utility is required to sell such property at the value and according to the terms and conditions determined by the commission, subject to court review.

"The laws of Arizona, California, Maryland, Nebraska, New Jersey, New York, and Ohio prohibit the capitalization of any franchise or permit beyond the amount actually paid to the State or to a political subdivision thereof as a consideration of the grant of such franchise or right.

"None of the laws of the other States or countries, in so far as I have been able to ascertain, authorize or provide for the payment, upon the taking over or recapture of a public utility, on account of good will, franchise value, or other intangible elements. Therefore the provisions of section 5 of the Ferris bill appear to be, in this respect, in full accord with the general practice.

"WHAT PRICE OR CONSIDERATION SHOULD BE EXACTED?

"As already intimated, a nominal charge of 5 per cent of the agricultural value of the land would be useless and inadequate, and would not justify the trouble and cost of collection. The gift of such a resource would not inure to the benefit of the consumer or of the general public, but to the promoter. Furthermore, the authorities agree that a charge of some kind should be imposed as a regulative measure. The Government could, if it followed the precedent of private owners, charge not less than 5 per cent of the value of the lands for power purposes, but this would be a heavy charge upon the developer, which he, in turn, would endeavor to recover from the consumer.

"We should charge nothing at first, during the period while the plant is building and finding a market, except, perhaps, a charge merely sufficient to pay the expenses of administration. This period of nominal charge might be 5 or 10 years. The charge should then gradually and moderately increase as the years go by, according to a scale fixed in the lease or permit at the outset, and in every instance premium should be put on low rates to the consumer. In other words, the lower the rate to the consumer the lower should be the charge on the part of the Government; also some premium should be placed upon the full development of the power possibilities of a given site. The main object, however, is to secure development for the benefit of the consumer, and the regulative charge can be readily fixed upon a sliding scale which will go up or down, according to the treatment of the consumer by the producer. In this and certain other respects the Ferris

bill (H. R. 16673) vests some discretion in the Secretary of the Interior. This is necessary and essential, in order that the measure may be workable and may be adapted to the varying conditions of different developments and localities. An arbitrary and fixed rule would, in many instances, work hardships or injustice and prevent development of sites. An examination of the laws of foreign countries and of the several States which have laws governing the operation of public utilities shows that a large amount of discretion is vested in the public-service commissions, governors, or other executive officers charged with the administration of such matters.

"DISPOSITION OF MONEY DERIVED FROM POWER PERMITS.

"The expenses of administration, which will be smaller than is generally believed, should first be paid. The balance should go to the development of the resources of the States wherein the sites are located, and ultimately, in part, to such States and in part to the General Government. The vital welfare of most of the public-land States where valuable power sites are located is bound up with power development and irrigation. All returns over administrative expenses should therefore go into the reclamation fund for the irrigation of arid lands. Upon return of the money to the Treasury, as provided in the reclamation law, one-half of the sums so returned should go to the State within the boundaries of which the power is generated and developed.

"The Ferris water-power bill (H. R. 16675) seems to meet the present situation as nearly as present knowledge and conditions will permit.

"It secures development (*a*) by certain and fixed tenure; (*b*) by reasonable charge for the privilege given; (*c*) upon conditions known in advance.

"It protects public interests (*a*) by encouraging low rates to the consumer; (*b*) by reasonable regulative charges; (*c*) by contribution to development of other resources; (*d*) by ultimate contributions to the State treasuries.

"It looks to the future by providing that at the end of 50-year periods these sites, with their now unknown possibilities and values, may be taken over by the Government, to be disposed of to States, municipalities, or individuals, or held under such conditions as the future shall disclose to be wisest and best.

"EVILS TO BE GUARDED AGAINST.

"In legislation of this kind among the evils to be guarded against are—

"(1) Monopoly.

"(2) High rates to the consumer.

"(3) Inability to secure restoration of the public lands to public use.

"The first evil is guarded against by the specific provisions of the Ferris bill and by the Sherman law. The second is guarded against by the Ferris bill and Federal and State regulation. The last is protected against by the provisions of the Ferris bill, which would become effective in each development at the end of 50 years.

"CONCLUSION.

"The enactment of such legislation for the development of water power is demanded by engineers, developers, and investors; by the general public which would be served by power development; by all the people in the United States, for all would benefit directly or indirectly from the crops produced and industries created by means of power generated and which is now going to waste."

In conclusion, the committee believes the measure as here reported to meet the needs of the times and the urgency of the situation, and recommends its passage as amended according to this report.

Mr. NORRIS. I ask unanimous consent that there be printed as a Senate document in parallel columns a comparative print of the bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes, showing the bill as passed by the House and the bill as now pending before the Senate. [S. Doc. No. 676.]

The PRESIDING OFFICER. Without objection, the order will be made as requested.

Mr. TOWNSEND. Mr. President, I ask that the minority report be read.

The PRESIDING OFFICER. The Secretary will read the views of the minority, as requested.

The Secretary proceeded to read the views of the minority, as follows:

Mr. WORKS, from the Committee on Public Lands, submitted the following views of the minority:

We are unable to join the majority of the committee in recommending the passage of H. R. 408 as amended.

The bill, although modified in many material particulars, is subject to objections which, in our judgment, are fundamental. It is the first step in a policy which proposes to and unquestionably will commit the Federal Government to the leasing of the national domain, and which we believe to be both unwise and inexpedient. It reverses the policy of alienating the public domain, without regard to its character, to citizens of the United States and those intending to become such, under which the great West was peopled and has flourished. A corollary of the new régime will be the permanent retention of Government title to these vast areas of public domain yet undisposed of. Stated concisely, the Government proposes to establish the relation of landlord and tenant as regards this domain, between itself and those of its citizens who hereafter apply for the acquisition of any of the unsold lands of the Government, and this bill is to be the pioneer in that direction.

It was decided more than half a century ago that the doctrine applying to lands in other countries, which reserved to the Crown precious metals and perhaps other mineral contents in the general domain, has no application to a country like ours. This doctrine never had any foothold in the United States. Our policy of homesteads and preemptions was followed by the enactment of statutes relating to mineral lands of the United States, under which prospecting and location were so encouraged that vast treasures of gold, silver, lead, copper, zinc, cinnabar, iron, oil, gas, saline, and other valuable deposits were discovered and developed, thereby peopling the waste places of the continent and adding to the general store of the national wealth.

The climatic conditions prevailing in the arid and semiarid regions of the West long ago required the abolition of the old doctrine of riparian rights as applied to the watercourses in that region, and the substitution therefor of the right of ownership of said waters by appropriation and use for beneficial purposes. This change of the law of ownership of waters found early expression in enabling acts, constitutions, statutes, and judicial decisions, whereby the ownership of the waters in these streams was vested in the States respectively, subject to such right of appropriation. This ownership was exclusive for the purposes mentioned subject only to such modifications as might be imposed by the General Government through its jurisdiction over navigable streams, an overlordship which is entirely consistent with the full enjoyment of the use of the waters and watercourses in the arid and semiarid portions of the country.

This doctrine has been so frequently announced and supported in the Senate as to make quotation of authority unnecessary. Nevertheless, a reference to the great case of Kansas *v.* Colorado (206 U. S., p. 46) may not be amiss. That action was instituted by the State of Kansas against the State of Colorado to restrain the defendant from diverting the waters of the Arkansas River from its natural course because it was said to diminish its natural flow across the boundary and into the State of Kansas to the injury of her citizens. The United States sought to intervene as the owner of large tracts of public domain and because of its consequent asserted right to make such legislative provision as might be needful for the reclamation of its arid lands, and for that purpose to appropriate the accessible waters. This right of intervention was denied, and the doctrine recognized that each State had full jurisdiction over the land within its borders, including the beds of streams and their wafers. On page 92 of the decision the court declared:

"As to the lands within the limits of the States, at least of the Western States, the National Government is the most considerable owner, and has power to dispose of and make all needful rules and regulations respecting its property. We do not mean that its legislation can override State laws in respect to the general subject of reclamation. While arid lands are to be found mainly, if not only, in the Western and newer States, yet the powers of the National Government within the limits of those States are the same (no greater and no less) than those within the limits of the original 13; and it would be strange, if in the absence of a definite grant of power, that the National Government could enter the territory of the States along the Atlantic and legislate in respect to improving by irrigation or otherwise the lands within their borders."

Statutes in all the public-domain States were long ago enacted, providing how and for what purposes the waters of their streams might be appropriated. Generally speaking, these appropriations are for domestic, or agricultural, or manufacturing purposes, or for all of them combined, the priority of the uses being in the order named. Rights of way for these appropriations may be had as a matter of course either by a purchase or by condemnation, or both, and this right is, or should be, enforcible against lands held in public as well as in private ownership, excepting, of course, such lands as are dedicated to or used for governmental purposes. The proposed legislation, however, by leasing and thereafter controlling power sites necessary to carrying into effect State appropriations for hydroelectric purposes not only disregards the local laws upon the subject of appropriation and use of waters (although ostensibly recognizing their existence), but in effect dominates and controls the waters of the States and derives a revenue from their use. This is confiscation of the most valuable asset of the arid and semiarid States, and the inauguration of a policy which in our judgment is wholly indefensible.

We are aware that the truth of this contention is vigorously challenged. It is true that the bill does not accomplish this purpose in express terms, but such will be the inevitable consequence of its enactment and operation. This is too high a price for the State to pay for its right to use what it already owns. The policy once inaugurated will be difficult to abandon.

Treading upon the heels of this measure is another to be hereafter reported proposing to inaugurate a vast system of tenancy in all the lands of the United States carrying metals or minerals, except those covered by the mining act of 1872. And the latter will inevitably come under the new system of administration once it has been initiated, there being no logical reason why a system demanded by one class of deposits should not be applied to all of them.

The basis of this new departure in land legislation has arisen from abuses in the administration of previous and existing land laws. These have resulted in the private acquisition of millions of acres of the public domain, but all of them have arisen out of or been based upon national laws through the agency of national administration. To make amends for the crimes of the past and for which it is largely responsible, the Government proposes not to punish the criminals or to deprive them of their booty, but to discipline the remainder of its citizens by converting them into a vast tenantry paying tribute to the Government and subject to ouster and eviction at the instance of Government agents and inspectors. The innocent always suffer for the offenses of the guilty, but it is hardly just that this result should be deliberately fixed by acts of legislation involving vast areas of territory and several millions of people.

Apart from the segregation from State jurisdictions and Federal control of millions of acres of land within their boundaries and the transformation of the National Government into a landlord and those thereafter dealing with it into tenants is the effect of the proposed system upon local self-government. If it be true that this feature of Anglo-Saxon institutions is a fundamental one, it must be true that any system, however seemingly necessary, which injures or destroys the principle is pernicious. We affirm that local self-government and Federal landlordism are wholly irreconcilable, and that if the latter prevails the former will ultimately disappear.

Primarily the assumption by the Government of the status of lessor involves absentee landlordism, with all its objections and abuses. The Government has its headquarters in Washington, where its powers are concentrated and from which they radiate. Almost the whole of its public domain lies west of the one hundredth meridian and from 1,750 to 3,000 miles from the Capital. Applicants for leases must present their petitions and requests to the Secretary of the Interior, and these will necessarily undergo the inspection of several bureaus and many subordinates. The leases when made must be under the supervision of the department, and this will find expression in the persons of local inspectors, agents, accountants, and other governmental employees, each intent upon magnifying the importance of his position and his own invaluable services in connection therewith. Demands, complaints, notices, objections, and criticisms will multiply as these activities increase, and they will increase in proportion to the ambitions of the officeholders and the political influence of the office seeker. All appeals must be ultimately reviewed and determined at the seat of government but at the expense of the appellant. The

business of the Federal courts, already burdened beyond their capacity, will be multiplied. Such a system must inevitably weaken, if indeed it does not permanently impair the Government, the police power, and the laws of the States and municipalities, thus transferring to the National Government, through its ownership of public lands, a jurisdiction and character of business which it was never designed to and which it can not perform, either with justice to itself or satisfaction to its tenants.

Moreover, the expense attendant upon the administration of this proposed policy will be far in excess of the revenues to be derived from it. If the system were absolutely essential to the public welfare, the problem of expense would not be important, but when we consider that it is neither necessary nor desirable, the cost of administration is not only an important but a serious factor of the situation. Prophecies are both dangerous and unreliable, yet we venture the prediction that before the proposed system has been in operation five years the Government expense of administration will exceed its revenues from two to three fold. It is useless; it is un-American; it is needless; nay, it is dangerous to embark the Government upon such an enterprise.

We think it may be maintained that the sole duty of the Government with regard to its public domain is to so dispose of it that the sovereignties where the same is situate may control it exactly as they control all other domain, subject to their laws and contributing its proportion of the public burden.

In making such disposition every precaution should be exercised against its monopolization by the few; and while it is not to be doubted that such is the purpose of the Government in the proposed legislation, it is remarkable that existing land and power monopolies in the public-domain States have been the direct outgrowth of national administration, for which the States were not responsible and which, in our judgment, would have been preventable under State control.

The question as to the concrete course which the Government should pursue with regard to its lands is a pertinent one. My opinion, long entertained, is that the national domain should be transferred to the States, respectively, where the same is located, the title to be safeguarded by conditions whose disregard will mean forfeiture. The people of those Commonwealths can, if experience is availing, be better trusted to administer these lands than the National Government. Their governments are within the territory affected. Its proper development and settlement are matters of immediate and local concern, and, while abuses inseparable from our methods of administration might manifest themselves at times, their correction would be speedy and their consequences inconsiderable.

The pending bill will not prevent monopolization of water power. On the contrary, it will perpetuate the existing one. In the first place, we do not think that private enterprise will find anything attractive in its provisions. If this be so, development will not follow; certainly not very rapidly. The plants already established will thus be made secure in their respective territory, and, with all remaining power tied up, consequently enjoy a business which customers must patronize, whatever the cost.

But if we should err in this forecast we see nothing in the bill, nor, indeed, in any bill which the wit of man can devise for the development of hydroelectric power by private capital that can effectually prevent consolidation and monopoly. Indeed, nothing short of public ownership will prevent it. The experiences of the Government in legislating for the abolition of trusts and in suits brought to enforce it have not been satisfactory in other fields of effort, and we fear it will be less so when directed to an industry which is a natural monopoly, whose output is a necessity of life, and the competition of whose producers has up to this time served but to increase the cost of the product to the consumer. The price which this bill requires the Western States to pay for a possible competition in the busienss of devloping electric energy, however effective, is too great.

Mr. WALSH. Mr. President, I think it proper to have recorded at this time the fact that while this report is being read there are just five Senators present upon the other side of the Chamber.

The PRESIDING OFFICER. Does the Senator desire a call of the Senate?

Mr. WALSH. No.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The roll will be called.

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

Bankhead	Hollis	Norris	Smith, Mich.
Borah	Husting	Oliver	Smith, S. C.
Chamberlain	James	Overman	Smoot
Chilton	Johnson, S. Dak.	Owen	Sterling
Clapp	Jones	Page	Stone
Culberson	Kenyon	Pittman	Sutherland
du Pont	Kirby	Poindexter	Swanson
Fletcher	Lea, Tenn.	Ransdell	Thomas
Gallinger	Lewis	Reed	Vardaman
Gronna	McLean	Robinson	Wadsworth
Harding	Martine, N. J.	Saulsbury	Walsh
Hardwick	Myers	Shafroth	Watson
Hitchcock	Nelson	Sheppard	Williams

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

The PRESIDING OFFICER. The call of the roll discloses that 52 Senators have answered to their names. A quorum is present. The Secretary will proceed with the reading of the report.

The Secretary resumed the reading of the views of the minority, as follows:

It involves the permanent surrender of their sovereignty over vast stretches of territory, the transfer of their waters to the General Government, and the substitution of a swarm of Government employees for public servants of their own selection. The bill should be indefinitely postponed.

C. S. THOMAS.
M. A. SMITH.

ADDITIONAL VIEWS OF MESSRS. WORKS, SMOOT, AND CLARK OF WYOMING.

We agree generally with the views of the Senator from Colorado [Mr. THOMAS] and the Senator from Arizona [Mr. SMITH]. When this bill, substantially in its present form, was reported to the Senate at its last session we submitted an adverse report, pointing out our objections to the bill. We now make part of this minority report the statement of our views as then expressed, with some slight changes made necessary by amendments made to the bill as now reported, as follows:

[Senate report 898, part 2, Sixty-third Congress, third session.]

Mr. WORKS, from the Committee on Public Lands, submitted the following views of a minority:

The report of the majority of the committee states the object of the bill as follows:

"The object of the measure is the better and speedier development for useful and beneficial purposes of the great undeveloped water power of the country, now lagging on account of inadequate and inefficient laws."

If this were the real object and purpose of the bill and this object would be attained even in reasonable degree and without unwarranted and dangerous encroachments by the National Government on the constitutional rights of the States, the signers of this minority report of the committee would not be found contending against its enactment, as they represent a constituency that is vitally interested in the development of all natural resources and their application to beneficial uses, freed as far as possible from limitations, obstructions, or unnecessary burdens of any kind. In any attempt to bring about such legislation we should carefully consider:

1. The rights of the States in the waters flowing through them in the natural streams and to regulate and control their appropriation, diversion, and use.

2. The limitations of the National Government in dealing with the appropriation, regulation, and use of these waters.

3. The rights of the people of the States to the use of the waters of the streams, as provided by law, commonly called the consumers.

But after all and in the last analysis it is the consumer that should be protected and his individual right to the use of the water maintained and preserved under reasonable rules and regulations that will insure the greater and more beneficial use of the water for all legitimate purposes.

The western semiarid States, where irrigation is necessary to their full development and prosperity, are peculiarly and vitally interested in making every drop of water beneficially useful, and in supplying every acre of land possible with the water without which much of their lands are sterile and unproductive. This being true it must be seen that these States are interested and will support any just law that will extend the use of water either for the irrigation of their land or the development of power. And if it were believed by us that this bill, if it should become a law, would have that effect without violating any of the fundamental and constitutional rights of the State it would receive our earnest and united support. It is because we are fully convinced by our own knowledge of the subject and the testimony taken at the hearings before the committee that the bill will not conduce to the better or speedier development of the water power of the country, but will hinder and retard such development, and that its real object, purpose, and effect is to usurp by the National Government the rights and jurisdiction of the States in and over the flowing waters of the streams to the detriment of the States and to water consumers that we earnestly oppose the passage of the bill. And this attempt at what seems to us to be revolutionary, detrimental, and unwise legislation is so far-reaching and important that we feel it to be our duty to lay before the Senate our reasons for opposing the passage of the bill.

In dealing with the subject we assume that certain fundamental principles of law, controlling in their influence as affecting such legislation as this, have been firmly and unalterably established by both Federal and State decisions. They are as follows:

1. The ownership of flowing water and the right to dispose of and to regulate and control the use thereof within their borders belong exclusively to the States as a part of their sovereign power, subject only, in case of navigable streams, to the power of the Federal Government to regulate and promote commerce between the States.

Mr. WALSH. Mr. President, that part of the report from page 7 to page 17 consists of a discussion of legal principles, elucidated by ample quotations from decisions of various courts. I think all will appreciate that that part of the report ought to be studied with some care by those Senators to whom it is of interest, and that the reading of it would serve no useful purpose. At page 17 the author of the report continues a discussion of his reasons for opposing the bill, commencing with the language:

Having demonstrated, by reference to the decided cases—

And so on. I ask unanimous consent, accordingly, that the reading of the report down to the first paragraph commencing on page 17 be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. WALSH. I think the Senator will find it as I have stated.

Mr. TOWNSEND. I think it is quite important that this should be read. The reference that is appended to No. 1 may be printed in the RECORD and the reading omitted between paragraphs 1 and 2.

The matter referred to is as follows:

Pollard's Lessee *v.* Hagan (3 How., U. S., 212); Withers *v.* Buckley (20 How., 84); Escanaba Co. *v.* Chicago (107 U. S., 678); Kansas *v.* Colorado (206 U. S., 46); Illinois Central Railroad *v.* Illinois (146 U. S., 387); Shively *v.* Bowlby (152 U. S., 1); Sands *v.* Manistee River Improvement Co. (123 U. S., 288); Veazie *v.* Moor (14 How., U. S., 568); Hudson Water Co. *v.* McCarter (209 U. S., 349); City of New York *v.* Miln (11 Pet., 102); Gutierras *v.* Albuquerque (188 U. S., 545); County of Mobile *v.* Kimball (102 U. S., 691); Cardwell *v.* American Bridge Co. (113 U. S., 205); Willamette Iron Bridge Co. *v.* Hatch (125 U. S., 1); United States *v.* Railroad Bridge Co. (6 McLean, 517).

Mr. TOWNSEND. I think the balance of it had better be read.

Mr. WALSH. If the Senator objects to my request, I would be glad if he will agree that the quotations be omitted.

Mr. POMERENE. I am quite sure it ought to be read, because I never heard the Senator from Michigan express himself so seriously.

The PRESIDING OFFICER. The Secretary will proceed with the reading.

Mr. TOWNSEND. It is understood that those references are to be printed in the RECORD in connection with the reading.

The PRESIDING OFFICER. They will be included, as they appear in the report.

The Secretary resumed the reading, and, omitting the parts indicated, read as follows:

2. That as a consequence the United States have no such right either of ownership, regulation, or control. (Pollard's Lessee *v.* Hagan, 3 How., U. S., 212; Kansas *v.* Colorado, 206 U. S., 46; Ward *v.* Race Horse, 163 U. S., 504.)

3. The rights of consumers to the use of the water are dependent upon State and not Federal laws and subject to State regulation and control, exclusively, unless the use is interstate. (Kansas *v.* Colorado, 206 U. S., 46; Osborne *v.* San Diego Land & Town Co., 178 U. S., 22; Los Angeles *v.* Los Angeles Water Co., 177 U. S., 558; St. Anthony Falls Water Power Co. *v.* St. Paul Water Commissioners, 168 U. S., 349; Bean *v.* Morris, 221 U. S., 485.)

4. The Federal Government owns the public lands as a proprietor only and not in its sovereign capacity. (Pollard's Lessee *v.* Hagan, 3 How., U. S., 212; Ward *v.* Race Horse, 163 U. S., 504; Woodruff *v.* North Bloomfield Gravel Mining Co., 18 Feb. Rep., 753; Boggs *v.* Merced Mining Co., 14 Cal., 279, 376.)

5. The Federal Government has no power or jurisdiction to fix rates or regulate the use or disposition of water within a State. (Sands *v.* Manistee River Improvement Co., 123 U. S., 288; Osborne *v.* San Diego Land & Town Co., 178 U. S., 22.)

6. The power to fix rates or regulate the use of water not given to the Federal Government by the Constitution can not be bestowed by act of Congress as a condition to the leasing or sale of the public lands. (New Orleans *v.* United States, 10 Pet., 662, 736; Leovy *v.* United States, 177 U. S., 621.)

7. Absolute property in and dominion and sovereignty over the soils under the tidewaters in the States are reserved to the several States. (Kansas *v.* United Land Association, 142 U. S., 161.)

8. Public lands owned by the United States are not subject to taxation by the States. (California *v.* Shearer, 30 Cal., 645, 655, 658; Van Brocklin *v.* Tennessee, 117 U. S., 151.)

9. The power of Congress to legislate or exercise sovereignty over lands within a State is confined to lands acquired by the Federal Government for certain specific purposes, and with the consent of the State. (United States *v.* Cornell, 2 Mason, 60; Woodruff *v.* North Bloomfield Gravel Mining Co., 18 Fed. Rept., 753.)

The far-reaching effects of this proposed legislation and the evident attempt of the Federal Government to usurp the sovereign powers of the States move us to consider more extensively the effect of the principles above laid down and the cases supporting our views. In doing so we rest our views and conclusions largely upon the following premises:

1. Before the formation of the present Government all sovereign powers were vested in the several States within their borders.

2. The Federal Government formed by the States has only such powers as the States bestowed upon it by the Constitution. All others are reserved to the States.

3. The powers thus granted do not include the power to regulate or control the use of the waters of streams flowing within a State except to maintain and regulate commerce between the States, with foreign nations, and under treaties with the Indians.

4. The ownership of land within a State as a proprietary owner and not for governmental uses and purposes gives the Federal Government no power or jurisdiction to regulate or control the use of the waters of a stream on which the land borders.

5. Therefore any legislation attempting to vest any such power in the Government will be unconstitutional and void.

That the bill under consideration does provide for such usurpation of power we will show further along.

Having laid down these general principles that should guide and control our action, we quote, for the information of the Senate, some of the language of the courts on the subject which we regard as conclusive.

In Pollard's Lessee *v.* Hagan (3 How., 212) the question was as to the title to lands covered by the waters of a navigable stream and involved the power and jurisdiction of the United States Government over such lands. The court said:

"The right which belongs to the society——

Mr. WALSH. I understood the reading of the quotation was to be omitted.

Mr. TOWNSEND. The Senator misunderstood me. I want the balance of the report read.

The PRESIDING OFFICER. There is objection, and the report will be read as it appears.

The Secretary resumed and concluded the reading of the views of the minority, as follows:

The court said:

"The right which belongs to the society, or to the sovereign, of disposing in case of necessity, and for the public safety, of all the wealth contained in the State, is called the eminent domain. It is evident that this right is, in certain cases, necessary to him who governs and is consequently a part of the empire, or sovereign power. (Vat. Law of Nations, sec. 244.) This definition shows that the eminent domain, although a sovereign power, does not include all sovereign power, and this explains the sense in which it is used in this opinion. The compact made between the United States and the State of Georgia was sanctioned by the Constitution of the United States, by the third section of the fourth articles of which it is declared that 'New States may be admitted by the Congress into this Union, but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned, as well as of Congress.'

"When Alabama was admitted into the Union, on an equal footing with the original States, she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession and under the control of the United States, for the temporary purposes provided for in the deed of cession and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands. And, if an express stipulation had been inserted in the agreement, granting the municipal right of sovereignty and eminent domain to the United States, such stipulations would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted.

"By the sixteenth clause of the eighth section of the first article of the Constitution power is given Congress 'to exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.' Within the District of Columbia, and the other places purchased and used for the purposes above mentioned, the Nation and municipal powers of government of every description are united in the government of the Union. And these are the only cases within the United States in which all the powers of government are united in a single government, except in cases already mentioned of the temporary territorial governments, and there a local government exists. The right of Alabama and every other new State to exercise all the powers of government, which belong to and may be exercised by the original States of the Union, must be admitted and remain unquestioned, except so far as they are temporarily deprived of control over the public lands.

"We will now inquire into the nature and extent of the right of the United States to these lands, and whether that right can in any manner affect or control the decision of the case before us. This right originated in voluntary surrenders, made by several of the old States, of their waste and unappropriated lands to the United States, under a resolution of the old Congress of the 6th of September, 1780, recommending such surrender and cession, to aid in paying the public debt incurred by the War of the Revolution. The object of all the parties to these contracts of cession was to convert the land into money for the payment of the debt and to erect new States over the territory thus ceded; and as soon as these purposes could be accomplished the power of the United States over these lands as property was to cease.

"Whenever the United States shall have fully executed these trusts the municipal sovereignty of the new States will be complete throughout their respective borders, and they and the original States will be upon an equal footing in all respects whatever. We therefore think the United States hold the public lands within the new States by force of the deeds of cession, and the statutes connected with them, and not by any municipal sovereignty which it may be supposed they possess or have reserved by compact with the new States for that particular purpose. The provision of the Constitution above referred to shows that no such power can be exercised by the United States within a State. Such a power is not only repugnant to the Constitution but it is inconsistent with the spirit and intention of the deeds of cession. The argument so much relied on by the counsel for the plaintiffs, that the agreement of the people inhabiting the new States, 'that they forever disclaim all right and title to the waste or unappropriated lands lying within the said territory, and that the same shall be and remain at the sole and entire disposition of the United States,' can not operate as a contract between the parties, but is binding as a law. Full power is given to Congress 'to make all needful rules and regulations respecting the territory or other property of the United States.' This authorized the passage of all laws necessary to secure the rights of the United States to the public lands and to provide for their sale, and to protect them from taxation."

The case of Withers *v.* Buckley (20 How., 84) involved the powers of the Federal and State Governments over navigable streams. It also lays down the rule since adhered to that the fifth and other amendments to the Constitution were intended to modify the powers granted to the Federal Government and do not limit or affect the powers of the State.

Quoting from the language of Chief Justice Marshall in Barron *v.* Baltimore (7 Peters, 247–248), the court said:

"The question thus presented we think of great importance but not of much difficulty.

"The Constitution was ordained and established by the people of the United States for themselves; for their own government, and not for the government of the individual States. Each State established a constitution for itself, and in that constitution provided such limitations and restrictions on the powers of its particular government as its judgment dictated. The people of the United States framed such a government for the United States as they supposed best adapted to their situation and best adapted to promote their interests. The powers they conferred on this government were to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally, and we think necessarily, applicable to the government created by the instrument. They are limitations of power granted by the instrument itself, not of distinct governments framed by different persons and for different purposes.

"If these propositions be correct the fifth amendment must be understood as restraining the power of the General Government not as applicable to the States. In their several constitutions they have imposed such restrictions on their respective governments as their own wisdom suggested, such as they deemed most proper for themselves. It is a subject on which they judge exclusively and with which others interfere no further than they are supposed to have a common interest."

Again, reverting to the causes which led to the proposal and adoption of the amendments of the Constitution, the same judge remarks (ib., p. 250)—and these remarks embrace the whole series of articles adopted:

"In almost every convention in which the Constitution was adopted, amendments to guard against the abuse of power were recommended. These amendments demanded security against the apprehended en-

croachments of the General Government, not against those of the local governments.

"In compliance with a sentiment thus generally expressed, to quiet fears thus extensively entertained, amendments were proposed by the required majority in Congress and adopted by the States. These amendments contain no expression indicating an intention to apply them to the State governments. This court can not so apply them." (Vide also the cases of Fox *v.* The State of Ohio, 5 How., 411, and of The West River Bridge Co. *v.* Dix et al., 6 How., 507.)

And further, in considering an act of Congress relating to the subject, the court, in the same case, used this language:

"In considering this act of Congress of March 1, 1817, it is unnecessary to institute any examination or criticism as to its legitimate meaning, or operation, or binding authority, further than to affirm that it could have no effect to restrict the new State in any of its necessary attributes as an independent sovereign government, nor to inhibit or diminish its perfect equality with the other members of the Confederacy with which it was to be associated. These conclusions follow from the very nature and objects of the Confederacy, from the language of the Constitution adopted by the States, and from the rule of interpretation pronounced by this court in the case of Pollard's Lessee *v.* Hagan (3 How., p. 223). The act of Congress of March 1, 1817, in prescribing the free navigation of the Mississippi and the navigable waters flowing into the river, could not have been designed to inhibit the power inseparable from every sovereign or efficient government, to devise and to execute measures for the improvement of the State, although such measures might induce or render necessary changes in the channels or courses of rivers within the interior of the State, or might be productive of a change in the value of private property. Such consequences are not infrequently and indeed unavoidably incident to public and general measures highly promotive of and absolutely necessary to the public good. And here it may be asked whether the law complained of and the measures said to be in contemplation for its execution are in reality in conflict with the act of Congress of March 1, 1817, with respect either to the letter or the spirit of the act. On this point may be cited the case of Veazie et al. *v.* Moor" (14 How., 568).

The case of Escanaba Co. *v.* Chicago (107 U. S., 678) involved the right of the States to legislate respecting the use of navigable streams over which, for purposes of commerce between the States, the Federal Government has jurisdiction. In dealing with this question the court said:

"The power vested in the General Government to regulate interstate and foreign commerce involves the control of the waters of the United States which are navigable in fact, so far as it may be necessary to insure their free navigation, when by themselves or their connection with other waters they form a continuous channel for commerce among the States or with foreign countries. * * *

"But the States have full power to regulate within their limits matters of internal police, including in that general designation whatever will promote the peace, comfort, convenience, and prosperity of their people. This power embraces the construction of roads, canals, and bridges and the establishment of ferries, and it can generally be exercised more wisely by the States than by a distant authority. They are the first to see the importance of such means of internal communication and are more deeply concerned than others in their wise management. Illinois is more immediately affected by the bridges over the Chicago River and its branches than any other State and is more directly concerned for the prosperity of the city of Chicago, for the convenience and comfort of its inhabitants, and the growth of its commerce. And nowhere could the power to control the bridges in that city, their construction, form, and strength, and the size of their draws, and the manner and times of using them be better vested than with the State or the authorities of the city upon which it has devolved that duty. When its power is exercised so as to unnecessarily obstruct the navigation of the river or its branches, Congress may interfere and remove the obstruction. If the power of the State and that of the Federal Government come in conflict, the latter must control and the former yield. This necessarily follows from the position given by the Constitution to legislation in pursuance of it as the supreme law of the land. But until Congress acts on the subject the power of the State over bridges across its navigable streams is plenary.

"The doctrine declared in these several decisions is in accordance with the more general doctrine now firmly established—that the commercial power of Congress is exclusive of State authority only when the subjects upon which it is exercised are national in their character and admit and require uniformity of regulation affecting alike all the States. Upon such subjects only that authority can act which can speak for the whole country. Its nonaction is therefore a declaration that they shall remain free from all regulation."

Kansas *v.* Colorado (206 U. S., 46) involves directly the power of the Federal Government to legislate respecting the irrigation of arid lands. The question presented for decision is thus stated by the court:

"Turning now to the controversy as here presented, it is whether Kansas has a right to the continuous flow of the waters of the Arkansas River as that flow existed before any human interference therewith or Colorado the right to appropriate the waters of that stream so as to prevent that continuous flow, or that the amount of the flow is subject to the superior authority and supervisory control of the United States. * * *

"The primary question is, of course, of national control. For, if the Nation has a right to regulate the flow of the waters, we must inquire what it has done in the way of regulation. If it has done nothing, the further question will then arise, What are the respective rights of the two States in the absence of national regulation?"

In discussing this question, as stated by the court, it was said:

"Congress has, by virtue of the grant to it of power to regulate commerce 'among the several States,' extensive control over the highways, natural or artificial, upon which such commerce may be carried. It may prevent or remove obstructions in the natural waterways and preserve the navigability of those ways. * * *

"That involves the question whether the reclamation of arid lands is one of the powers granted to the General Government. As heretofore stated, the constant declaration of this court from the beginning is that this Government is one of enumerated powers. 'The Government, then, of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given or given by necessary implication.' (Story, J., in Martin *v.* Hunter's Lessee, 1 Wheat., 304, 326.) 'The Government of the United States is one of delegated, limited, and enumerated powers.' (United States *v.* Harris, 106 U. S., 629, 635.)

"Turning to the enumeration of the powers granted to Congress by the eighth section of the first article of the Constitution, it is enough to say that no one of them by any implication refers to the reclamation of arid lands. The last paragraph of the section, which authorizes Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof, is not the delegation of a new and independent power, but simply provision for making effective the powers theretofore mentioned. * * *

"We must look beyond section 8 for congressional authority over arid lands, and it is said to be found in the second paragraph of section 3 of Article IV, reading: 'The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.'

"The full scope of this paragraph has never been definitely settled. Primarily, at least, it is a grant of power to the United States of control over its property. That is implied by the words 'territory or other property.' It is true it has been referred to in some decisions as granting political and legislative control over the Territories as distinguished from the States of the Union. It is unnecessary in the present case to consider whether the language justifies this construction. Certainly we have no disposition to limit or qualify the expressions which have heretofore fallen from this court in respect thereto. But, clearly, it does not grant to Congress any legislative control over the States, and must, so far as they are concerned, be limited to authority over the property belonging to the United States within their limits. Appreciating the force of this, counsel for the Government relies upon 'the doctrine of sovereign and inherent power,' adding, 'I am aware that in advancing this doctrine I seem to challenge great decisions of the court, and I speak with deference.' His argument runs substantially along this line: All legislative power must be vested in either the State or the National Government; no legislative powers belong to a State government other than those which affect solely the internal affairs of that State, consequently all powers which are national in their scope must be found vested in the Congress of the United States. But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in, the grant of powers is in direct conflict with the doctrine that this is a Government of enumerated powers. That this is such a Government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting specific things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the tenth amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. It reads, 'The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively or to the people * * *.'

"One cardinal rule underlying all the relations of the States to each other is that of equality of right. Each State stands on the same level with all the rest. It can impose its own legislation on no one of the others and is bound to yield its own views to none. Yet, whenever, as in the case of Missouri *v.* Illinois (180 U. S., 208), the action of one State reaches through the agency of natural laws into the territory of another State, the question of the extent and the limitations of the rights of the two States becomes a matter of justiciable dispute between them, and this court is called upon to settle that dispute in such a way as will recognize the equal rights of both and at the same time establish justice between them."

The court then proceeded to consider and determine the rights, not of the Federal Government, but of the States of Kansas and Colorado, in the waters of the Arkansas River, a stream which flows through both States.

The case of Shively *v.* Bowlby (152 U. S., 1) involved the title to lands below high-water mark in the Columbia River in the State of Oregon. It is one of the leading cases on the subject of the powers of the Federal and State Governments over navigable streams. That the power and jurisdiction of the States over nonnavigable streams and lands lying under them is exclusive is not questioned. It is only where the question of navigation for interstate purposes is involved that any question of sovereign power in the States has ever been controverted. In this case the laws of the several States on the subject and the numerous decided cases bearing upon it are fully reviewed and the doctrine laid down in Pollard's Lessee *v.* Hagan, quoted from above, confirmed and approved. The opinion in the case is an exceedingly interesting and instructive one and should receive attention in this connection. In closing, the court said:

"The United States, while they hold the country as a Territory, having all the powers both of national and municipal government, may grant for appropriate purposes, titles or rights in the soil below high-water mark of tidewaters. But they have never done so by general laws; and, unless in some case of international duty or public exigency, have acted upon the policy, as most in accordance with the interest of the people and with the object for which the Territories were acquired, of leaving the administration and disposition of this sovereign right in navigable waters and in the soil under them to the control of the States, respectively, when organized and admitted into the Union.

"Grants by Congress of portions of the public lands within a Territory to settlers thereon, though bordering on or bounded by navigable waters, convey, of their own force, no title or right below high-water mark, and do not impair the title and dominion of the future State when created, but leave the question of the use of the shores by the owners of uplands to the sovereign control of each State, subject only to the rights vested by the Constitution in the United States.

"The donation land claim, bounded by the Columbia River, upon which the plaintiff in error relies, includes no title or right in the land below high-water mark, and the statutes of Oregon, under which the defendants in error hold, are a constitutional and legal exercise by the State of Oregon of its dominion over the lands under navigable waters."

The following statement in the opinion in Illinois Central Railroad *v.* Illinois (146 U. S., 387, 435) is to the same effect:

"It is the settled law of this country that the ownership of and dominion and sovereignty over lands covered by tidewaters, within the limits of the several States, belong to the respective States within which they are found, with the consequent right to use or dispose of any por-

tion thereof, when that can be done without substantial impairment of the interest of the public in the waters, and subject always to the paramount right of Congress to control their navigation as far as may be necessary for the regulation of commerce with foreign nations and among the States. This doctrine has been often announced by this court and is not questioned by counsel of any of the parties." (Pollard's Lessee *v.* Hagan, 3 How., 212; Weber *v.* Harbor Commissioners, 18 Wall., 57.)

As establishing the claim we make that the Constitution vests no power in the Federal Government to regulate or control the use of the waters of a stream within a State, and that this power can not be given by a statute enacted by Congress, we quote this language from the opinion in New Orleans *v.* United States (10 Peters, 662, 736):

"The Government of the United States, as was well observed in the argument, is one of limited powers. It can exercise authority over no subjects, except those which have been delegated to it. Congress can not, by legislation, enlarge the Federal jurisdiction, nor can it be enlarged under the treaty-making power."

That the States have the right to regulate the use of even navigable streams within their borders where Congress has not acted or where such action does not interfere with the paramount power of the Federal Government to regulate commerce between the States, is affirmed by Leovy *v.* United States (177 U. S., 621), in which it is said:

"Subject, then, to the paramount jurisdiction of Congress over the navigable waters of the United States, the State of Louisiana has full power to authorize the construction and maintenance of levees, drains, and other structures necessary and suitable to reclaim swamp and overflowed lands within her limits."

And in the Daniel Ball (177 U. S., 10 Wall., 557) it is said:

"Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water."

Respecting the right of a State to control the navigation of a stream wholly within its limits it was said in the case of Veazie *v.* Moor (14 How., 568, 573):

"Upon a comparison of this decree and of the statute upon which it is founded with the provision of the Constitution already referred to, we are unable to perceive by what rule of interpretation either the statute or the decree can be brought within either of the categories comprised in that provision.

"These categories are: 1. Commerce with foreign nations. 2. Commerce amongst the several States. 3. Commerce with the Indian tribes. Taking the term commerce in its broadest acceptation, supposing it to embrace not merely traffic but the means and vehicles by which it is prosecuted, can it properly be made to include objects and purposes such as those contemplated by the law under review? Commerce with foreign nations must signify commerce which in some sense is necessarily connected with these nations, transactions which either immediately or at some stage of their progress must be extraterritorial. * * * The phrase can never be applied to transactions wholly internal, between citizens of the same community, or to a polity and laws whose ends and purposes and operations are restricted to the territory and soil and jurisdiction of such community. Nor can it be properly concluded that, because the products of domestic enterprise in agriculture or manufactures, or in the arts may ultimately become the subjects of foreign commerce, the control of the means of the encouragements by which enterprise is fostered and protected is legitimately within the import of the phrase foreign commerce, or fairly implied in any investiture of the power to regulate such commerce. A pretension as far-reaching as this would extend to contracts between citizen and citizen of the same State, would control the pursuits of the planter, the grazier, the manufacturer, the mechanic, the immense operations of the collieries and mines and furnaces of the country; for there is not one of these avocations the results of which may not become the subjects of foreign commerce and be borne either by turnpikes, canals, or railroads from point to point within the several States toward an ultimate destination, like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort at internal improvement by the several States; for it can not be supposed that the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which and all control over which might be immediately wrested from them, because such public works would be facilities for a commerce which, while availing itself of those facilities, was unquestionably internal, although intermediately or ultimately it might become foreign.

"The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes the control over turnpikes, canals, or railroads, or the clearing and deepening of watercourses exclusively within the States, or the management of the transportation upon and by means of such improvements."

In New York *v.* Miln (11 Pet., 102, 139) the absolute right of the State in this respect is more clearly and emphatically declared in this language:

"But we do not place our opinion on this ground. We choose rather to plant ourselves on what we consider impregnable positions. They are these: That a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That, by virtue of this, it is not only the right, but the bounden and solemn duty of a State to advance the safety, happiness, and prosperity of its people and to provide for its general welfare by every act of legislation which it may deem to be conducive to these ends, where the power over the particular subject or the manner of its exercise is not surrendered or restrained in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called internal police are not thus surrendered or restrained, and that consequently, in relation to these, the authority of a State is complete, unqualified, and exclusive.

"We are aware that it is at all times difficult to define any subject with proper precision and accuracy; that if this be so in general, it is emphatically so in relation to a subject so diversified and multifarious as the one which we are now considering.

"If we were to attempt it, we should say that every law came within this description which concerned the welfare of the whole people of a State or any individual within it, whether it related to their rights or their duties, whether it respected them as men or as citizens of the State, whether in their public or private relation, whether it related to the rights of persons or of property or of the whole people of the State or any individual within it, and whose operation was within the territorial limits of the State and upon the persons and things within its jurisdiction."

Applying this doctrine to the right of a State to protect and control the flow of water in the streams within its limits, the court said, in Hudson Water Co. *v.* McCarter (209 U. S., 349, 356):

"The problems of irrigation have no place here. Leaving them on one side, it appears to us that few public interests are more obvious, indisputable, and independent of particular theory than the interest of the public of a State to maintain the rivers that are wholly within it substantially undiminished, except by such drafts upon them as the guardian of the public welfare may permit for the purpose of turning them to a more perfect use. This public interest is omnipresent wherever there is a State and grows more pressing as population grows. It is fundamental, and we are of opinion that the private property of riparian proprietors can not be supposed to have deeper roots. Whether it be said that such an interest justifies the cutting down by statute without compensation, in the exercise of the police power, of what otherwise would be private rights of property, or that apart from statute those rights do not go to the height of what the defendant seeks to do, the result is the same. But we agree with the New Jersey courts and think it quite beyond any rational view of riparian rights that an agreement, of no matter what private owners, could sanction the diversion of an important stream outside the boundaries of the State in which it flows. * * *

"The right to receive water from a river through pipes is subject to territorial limits by nature, and those limits may be fixed by the State within which the river flows, even if they are made to coincide with the State line."

Respecting the effect of the admission of Wyoming as a State upon a treaty with the Indians by which they were given the right to hunt on the public domain, the court in Ward *v.* Race Horse (163 U. S., 504) used this language:

"The argument now advanced in favor of the continued existence of the right to hunt over the land mentioned in the treaty, after it had become subject to State authority, admits that the privilege would cease by the mere fact that the United States disposed of its title to any of the land, although such disposition, when made to an individual, would give him no authority over game, and yet that privilege continued when the United States had called into being a sovereign State, a necessary incident of whose authority was the complete power to regulate the killing of game within its borders. This argument indicates at once the conflict between the right to hunt in the unoccupied lands within the hunting districts and the assertion of the power to continue the exercise of the privilege in question in the State of Wyoming in defiance of its laws. * * *

"The act which admitted Wyoming into the Union, as we have said, expressly declared that that State should have all the powers of the other States of the Union, and made no reservation whatever in favor of the Indians. These provisions alone considered would be in conflict with the treaty if it was so construed as to allow the Indians to seek out every unoccupied piece of Government land and thereon disregard and violate the State law, passed in the undoubted exercise of its municipal authority. But the language of the act admitting Wyoming into the Union, which recognized her coequal rights, was merely declaratory of the general rule."

As to the limitation of the powers of the Federal Government based upon its proprietary ownership of lands within a State, this is said in Woodruff *v.* North Bloomfield Gravel Mining Co. (18 Fed. Rep., 753, 772):

"Upon the cession of California by Mexico, the sovereignty and proprietorship of all the lands within its borders in which no private interest had vested passed to the United States. Upon the admission of California into the Union, upon an equal footing with the original States, the sovereignty for all internal municipal purposes and for all purposes except such purposes and with such powers as are expressly conferred upon the National Government by the Constitution of the United States, passed to the State of California. Thenceforth the only interest of the United States in the public lands was that of a proprietor, like that of any other proprietor, except that the State, under the express terms upon which it was admitted, could pass no laws to interfere with their primary disposal, and they were not subject to taxation. In all other respects the United States stood upon the same footing as private owners of land."

Having demonstrated, by reference to the decided cases, the respective rights of the Federal Government and the States in the subject matter of the bill, we proceed to consider the provisions of the bill itself and the bearing of the principles we have discussed above on its terms and conditions.

But before taking up the various provisions of the bill in detail we desire to consider it briefly as a whole.

The bill in its entire scope and purpose is an infringement upon and a usurpation of the sovereign powers of the States. This is not only its effect, but it is the avowed intention of its friends to transfer, in part, at least, from the States to the National Government the control over the use of the waters of the stream within the States. Ostensibly, it is proposed to authorize the Government to lease its own lands. To this there are serious objections, as we shall point out further along. But the public lands that may be leased for power sites are of themselves practically worthless. The Government has no ownership or interest in the water flowing in the stream except that of a riparian owner, and that only in States where riparian rights are recognized. In most of the Western States riparian rights are abolished and the ownership of the water vested in the whole people of the State, to be appropriated and applied to beneficial uses, as the laws of the State may provide. The Government owns the land precisely as a private individual owns his land, and with the same rights and privileges as to the use of the water that flows by it—no more, no less. It does not own it in its sovereign capacity, as we have shown, and has no sovereign power over it or over the water that flows past it. But the effect of the bill is to lease, not alone the land it owns, but the waters of the stream upon which it borders, and by conditions and restrictions in the lease to determine how and for what purposes the lessee shall use the water, as well as the land. This is in violation of the principles enunciated by the courts, as above pointed out, and an encroachment upon, and a plain and open violation of, the sovereign rights of the States to govern and control such use.

It is an ingenious effort to fasten upon the private ownership of the land, by the Government, the sovereign right to control the use of the

waters, a right that the Government does not possess under the Constitution and can not be given it by statute, and which admittedly does belong to the States. The rental to be paid by the lessee is not based upon the value of the use of the land, but upon the amount of power that can be produced by the water, which belongs to the State, and, as the water, in which the Government has no ownership or interest, is thus leased, the attempt is made to control the use of the thing leased, namely, the water. It may be conceded that the Government, as lessor, and the lessee may agree upon any basis they please in fixing the rental or royalty to be paid. Of this the State could not justly complain. The trouble is that because the Government fixes the amount to be paid for the land by the amount of power that can be produced by the water, over which it can have no right or control, it is attempting to vest in itself the unwarranted power to determine how the water shall be used and what for. Ostensibly, this is done to protect the Government, as lessor, and secure to it a compliance, on the part of the lessee, with the terms of the lease. But the intention and the effect of it is to draw to the Federal Government the right to control the use of the water. And this is the matter in controversy. Of this the States have every reason to complain. The granting of any such privilege is a betrayal of the sovereign rights of the State.

If any private owner of lands bordering on a stream should lease his lands for a power site and impose any such terms and conditions affecting the use of the water as this bill provides for, they would undoubtedly be inoperative and void. And, as the National Government, in this respect, has only the rights of a private owner, such conditions, made by the Government, would be equally so.

Having submitted these views on the general scope and effect of the bill, we proceed to verify what we have said of it by calling attention to some of its specific provisions.

In its first section the bill authorizes the Secretary of the Interior to lease lands of the Government for the "development, generation, transmission, and utilization of hydroelectric power." The effort is to devote not only the land leased, but the water, to a specific and exclusive purpose, namely, the generation of power. This is a direct violation of the right of the States to regulate and control the use or uses to which water should be applied, and in direct opposition to the policies of the States. In nearly all of the States where irrigation is practiced and in which this law, if enacted, will operate, have, either by direct statutory provisions or rules and regulations adopted by utility commissioners or other authorized official bodies, provided what uses of water shall be preferred over others where the water supply from any source is insufficient to meet all needs, usually in the following order: Domestic use, irrigation, development of power. This whole bill proceeds upon the theory that the Government can fix and designate the use to which the water shall be devoted, in spite of contrary rules fixed by the States. But we apprehend that if such a lease as is proposed were made and the power plant erected, the State could at any time require that the water used for the purpose of generating power be applied to domestic use or irrigation, if the water is needed for that purpose, and the lessee's lease and plant rendered valueless. If not, then the Government has, by its lease and the application of the water to a single and specific use, deprived the State of its undoubted sovereign right to determine the uses to which the water shall be applied. No one can doubt under the authorities we have cited that in a conflict of this kind between the two Governments the right of the State to say how and for what purposes water shall be used would be sustained.

The vice of this first section runs through the whole bill. All of its provisions and limitations relate wholly to the use of the water for the generation of power. There is a feeble attempt to remedy this defect by section 19, which provides that the plant may be enlarged by the lessee "for the purpose of impounding and conveying water for irrigation, mining, municipal, domestic, and other beneficial purposes." But this does not correct the evil. It is a mere consent of the Government that the water may be used for other purposes if the lessee desires. It is a consent given in a matter over which the Government has no control and about which it has no power either to give or withhold consent. And its consent, when given, amounts to nothing as affecting the use to which the water shall be applied. That is a matter exclusively within the power and jurisdiction of the States.

There is another apparent effort to avoid this and other void provisions in the bill that we will come to directly, by section 13, which provides that it shall not affect or interfere with the laws of any State relating to the control, appropriation, use, or distribution of water. Either this provision must have no effect at all or it will nullify every important provision of the bill, because the whole scope and effect of the bill, as we have shown, directly interferes with such laws of the States.

We now pass to the consideration of other provisions of the bill equally objectionable.

1. LIMITATION OF LEASE TO 50 YEARS.

Any attempt to limit the life of a plant for the distribution and use of water is wholly at variance with the whole theory of water rights in the Western States. Where water is put to use for irrigation, for example, the use must be perpetual and not for a limited term, otherwise a landowner might have the use of the water until his trees are matured, then lose his supply, bringing destruction upon his trees and his crops. To prevent this it is provided by statute in most if not all of the irrigation States that if a public-service corporation shall once supply water to land for irrigation the right to its continued and perpetual use, as an appurtenant to his land, attaches and passes, like other appurtenances, by a conveyance of the land. This is not so important as applied to the use of water for the development of power, except where the power is used, as it is very generally, for the pumping and other means of supplying water for irrigation. In that case it is equally important with the direct supply of water for irrigation.

2. RIGHT TO USE WATER MUST FIRST BE OBTAINED FROM STATE.

It is provided that no lease shall be granted until the applicant has complied with the requirements of the laws of the State or Territory wherein said project is to be located providing for the appropriation of water to develop or generate the electrical energy intended to be generated by applicant's proposed project. In some of the States this provision will be impossible of execution, because no right to the water can be obtained from the State until the plant to be used in applying it to a beneficial purpose is completed and approved by the State authorities, and then no title to the water is granted, but only a license to use it. For example, in California a water commission is provided for by law. This commission is given complete and plenary power over the appropriation and use of water for any and all purposes. The commission is authorized to investigate all streams and determine the amount of total flow of the different streams in the State, the amount appropriated and in proper and necessary use, and the quantity open to appropriation. Anyone desiring to appropriate water from any stream must apply to this commission and state in his petition therefor certain required facts. Upon a proper showing being made, a permit is issued allowing the construction of proper works for its diversion and distribution.

The statute provides:

"SEC. 16. Every application for a permit to appropriate water shall set forth the name and post-office address of the applicant, the source of water supply, the nature and amount of the proposed use, the location and description of the proposed head works, ditch, canal, and other works; the proposed place of diversion and the place where it is intended to use the water; the time within which it is proposed to begin construction, the time required for completion of the construction, and the time for the complete application of the water to the proposed use. If for agricultural purposes, the applicant shall, besides the above general requirements, give the legal subdivisions of the land and the acreage to be irrigated as near as may be; if for power purposes, it shall give, besides the general requirements prescribed above, the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the use to which the power is to be applied; if for storage in a reservoir, it shall give, in addition to the general requirements prescribed above, the height of dam, the capacity of the reservoir, and the use to be made of the impounded waters; if for municipal water supply, it shall give, besides the general requirements specified above, the present population to be served and, as near as may be, the future requirements of the city; if for mining purposes, it shall give, in addition to the general requirements prescribed above, the nature and location of the mines to be served and the methods of supplying and utilizing the water." (Cal. Stat., 1913, pp. 1012, 1021.)

The statute further provides:

"SEC. 19. Immediately upon completion, in accordance with law, the rules and regulations of the State water commission, and the terms of the permit, of the project under such application, the holder of a permit for the right to appropriate water shall report said completion to the State water commission. The said commission shall immediately thereafter cause to be made a full inspection and examination of the works constructed and shall determine whether the construction of said works is in conformity with law, the terms of the approved application, the rules and regulations of the State water commission, and the permit. The said water commission shall, if said determination is favorable to the applicant, isue a license which shall give the right to the diversion of such an amount of water and to the use thereof as may be necessary to fulfill the purpose of approved application." (Cal. Stat., 1913, pp. 1012, 1023.)

So it will be seen that in California the provision that the applicant must first comply with the requirements of the law of the State can have no effect, because his right can not be passed upon until the whole works are completed and approved by the water commission. And if not approved, the applicant is refused a license to divert and use the water. Therefore it is impossible for him to comply with the laws of the State before the lease is granted. And under the following provision of the statute all water not appropriated in accordance with the laws of the State is declared to belong to the people:

"And all waters flowing in any river, stream, canyon, ravine, or other natural channel, excepting so far as such waters have been or are being applied to useful and beneficial purpose upon, or in so far as such waters are or may be reasonably needed for useful and beneficial purposes upon lands riparian thereto, or otherwise appropriated, is, and are hereby, declared to be public waters of the State of California and subject to appropriation in accordance with the provisions of this act." (Cal. Stat., 1913, pp. 1012, 1023.)

3. PROVISION AS TO TIME AND MANNER OF DOING THE WORK OR ESTABLISHING THE PLANT.

This matter is completely covered by State laws, and the provision conflicts directly with those laws. The California statute to which we have referred places in the hands of the water commissioners the power to determine when, where, and how the water shall be applied and continued in actual use. It provides:

"SEC. 12. The State water commission shall have authority to, and may, for good cause shown, upon the application of any appropriator or user of water under an appropriation made and maintained according to law prior to the passage of this act, prescribe the time within which the full amount of the water appropriated shall be applied to a useful or beneficial purpose."

And certain rules for determining what is a reasonable prosecution and completion of the work are laid down for the guidance of the commission. The statute further provides:

"SEC. 18. Actual construction work upon any project shall begin within such time after the date of the approval of the application as shall be specified in said approval, which time shall not be less than 60 days from date of said approval, and the construction of the work thereafter shall be prosecuted with due diligence in accordance with this act, the terms of the approved application, and the rules and regulations of said commission; and said work shall be completed in accordance with law, the rules and regulations of the State water commission, and the terms of the approved application, and within a period specified in the permit; but the period of completion specified in the permit may, for good cause shown, be extended by the State water commission. And if such work be not so commenced, prosecuted, and completed the water commission shall, after notice in writing, and mailed in a sealed, postage-prepaid, and registered letter addressed to the applicant at the address given in his application for a permit to appropriate water, and a hearing before the commission, revoke its approval of the application. But any applicant, the approval of whose application shall have been thus revoked, shall have the right to bring an action in the superior court of the county in which is situated the point of the proposed diversion of the water for a review of the order of the commission revoking said approval of the application."

Thus we have a complete system of regulation in the State intended to secure an early application of the water to a beneficial use. To this end work is required to be commenced in not less than 60 days and prosecuted with due diligence, under rules and regulations prescribed by the commission.

This bill provides in section 2:

"That each lease made in pursuance of this act shall provide for the diligent, orderly, and reasonable development and continuous operation of the water power, subject to market conditions."

In other words, the State, admittedly the only authority having jurisdiction over the matter, provides that the work must commence within 60 days, be prosecuted with diligence, and completed under rules and regulations prescribed by the water commission. By this act we fix no time when the work shall be begun, prosecuted, and com-

pleted, but require it to be done as the Secretary of the Interior shall prescribe in a lease and subject to market conditions. We have shown that the Federal Government has no power or jurisdiction over this matter of supplying water or power in a State; but if it had this would involve a conflict of authority between the State and Federal Governments that must lead to conflicts and be intolerable.

4. ALLOWING INTERSTATE COMMERCE COMMISSION TO FIX RATES AND DETERMINE THE ISSUE OF STOCKS AND BONDS.

It is possible that where a corporation is engaged in transmitting power into another State the Federal Government would, because it is interstate business, have power to fix the rates to be charged against consumers, at least in the State to which it is transmitted. It is submitted, however, that it has no such power respecting power furnished by the corporation in its own State. And in no event could the Government justify itself in assuming to control the issue of stocks and bonds of a corporation as against the laws of the State of its creation. This would be an unwarranted exercise of authority based upon the mere fact that the corporation is its tenant, holding Government land within the State. Referring again to California, the railroad commission of the State has authority, conferred upon it by statute, to fix and determine not only the rates to be charged by a corporation furnishing power within the State, but to determine its bond and stock issue and other indebtedness. In other words, that commission has full and ample power to deal with the whole subject. Now it is proposed by this bill to give the same power to a Federal commission. This necessarily brings the two into direct conflict. The power can not be exercised by both governments. It belongs of right to the State, where it is organized and doing business and dealing with the water that belongs to the State and is being supplied to its people. There can be no just or valid claim that this power belongs to the Government, or can properly and legally be vested in it by statute.

5. PROVISION AUTHORIZING THE GOVERNMENT TO TAKE OVER THE LAND AT THE EXPIRATION OF THE LEASE.

By this provision the Government is authorized to take over not only the land it has leased but a water-power plant to be used, and which must continue to be used, for the generation of power for public use and to become a public-utility corporation, obligated to operate the plant and supply power to the public. When it assumes this function, it becomes at once bound by the contracts and other obligations of the lessee to supply the power. It at once becomes amenable to the State authorities having power to regulate its business. If not, then the effect is to deprive the State of the right to regulate the use of the waters of the State as an exercise of its sovereign power. It may well be asked how, when the National Government becomes a utility corporation, the State can exercise as against it the power it has to regulate rates or otherwise control the use and operation of the plant, even to the extent, as it may, of taking away the use of the water and requiring it to be used for other purposes more necessary for the public good than the development of power. Neither the State nor any consumer under the system could sue the Government or compel it in any way to perform its duty as a public-service corporation. This provision, if not illegal, is, it seems to us, absurd. It would lead to untold and innumerable conflicts of governmental authority and complications.

6. MAKING CONTRACTS FOR POWER.

Section 7 of the bill provides for the making of contracts for power upon the approval of the proper State authority and of the Secretary of the Interior.

We think we have demonstrated above that the Federal Government has no power or jurisdiction over this subject within a State. In this instance the right of the State to deal with it is recognized, but the Secretary of the Interior is given the power to nullify the action of the State in giving its approval by refusing to give his own. So action by the Secretary of the Interior, an officer who has no jurisdiction in the matter, and can be given none legally, is made necessary to any such action on the part of the utility corporation, for no better reason than that this particular corporation rents its power site from the Government. Other power corporations are not subject to any such limitation or double regulation. The State can not thus be shorn of its sovereign power over the subject matter by the Government in its capacity of a real estate dealer. It can not be possible that a renter from the Government must be subject to two regulating powers and two rules of regulation and other corporations owning their power sites or leasing them from some one else subject to but one. The mere statement of some of the results should be sufficient to condemn this provision.

7. OBJECTIONABLE MEANS OF ARRIVING AT RENT TO BE PAID.

The amount of rent to be paid for the land to be used as a power site is not fixed by the rental or other value of the land, but the amount of power produced by the use of the water belonging to the State. The land in and of itself is practically of no value. The profit, if any, resulting from the use of the water depends upon the rates collected by the corporation for the powers, which must be fixed by the State, if by anybody. In fixing the rates the State must allow the corporation the amount of rental it is required to pay to the Government as a part of its yearly operating expenses. The consumers must pay, not the interest on this amount only, as a part of the capital investment, but must pay it all each year as a part of the fixed annual charges of the company. A reasonable charge by the Government for the use of its land may be justified as a real estate transaction. It is not the exercise of sovereign power. It is nothing but a contract of lease, the same in all material respects as a transaction of a like kind by a private individual, with the Secretary of the Interior acting as the real estate agent. This should be kept constantly in mind. But the basis upon which the rental is founded is a false and unjust one. It compels the consumers of water belonging to the State to pay a charge to the Government that it is unconscionable to make. It compels the people of the State to pay the Government for the use of the water that belongs to them and to which the Government has no right and over which it has no power nor jurisdiction. The whole thing is unjust and unconscionable.

8. DISPOSITION OF PROCEEDS OF THE LEASE.

The injustice of the rental founded on the use of the water is made clear and accentuated by the provision, in the eighth section of the bill, that the proceeds shall be paid one half to the State and the other half to the Reclamation Service. This is clearly unjust to the State. The use of the water that belongs wholly to the State is the valuable thing. The Government has no interest in the water and is entitled to none of its benefits. But it assumes to rent it with the practically worthless land, the people of the State pay back the whole of it to the corporation, and the Government provides how the rental shall be divided without the approval or consent of the State. This is extending the power of the Federal Government over the sovereign rights of the States with a vengeance.

9. AUTHORITY TO EXAMINE BOOKS OF LESSEE.

By section 10 the Secretary of the Interior is given authority to examine the books and accounts of the lessees and to require them to submit "statements, representations, or reports, including information as to cost of water rights, lands, easements, and other property acquired, production, use, distribution, and sale of energy; all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Secretary of the Interior may require."

This, again, is a plain usurpation of the power that belongs to the States. Both the Water Commission and the Railroad Commission of the State of California, under its laws, have the right to require all of the information that is provided for in this section. This would subject a corporation that rents from the Federal Government to double examinations and double reports for which the consumers under that particular system must pay, while other corporations, not renting from the Government, would be subject to only one examination and one report. Besides, the Government, as a mere lessor of the property used as a power site, has no interest whatever in any of the things that are required to be reported upon by this section of the bill. As it is proposed to base the rents to be paid for the land upon the amount of power developed—if that be legal and justified—the Government has the right to satisfy itself of the amount of power developed. It has no interest further than that, and any effort to interfere with the business of the corporation or the operation of its plant, which belong alone to the State, is entirely unauthorized.

10. FORFEITURE OF LEASE.

Section 11 provides that this "lease may be forfeited and canceled by appropriate proceedings in a court of competent jurisdiction whenever the lessee, after reasonable notice in writing, as prescribed in the lease, shall fail to comply with the terms of this act or with such conditions not inconsistent therewith as may be specifically recited in the lease."

This would place the lessee in a very unhappy situation. As the State has the undoubted power to regulate the use of the water and the operation of the plant, the lessee might be compelled by State regulations to violate numerous terms provided for in the lease or the regulations of the Secretary of the Interior. Where the power exercised by the Government—and that authority would be exercised by the Secretary of the Interior by this bill—and the State commission should conflict the unfortunate lessee would have to take his chances of being prosecuted by the State authorities and his right to furnish power forfeited, or to comply with the rules, regulations, and orders of the Federal Government whereby his lease may be subject to forfeiture. This perhaps shows quite as clearly as anything else why it is utterly impossible that the provisions of this statute and the rules and regulations that may be prescribed by the Secretary of the Interior can by any possibility be allowed to stand as against the sovereign power of the State to regulate and control all these things.

11. CAN THE GOVERNMENT BY A SYSTEM OF LONG LEASES PERPETUATE ITS OWNERSHIP IN THE STATES OF UNTAXED LANDS?

We have shown by the decided cases that the Government owns the public lands as a proprietor and not in its sovereign capacity. This is too clearly and firmly established to admit of doubt. In a sense the Government owns the land in trust to dispose of it for use by the citizens of the country. Laws have been enacted from time to time providing for their disposition. Until now the national policy has been to convey the absolute title to the land in whatever way it may be disposed of. But it is now proposed to hold the title to the land in the Federal Government and lease it on long leases. This would be a radical change in governmental policy. It is a very important one to the States. The land in the hands of the Government is not subject to taxation by the States.

In the hearings by the committee this startling statement was made by the Senator from Colorado [Mr. SHAFROTH]:

"I believe that any leasing bill for the public domain or resources thereof is a direct attack on the sovereignty of the States containing the same, because it must result in a perpetual ownership of the property in the United States Government. Inasmuch as taxes can not be imposed upon property owned by the Federal Government, it means, to carry it to its ultimate result, the depriving of the States of their means of existence.

"I want to call the attention of the committee to a list contained in an article by Mr. W. V. M. Powelson of the number of acres of land in the various Western States now in the ownership of the Government. In Arizona, 92 per cent of the lands within the area of that State are in Government ownership; California, 52.58 per cent; Colorado, 56.67 per cent; Idaho, 83.80 per cent; Montana, 65.80 per cent; Nevada, 87.82 per cent; New Mexico, 62.83 per cent; Oregon, 51 per cent; Utah, 80.18 per cent; Washington, 40 per cent; Wyoming, 68 per cent."

Thus it is shown that lands in the several Western States ranging from 40 to 92 per cent are held in Government ownership and not subject to taxation by the State. And it is proposed by this and other bills pending in the Senate, making up the system of conservation proposed to be inaugurated, to perpetuate this condition and perpetually deprive the States of the right to tax this large percentage of the lands within its borders to maintain and support the State government. Whether the Government has the power to deal with its lands in that way or not, it must be seen by any observing person that it will be a rank injustice to the States in which these lands are situated. But we go further and maintain that the Government, holding the public lands in trust to dispose of them, has no right or authority to thus perpetuate its ownership of nontaxable lands and withhold them from purchase by the people of the country where the title should be vested.

Referring again to the case of Pollard's Lessee *v.* Hagan (3 How., 212), one of the leading cases on the subject, and from which we have quoted above, it will be seen that as to the public domain, not including lands acquired for permanent use for the erection of forts, magazines, arsenals, dockyards, and other needful buildings in the District of Columbia, the right and ownership of the land by the Government is "temporary," and so it has always, up to this time,

been considered. The theory and understanding has always been that public lands are held by the Government temporarily and in trust to dispose of them and vest the permanent fee simple title in those who might acquire them under rules and regulations prescribed by Congress. It was never intended that title to such lands should be held permanently in the Government, and in our judgment any law that vests this right to permanently hold the lands free from State taxation will be an open violation of the trust under which the lands are held and of the sovereign rights of the States.

At the expense of further extending this already long report, we quote again a short extract from the case last mentioned:

"We will now inquire into the nature and extent of the right of the United States to these lands, and whether that right can in any way affect or control the decision of the case before us. This right originated in voluntary surrenders, made by several of the old States, of their waste and unappropriated lands, to the United States, under a resolution of the old Congress of the 6th of September, 1780, recommending such surrender and cession to aid in paying the public debt incurred by the War of the Revolution. The object of all the parties to these contracts of cession was to convert the land into money for the payment of the debt and to erect new States over the terriory thus ceded; and as soon as these purposes could be accomplished the power of the United States over these lands, as property, was to cease.

"Whenever the United States shall have fully executed these trusts the municipal sovereignty of the new States will be complete throughout their respective borders, and they and the original States will be upon an equal footing in all respects whatever. We therefore think the United States hold the public lands within the new States by force of the deeds of cession and the statutes connected with them, and not by any municipal sovereignty which it may be supposed they possess or have reserved by compact with the new States for that particular purpose."

It clearly appears from this decision that the title of the Government in such lands is not permanent, but ceded only for the purpose of disposing of them, and that the Government can not make its title permanent or deprive itself for any length of time of the power to comply with the obligation of its trust to dispose of them.

12. WILL THE BILL, IF ENACTED, BRING THE DESIRED RESULTS?

As stated in the beginning, the purpose of this proposed legislation, as stated by the majority of the committee, is to bring about a speedier development of our undeveloped water power. It may be said that this is a purpose not within the power or jurisdiction of the Federal Government. The whole purpose of the bill, as thus stated, is beyond the power of the Government. It has no undeveloped water power. It is only a landowner in the States and nothing else. The development, as well as the regulation and control of undeveloped water and water power, is a purely State matter. The States alone have power to deal with the subject. The Government may, in its generosity, offer its land to the State, as any other landowner might do, to aid the State to develop its natural resources. It can not constitutionally do anything more. The assumption of some conservationists that the National Government has anything to do, as a Government, with the development of the natural resources in a State is without the slightest foundation. As a landowner it may be interested in such development as a means of increasing the value of the land it holds in trust for the people, but nothing more. It may hinder the State in its efforts to develop its resources by withholding its lands, available for dam, reservoir, or power sites, or by placing burdensome terms and conditions of sale or lease of its lands, if it has power to lease them, as would make it impossible or impracticable to use them for such purposes. But any private landowner might do the same thing and with the same effect.

And we submit that this is just what Congress will do for the Government if it enacts this bill. The terms upon which the Secretary of the Interior is authorized to lease land for power purposes are so unreasonable and burdensome and so clearly in conflict with State rights and State laws as to prevent any prudent business man from investing any money in a power site in any State. He would be unable to determine whether, in constructing and managing his plant, he would be bound by the Federal or State law, or both where they are not in direct conflict. If he obeyed one, in many instances, as we have pointed out, he would violate the other. A compliance with the State law would in some cases forfeit his lease. On the other hand, if he followed the provisions of the lease, particularly as to the time of commencing and completion of his plant, he would, in California at least, forfeit his right to the water, the really valuable thing, and a license to use the water would have to be denied him for failure to comply with the State laws. This would be true in other States as well. We have used California and its laws only as an illustration of the conflicts that would arise between the Government and the States if this bill should pass. The same conflicts would arise in the other Western States.

The present law relating to the use of public lands for power and irrigation purposes is entirely inadequate because of its uncertainty. But this proposed legislation would be infinitely worse, because it is so certainly and fatally wrong. It would, if enacted, soon put an end to any development of water power. Witness after witness, practical and experienced men, appeared before the committee and pointed out that the law would be impractical and unrevokable and prevent investments in enterprises of this kind, and the reasons were clearly pointed out. On the other hand, we had information to the contrary from Government officials who sincerely believed the law would be beneficial, but they could only theorize about a very practical matter. They had no practical knowledge on the subject. There were others who appeared in support of the bill equally sincere, but without knowledge. And the friends of the bill made no effort to sustain its constitutionality or to defend it against the legal objections that we have been pointing out in this report.

We have given but little attention to the merely business objections made to the bill. To our minds the legal objections to it are so numerous and so conclusive that this is unnecessary. As to this phase of it, we refer Senators to the public hearings that were full and fair. The friends of the bill gave its opponents every opportunity to point out and support their objections to it. These hearings on so important a matter should receive the careful attention of every Senator who desires to be informed on the subject.

For the reasons we have pointed out, and for others that may be developed later on, we could not concur in the favorable report on the bill, and submit that it should not pass.

REED SMOOT.
JOHN D. WORKS.
C. D. CLARK.

The PRESIDING OFFICER (Mr. LEWIS in the chair). Senators, this finishes the reading of the report.

Mr. SHAFROTH. Mr. President, I suggest the absence of a quorum. If the debate is going to begin now, it seems to me we ought to have more Senators here.

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

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

Ashurst	James	Oliver	Swanson
Bankhead	Johnson, Me.	Page	Thomas
Bryan	Johnson, S. Dak.	Pittman	Tillman
Chamberlain	Jones	Ransdell	Townsend
Chilton	Kenyon	Robinson	Vardaman
Clapp	Lewis	Shafroth	Wadsworth
Fall	McLean	Sheppard	Walsh
Gallinger	Martine, N. J.	Smith, Ariz.	Watson
Hardwick	Myers	Smoot	Williams
Hughes	Newlands	Sterling	
Husting	Norris	Sutherland	

The PRESIDING OFFICER. Forty-two Senators having answered to their names, there is less than a quorum present. The Chair suggests the calling of the names of the absentees.

Mr. POINDEXTER, Mr. LANE, Mr. COLT, Mr. FERNALD, Mr. SMITH of Michigan, Mr. THOMPSON, Mr. CUMMINS, and Mr. HOLLIS entered the Chamber and answered to their names.

REGULATION OF IMMIGRATION.

The PRESIDING OFFICER. Fifty Senators having answered to their names, there is a quorum present. The Chair lays before the Senate the action of the House of Representatives further disagreeing to the amendments of the Senate to the bill (H. R. 10384) to regulate the immigration of aliens to, and the residence of aliens in, the United States, and requesting a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HARDWICK. I move that the Senate further insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

Mr. GALLINGER. Mr. President, will the Senator from Georgia, if he sees no objection to doing so, suggest to the Senate what the disagreeing votes are?

Mr. HARDWICK. Yes. The trouble is this: The House fixed an impossible date—I think it was July 1, 1916—for the bill to go into effect. The Senate fixed a later date—May 1, 1917—and in conference a date later than that named by either House was agreed upon—July 1, 1917. A point of order was raised and sustained in the House of Representatives, and this makes necessary a further conference.

Mr. GALLINGER. The conferees will simply have to adjust the date on which the law is to go into effect?

Mr. HARDWICK. That is the only thing—the date on which it will go into effect. When the bill gets into conference we can have that adjusted, of course.

Mr. WALSH. I wish to inquire if the unfinished business will lose its character as such should the motion be put?

Mr. HARDWICK. Not at all.

The PRESIDING OFFICER. Absolutely not. That would not be allowed. The Senate has heard the motion of the Senator from Georgia.

The motion was agreed to, and the Presiding Officer appointed Mr. SMITH of South Carolina, Mr. HARDWICK, and Mr. LODGE managers at the further conference on the part of the Senate.

WATER-POWER DEVELOPMENT.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

Mr. THOMAS addressed the Senate. After having spoken for some time,

Mr. SMOOT. Mr. President, I should like to ask the Senator from Montana if it is the intention to have an executive session to-night?

Mr. MYERS. I have no such intention. No one has said anything to me about an executive session.

Mr. FLETCHER. I think it would be well to have an executive session of a very few minutes, in order to have some messages laid down and some references made.

EXECUTIVE SESSION.

Mr. MYERS. 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 10 minutes spent in executive session the doors were reopened, and (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 13, 1917, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 12, 1917.

ASSISTANT SECRETARY OF STATE.

William Phillips, of Massachusetts, to be Assistant Secretary of State.

THIRD ASSISTANT SECRETARY OF STATE.

Breckinridge Long, of Missouri, to be Third Assistant Secretary of State.

PROVISIONAL APPOINTMENTS IN THE ARMY.

INFANTRY ARM.

To be second lieutenants from November 26, 1916.

Second Lieut. Frank L. Hoerner, Philippine Scouts.
Second Lieut. Joseph P. Vachon, Philippine Scouts.
Second Lieut. Harry O. Davis, Philippine Scouts.
Second Lieut. Floyd Hatfield, Philippine Scouts.
Second Lieut. Earl Landreth, Philippine Scouts.
Second Lieut. Richard T. McDonnell, Philippine Scouts.
Sergt. Harold Preston Kayser, Company A, Twenty-second Infantry.
First Sergt. Basil D. Spalding, Company K, Twentieth Infantry.
Corpl. Henry J. C. Humphrey, Quartermaster Corps.
Corpl. Gordon W. Ells, Company F, Twenty-seventh Infantry.
Pvt. (First Class) George Lea Febiger, Sixth Recruit Company, General Service, Infantry.
Sergt. Theodore W. Sidman, Company M, Twentieth Infantry.
Sergt. Fred Stall, Company K, Fourth Infantry.
Corpl. Claud Edward Stadtman, Quartermaster Corps.
First Sergt. Mitchell Hilt, Company M, Eighteenth Infantry.
Sergt. John Breckinridge Warfield, Company C, Seventh Infantry.
Regimental Supply Sergt. Clarence Ralph Huebner, Eighteenth Infantry.
Corpl. Harold Gordon Lewis, Coast Artillery Corps.
Sergt. Frederick McCabe, Company M, Twenty-first Infantry.
Sergt. Morton Lee Landreth, Company E, Twenty-first Infantry.
Pvt. (First Class) Irving Howard Engleman, Fourth Recruit Company, General Service, Infantry.
Sergt. Clarence Waldo Emerson, Company K, Sixteenth Infantry.
Master Gunner Frederick Joseph von Rohan, Coast Artillery Corps.
Sergt. Frederick Schoenfeld, Company F, Third Infantry.
Supply Sergt. Earl Jay Dodge, Company M, Fourteenth Infantry.
Stable Sergt. Paul Joseph McDonnell, Company F, Third Engineers.
Sergt. Eustis L. Poland, Company B, Fifth Infantry.
Corpl. Fred I. Massey, Coast Artillery Corps.
Corpl. Curtis T. Huff, Company E, Third Engineers.
Sergt. Paul Hathaway, Company M, Twenty-first Infantry.
Corpl. Clarence Fenn Jobson, Coast Artillery Corps.
Sergt. Alfred Rickert Hamel, Coast Artillery Corps.
Pvt. Hardin Cleveland Sweeney, Coast Artillery Corps.
Sergt. Eugene Manuel Landrum, Company G, Second Infantry.
Corpl. Arthur Joseph O'Keefe, Company A, Third Infantry.
Pvt. James Alpheus Anderson, Company B, Thirty-seventh Infantry.
Sergt. Adelbert Brewer Stewart, Quartermaster Corps.
Sergt. William Fenton Lee, Twenty-fifth Recruit Company, General Service, Infantry.
Corpl. Donavin Miller, Company A, Third Infantry.
Sergt. George W. Teachout, Company M, Fifth Infantry.
Corpl. Clarence Raymond Oliver, Quartermaster Corps.
Corpl. Frederick William Huntington, Coast Artillery Corps.
Q. M. Sergt. Howard J. Houghland, Quartermaster Corps.
Sergt. Thomas James Griffin, Medical Department.
Mess Sergt. Chester Arthur Davis, Tenth Recruit Company, general service, Infantry.
Pvt. Conrad Liston Dennis, Coast Artillery Corps.
Corpl. Roland R. Long, Company H, Fifth Infantry.
Pvt. Arthur Van Dine, Battery F, Second Field Artillery.
Musician Corday Whitfield Cutchin, Company H, Second Infantry.
Sergt. (First Class) Charles B. Oldfield, Quartermaster Corps.
First Sergt. Charles J. Allen, Headquarters Company, Twenty-seventh Infantry.
Corpl. John Lawrence Dunn, Coast Artillery Corps.
Corpl. Raymond Wortley, Comapny A, Twenty-first Infantry.
Pvt. (First Class) William B. Wynn, Company F, Fourth Infantry.
Corpl. Louis A. Welch, Quartermaster Corps.
Sergt. Schiller Scroggs, Medical Department.
Sergt. Charles A. McGarrigle, Company C, Second Infantry.
Sergt. Alexander Putney Withers, Medical Department.
Corpl. Orville Emanuel Lewis, Company L, Eleventh Infantry.
Sergt. Lonnie Hollis Nixon, Coast Artillery Corps.
Sergt. William Francis Freehoff, Coast Artillery Corps.
Sergt. Shelby Ledford, Quartermaster Corps.
Sergt. Austin Aubrey Adamson, Aviation Section, Signal Corps.
Sergt. (First Class) Paul Cecil Turner, Quartermaster Corps.
Sergt. Charles Madison Crooks, Company A, First Infantry.
Sergt. William G. Livesay, Quartermaster Corps.

To be second lieutenants from November 27, 1916.

Second Lieut. Robert Lincoln Christian, Infantry.
Second Lieut. William Hampton Crom, Infantry.
Second Lieut. Leo Edwin Johnson, Infantry.
Second Lieut. George Rainsford Fairbanks Cornish, Infantry.
Second Lieut. Delphin Etienne Thebaud, Infantry.
Second Lieut. George Sheppard Clarke, Infantry.
Capt. Adolph Charles Weidenbach, Infantry.

To be second lieutenants from November 28, 1916.

First Lieut. Fred McIvor Logan, Field Artillery, Texas National Guard.
Second Lieut. Truman Smith, Twelfth Infantry, New York National Guard.
Second Lieut. Joseph William George Stephens, Second Infantry, Virginia National Guard.
Second Lieut. Adolph Unger, Eighth Infantry, Ohio National Guard.
Second Lieut. Richard Kerens Sutherland, Tenth Field Artillery, Connecticut National Guard.
Second Lieut. Shelby Mason Tuttle, Second Infantry, Ohio National Guard.
First Lieut. Robert Graham Moss, First Infantry, Maryland National Guard.
First Lieut. Emil Watson Leard, Infantry, Georgia National Guard.
Second Lieut. Walter Frank Adams, First Infantry, Vermont National Guard.
Second Lieut. Joseph Nathaniel Greene, First Infantry, Illinois National Guard.
Second Lieut. Sereno Elmer Brett, Third Infantry, Oregon National Guard.
First Lieut. Harry Langdon Reeder, Fourth Infantry, Maryland National Guard.
Second Lieut. Jay Edward Gilfillan, First Field Artillery, Minnesota National Guard.
First Lieut. Lester Templeton Gayle, jr., Battery C, Field Artillery, Virginia National Guard.
Capt. Turner Mason Chambliss, Infantry, Virginia National Guard.
Second Lieut. James Neville Cocke Richards, Second Infantry, Virginia National Guard.

To be second lieutenants, November 29, 1916.

John Frederick Ehlert, of Texas.
Theron Gray Methven, of Minnesota.
Francis Marion Van Natter, of Indiana.
Paul Lewis Ransom, of Vermont.

CAVALRY ARM.

To be second lieutenants from November 26, 1916.

First Lieut. Harley Dagley, Philippine Scouts.
Second Lieut. Charles L. Clifford, Philippine Scouts.
Second Lieut. Gaston L. Holmes, Philippine Scouts.
Sergt. (First Class) George W. Wersebe, Medical Department.
Sergt. Milton Raymond Fisher, Coast Artillery Corps.
Sergt. John S. Jadwin, Troop C, Sixteenth Cavalry.
Sergt. Arthur Paul Thayer, Troop A, Third Cavalry.
Sergt. Edward Reed Scheitlin, Medical Department.
Corpl. Edwin Allen Martin, Troop A, Third Cavalry.
Corpl. Frank Glenister Ringland, Twenty-fifth Recruit Company, General Service, Infantry.
Corpl. John B. Harper, Company L, Eighth Infantry.
Sergt. Winchell I. Rasor, Field Company E, Signal Corps.
Sergt. Oliver Irey Holman, Troop F, Fifth Cavalry.
Supply Sergt. John James Bohn, Headquarters Troop, Seventh Cavalry.
First Sergt. Harry Batten Flounders, Troop C, Thirteenth Cavalry.
Squadron Sergt. Maj. John Christian Garrett, Seventh Cavalry.

Sergt. Grover Robert Carl, Ninth Recruit Company, General Service, Infantry.
Sergt. Hugh Divine Blanchard, Company A, First Battalion, Mounted Engineers.
Sergt. James G. Monihan, Coast Artillery Corps.
Sergt. Anthony J. Kirst, Troop F. Fifteenth Cavalry.
Private William Gaston Simmons, Troop B, Eleventh Cavalry.
Corpl. Rexford Edwin Willoughby, Troop B, Third Cavalry.
Corpl. John Dutcher Austin, Troop K, Second Cavalry.
Sergt. John Payne Kaye, Troop I, Eleventh Cavalry.
Sergt. Cleo D. Mayhugh, Battery A, Fourth Field Artillery.
Corpl. James Washington Barnett, Company E, Second Regiment of Engineers.
Sergt. John Charles Mullenix, Medical Department.
Private Ross McCoy, First Aero Squadron, Signal Corps.

To be second lieutenants from November 27, 1916.

Second Lieut. Howard Charles Tobin, Infantry.
Second Lieut. John Andrew Weeks, Infantry.

To be second lieutenants from November 28, 1916.

Second Lieut. Walter Eyster Buchly, Battery A, Field Artillery, New Mexico National Guard.
Second Lieut. Harold Chittenden Mandell, Battery A, Field Artillery, Utah National Guard.
Second Lieut. Lester Atchley Sprinkle, First Infantry, Kansas National Guard.
Second Lieut. Robert Walker Grow, First Field Artillery, Minnesota National Guard.
Second Lieut. Terrill Eyre Price, Third Infantry, Pennsylvania National Guard.
First Lieut. William Henry Kasten, First Field Artillery, Illinois National Guard.
First Lieut. Edwin Rollmann, First Field Artillery, Minnesota National Guard.
Capt. Leon Edward Ryder, First Cavalry, Vermont National Guard.
First Lieut. Richard Lawrence Creed, First Cavalry, Vermont National Guard.
First Lieut. William Moragne Husson, First Infantry, Florida National Guard.
Harry Lawrence Putnam, of Vermont.
Roderick Random Allen, of Texas.
Adolphus Worrell Roffe, of Missouri.
Horace Kostomlatsky Havlicek, of Ohio.
Rice McNutt Youell, of Virginia.
James Hill Holmes, jr., of South Carolina.
Manton Sprague Eddy, of Illinois.
George Noel Ruhberg, of North Dakota.
Charles Ellet Moore, of Virginia.
Gebriel Thornton Mackenzie, of Maryland.

To be second lieutenants, November 29, 1916.

First Lieut. John Warlick McDonald, First Infantry, Kentucky National Guard, to be second lieutenant of Cavalry, with rank from date of appointment.
Sergt. Harrie Kincaid Dalbey, Second Recruit Company, General Service, Infantry, to be second lieutenant of Cavalry, with rank from date of appointment.

FIELD ARTILLERY.

To be second lieutenants from November 26, 1916.

Second Lieut. Sherman L. Kiser, Philippine Scouts.
Second Lieut. Emer Yeager, Philippine Scouts.
Mess Sergt. Marvin Conrad Heyser, Company G, Twenty-third Infantry.
Sergt. Idus Rowe McLendon, Coast Artillery Corps.
Sergt. Michael Joseph Fibich, Company I, Third Infantry.
Sergt. Sidney Guthrie Brady, General Service, Infantry.
First Class Sergt. George A. Pollin, Company A, First Field Battalion, Signal Corps.
Corpl. David Ephraim Finkbiner, Company B, First Regiment of Engineers.
Sergt. Chauncey Francis Ruoff, Coast Artillery Corps.
Corpl. Erwin Cobia West Davis, Battery F, Third Field Artillery.
Sergt. Emile George de Coen, Battery D, Fifth Field Artillery.
Private Arthur Noble White, Troop F, Third Cavalry.
Sergt. Patrick Lawrence Lynch, Headquarters Company, Sixth Field Artillery.
Corpl. Ivan N. Bradley, Battery A, Fifth Field Artillery.

To be second lieutenants from November 27, 1916.

Second Lieut. John Jay McCollister, Infantry.
Second Lieut. Frank Allen Roberts, Infantry.

To be second lieutenants from November 28, 1916.

Capt. William Dennison Alexander, Fourth Infantry, Maryland National Guard.
First Lieut. Herbert Leonidas Lee, Fourth Infantry, Maryland National Guard.
First Lieut. Richard Jaquelin Marshall, Fourth Infantry, Maryland National Guard.
Second Lieut. Ralph Townsend Heard, First Field Artillery, Texas National Guard.

To be second lieutenants from November 29, 1916.

Harcourt Hervey, of California.
Francis Wilkerson Sheppard, of South Carolina.
Robert Whiting Daniels, of Vermont.

COAST ARTILLERY CORPS.

To be second lieutenants from November 26, 1916.

Asst. Engineer Frederick Wilmot Smith, Coast Artillery Corps.
Corpl. Robert Sherman Barr, Coast Artillery Corps.
Sergt. Charles Joseph Herzer, Coast Artillery Corps.
Corpl. William M. Cravens, Coast Artillery Corps.
Electrician Sergt. (Second Class) John Boone Martin, Coast Artillery Corps.
Corpl. Oliver Clyde Stevens, Coast Artillery Corps.
Asst. Engineer Edwin C. Meade, Coast Artillery Corps.
Asst. Engineer William Thomas Roberts, Coast Artillery Corps.
Corpl. Carl J. Smith, Coast Artillery Corps.
Corpl. Dugald MacAuslane Barr, Coast Artillery Corps.

To be second lieutenants from November 28, 1916.

Second Lieut. James Donald MacMullen, Coast Artillery Corps, California National Guard.
Second Lieut. Charles Wright Bundy, Maine National Guard.
Capt. Charles Douglas Yelverton Ostrom, Coast Artillery Corps, California National Guard.
Second Lieut. Donald Malpas Cole, Coast Artillery Corps, Connecticut National Guard.

To be second lieutenants from November 29, 1916.

James Cobb Hutson, of South Carolina.
Lenox Riley Lohr, of the District of Columbia.
Francis Arnold Hause, of Pennsylvania.
Edward Elliott MacMorland, of Missouri.
Henry Benjamin Holmes, jr., of Virginia.

PROMOTIONS IN THE NAVY.

The following-named lieutenants to be lieutenant commanders in the Navy from the 29th day of August, 1916:
Robert W. Kessler,
Paul P. Blackburn, and
Christopher R. P. Rodgers.
The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 29th day of August, 1916:
Henry C. Gearing, jr.,
Grattan C. Dichman,
Charles C. Windsor,
Edward H. Loftin,
Charles L. Best,
Cary W. Magruder,
Henry E. Parsons, and
James G. Stevens.
Ensign Ralph Martin to be a lieutenant (junior grade) in the Navy, from the 30th day of July, 1916.
Gunner William T. McNiff to be a chief gunner in the Navy from the 16th day of January, 1915.
Pay Clerk William T. Williams to be a chief pay clerk in the Navy from the 8th day of April, 1916.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 12, 1917.

POSTMASTERS.

ARKANSAS.

Hollis S. Bass, Monette.
William F. Beaver, Cotter.
Albert B. Couch, Lake City.
Arthur L. France, Gillett.
Joe L. Goodbar, Charleston.
William B. Gould, Glenwood.
William L. Greer, Horatio.
Florence F. McKinzie, Wilson.
Mamie D. Pattillo, Mountain Home.
Grover C. Raper, Bauxite.
Nora A. Toler, Sheridan.

DELAWARE.

W. S. Alexander, Elsmere.

ILLINOIS.

Hugh Hall, Litchfield.

PENNSYLVANIA.

George B. Kirk, South Brownsville.
Daniel H. Sutton, East Butler.
Jessie R. Wilson, St. Benedict.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 12, 1917.*

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

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

O Lord God, our Heavenly Father, encourage us in every thought and act looking to the betterment of life and all its conditions by Thy holy influence; and discourage every adverse thought and act, that we may not dissipate our energies in useless or harmful purposes. And help us, we beseech Thee, to bear with patience the weakness and infirmities of others as we desire Thee to bear with patience our weakness and infirmities; for what hurts one, hurts all; what helps one, helps all; so delicately hast Thou woven the fabric which binds us together into one family. Hence the admonition, "Bear ye one another's burdens, and so fulfill the law of Christ." Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS.

Mr. PARK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting an article containing information relating to the pecan industry.

The SPEAKER. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD by inserting an article containing information on the pecan industry. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, its enrolling clerk, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 703) entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure."

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

S. 4429. An act to amend the postal laws;

S. 7538. An act authorizing the Western New York & Pennsylvania Railway Co. to reconstruct, maintain, and operate a bridge across the Allegheny River in Glade and Kinzua Townships, Warren County, Pa.;

S. 7537. An act authorizing the Western New York & Pennsylvania Railway Co. to reconstruct, maintain, and operate a bridge across the Allegheny River, in the town of Allegany, county of Cattaraugus, N. Y.; and

S. 7536. An act authorizing the Western New York & Pennsylvania Railway Co. to reconstruct, maintain, and operate a bridge across the Allegheny River, in the borough of Warren and township of Pleasant, Warren County, Pa.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 6864) providing for the continuance of the Osage Indian School, Oklahoma, for a period of 10 years from January 1, 1917.

ORDER OF BUSINESS.

Mr. ADAIR rose.

The SPEAKER. For what purpose does the gentleman from Indiana rise?

Mr. ADAIR. This is pension day, Mr. Speaker, and I rise to ask unanimous consent that a bill that the Committee on Invalid Pensions has on the calendar be considered at 5 o'clock this evening.

The SPEAKER. The gentleman from Indiana asks unanimous consent that the pension bill indicated by him be considered at 5 o'clock this evening. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I suppose that is based on the improbable contingency that the immigration conference report be not disposed of by that time?

Mr. ADAIR. Well, Mr. Speaker, if that should be the condition at that time, I should like to couple with this request the request that this bill then be considered at 5 o'clock Saturday evening, if we fail to reach it to-day.

Mr. MANN. I have no objection to considering it to-day, so far as I am concerned, if the gentleman from Tennessee [Mr. MOON] does not object.

Mr. ADAIR. It will not take over 15 minutes to dispose of it if the committee is willing to consider it.

The SPEAKER. The situation is this: The Committee on Rules want to bring up that investigation question. That will probably take two hours and a half or three hours. Then, the gentleman from Alabama [Mr. BURNETT] is very anxious to dispose of the conference report on the immigration bill. Why not make it to-morrow evening?

Mr. ADAIR. Well, then, I will ask unanimous consent that to-morrow, at 5 o'clock, we consider this bill, H. R. 19937. No; it is suggested by the gentleman from Tennessee [Mr. MOON] that I make it 4 o'clock.

The SPEAKER. The gentleman suggests 4 o'clock to-morrow afternoon.

Mr. ADAIR. No; Mr. Speaker, I will withdraw that. I make it 5 o'clock.

Mr. MOON. The appropriation bill ought to be on at that time. This is the day belonging to the Committee on Invalid Pensions, and they ought to have to-day if they desire it. I do not believe the Committee on Rules or anybody else ought to run in on them if they have only a short bill.

Mr. MANN. Why not make it right after the disposition of the conference report on the immigration bill?

Mr. MOON. I think the Post Office Committee should have the right, then.

Mr. MANN. I suggest, then, that the gentleman from Indiana go ahead now.

Mr. MOON. I have no objection to their using to-day for any purpose at all, because we do not expect to get in.

The SPEAKER. What is the gentleman's request?

Mr. MANN. That it should be considered following the immigration conference report.

Mr. ADAIR. I ask unanimous consent, Mr. Speaker, that following the disposal of the immigration bill we consider the pension bill, H. R. 19937.

The SPEAKER. The gentleman from Indiana asks unanimous consent to consider the pension bill named by him, following immediately after the conclusion of the conference report on the immigration bill. Is there objection?

There was no objection.

INVESTIGATION UNDER HOUSE RESOLUTION 429.

Mr. HENRY. Mr. Speaker, I present a privileged report (No. 1281) from the Committee on Rules and ask that it be read.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

The Committee on Rules, having considered House resolution 429, report the same with the recommendation that it do lie upon the table. The committee states that no evidence was adduced sustaining the charges in the resolution.

Mr. HENRY. Mr. Speaker, before making a formal motion to lay that on the table, I would like to ask the gentlemen on the other side about the debate on this report. How much time would be satisfactory to the gentleman from Kansas?

Mr. CAMPBELL. Well, the gentleman from Texas will recall that we agreed upon two hours in the committee.

Mr. HENRY. That is entirely satisfactory.

Mr. CAMPBELL. Well, I have had demands for much more time than that. If the gentleman from Texas can get the consent of the other members of the committee and of the House to extend the time, I should like to have 1 hour and 15 minutes.

Mr. HENRY. I would suggest to the gentleman that that would somewhat embarrass me, because arrangements have been made to let us get in early this morning, and another matter is coming up right soon; and, believing that would be satisfactory, it would embarrass me.

Mr. CAMPBELL. Can you make it an hour and 10 minutes on a side?

Mr. HENRY. I think so.

The SPEAKER. What is the request?

Mr. HENRY. I make the request, then, Mr. Speaker, for unanimous consent that the debate on this report be limited to 2 hours and 20 minutes, 1 hour and 10 minutes to be controlled by myself and 1 hour and 10 minutes by the gentleman from Kansas [Mr. CAMPBELL], with the understanding, then, that at that time I shall move to table the resolution.

The SPEAKER. The gentleman from Texas asks unanimous consent that the time of this debate shall be limited to 2 hours and 20 minutes, one half to be controlled by himself and