

reported favorably the bill of the House (H. R. 7964) granting a pension to Margaret Pratt, accompanied by a report (No. 2978)—to the Committee of the Whole House.

BILLS AND JOINT RESOLUTIONS.

Under clause 3 of Rule XXII, bills and a joint resolution of the following titles were introduced, severally read twice, and referred as follows:

By Mr. McDUFFIE: A bill (H. R. 11757) to amend section 847 of the Revised Statutes of the United States—to the Committee on the Judiciary.

By Mr. DICKERSON: A bill (H. R. 11758) to authorize the construction of a bridge across the Kentucky River and its tributaries by the Louisville, Covington and Cincinnati Railway Company, the Carrollton and Louisville Railroad Company, and the Westport, Carrollton and Covington Railway Company and their assigns—to the Committee on Commerce.

By Mr. SAWYER: A bill (H. R. 11759) to promote the construction of a safe deep-water harbor on the coast of Texas—to the Committee on Rivers and Harbors.

By Mr. COVERT: A bill (H. R. 11760) for improving the road between Willetts Point, New York Harbor, and the railway station at Whitestone, N. Y., and making an appropriation therefor—to the Committee on Military Affairs.

By Mr. ATKINSON, of Pennsylvania: A joint resolution (H. Res. 212) authorizing the commissioners of the District of Columbia to grant the temporary use of rooms in the Briggs school building for religious meetings—to the Committee on the District of Columbia.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as indicated below:

By Mr. CANNON: A bill (H. R. 11761) to correct record and grant discharge to Levi C. Mann—to the Committee on Military Affairs.

By Mr. DOLLIVER: A bill (H. R. 11762) to pension Mrs. Mary E. Donaldson—to the Committee on Pensions.

By Mr. FEATHERSTON: A bill (H. R. 11763) for the relief of John M. Hill, of Conway County, Arkansas—to the Committee on Military Affairs.

Also, a bill (H. R. 11764) for the relief of Dr. J. H. Seegraves, late surgeon United States Army—to the Committee on War Claims.

By Mr. HAYES: A bill (H. R. 11765) granting an increase of pension to Louisa Kearney—to the Committee on Invalid Pensions.

By Mr. LACEY: A bill (H. R. 11766) to correct the military record of Marcellus Pettitt—to the Committee on Military Affairs.

PETITIONS, ETC.

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

By Mr. CANNON: Petition of Levi C. Mann, Company A, Seventh Illinois Cavalry, to accompany bill—to the Committee on Military Affairs.

By Mr. DINGLEY: Memorial of the Dry Goods Economists, in behalf of American flax and linen—to the Committee on Ways and Means.

By Mr. GOODNIGHT: Proof to accompany House bill for the relief of R. G. Potter—to the Committee on War Claims.

By Mr. GROUT: Petition of the bankers and other bank officials in the District of Columbia, in favor of the passage of the bill establishing a home and hospital for inebriates in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HERBERT: Petition of Joel D. Murphree and others, for extension of time to the Mississippi and Gulf Railroad Company—to the Committee on the Public Lands.

Also, petition of D. M. Henstiss and others, for House bill 5353, dealing in futures—to the Committee on Agriculture.

Also, petition of J. P. Gantt and others, for the extension of time to the Mississippi and Gulf Railroad Company—to the Committee on the Public Lands.

By Mr. LESTER, of Georgia: Memorial of Decker & Fawcett and others, citizens of Savannah, Ga., protesting against legislation by Congress compelling railroads to transport petroleum barrels free—to the Committee on Commerce.

By Mr. O'FERRALL: Petition of Samuel A. Buracker, of Page County, Virginia, praying that his war claim be referred to the Court of Claims under the provisions of the Bowman act—to the Committee on War Claims.

By Mr. O'NEILL, of Pennsylvania: Petition of General D. B. Birney Post, Grand Army of the Republic, recommending passage of Senate concurrent resolution requesting the family of General U. S. Grant to consent to the removal of his remains to Arlington Cemetery—to the Committee on the Library.

By Mr. REED, of Maine: Petition of J. Belt and 57 others, of Oklahoma, Indian Territory, asking that Congress take steps to relieve the suffering in Oklahoma—to the Committee on the Territories.

SENATE.

SATURDAY, August 16, 1890.

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Acting Secretary of the Treasury, transmitting an estimate of appropriation from the Secretary of the Navy to reimburse the owners of the tug-boat A. F. Walcott for expenses incurred by them in repairing the injuries sustained by that vessel in a collision with the United States tug Catalpa in the East River, New York, June 15, 1890, and for compensation for the detention of the vessel while undergoing such repairs; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Acting Secretary of the Treasury, transmitting a letter from the Supervising Architect of that Department, requesting that an appropriation of \$10,000 on account of the public building at Winona, Minn., may be included in the deficiency appropriation bill; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Acting Secretary of the Treasury, transmitting a letter from the Supervising Architect of that Department, requesting that an appropriation of \$10,000 on account of the public building at Key West, Fla., may be included in the deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Acting Secretary of the Treasury, transmitting a letter from the Supervising Architect of that Department, requesting that an appropriation of \$10,000 on account of the public building at Dayton, Ohio, may be included in the deficiency appropriation bill; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Attorney-General, stating, in further response to a resolution of August 1, 1890, that there should be added to the list of judgments for damages due for the improvement of the Fox and Wisconsin Rivers the name of Adam Velte, in the sum of \$671.17; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Acting Secretary of the Treasury, transmitting estimates of appropriations required by the commissioners of the District of Columbia to complete the service of the fiscal year ended June 30, 1890, and for prior years; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

Mr. HOAR. I ask consent of the Senate to make a suggestion which I think will be very greatly for the convenience of the Chair and for the convenience of the Senate, especially towards the end of busy sessions of Congress, and that is that the Chair exercise its discretion as to the reading of communications from the Executive Departments, and that in ordinary cases, unless it seems proper to the Chair that another course should be taken in any particular case, the subject should be announced and the communication printed in the RECORD.

We have some days a dozen or twenty letters from heads of Departments communicating some formal documents which never would remain in the memory of any Senator who listened to them, relating to matters that if they had originated in the Senate never would be read in full. I should like to ask unanimous consent that it should be considered the sense of the Senate that the Chair shall exercise a discretion in regard to directing those documents to be read in full.

Mr. EDMUNDS. Except where the reading is called for by a Senator?

Mr. HOAR. Yes, except where the reading is called for by some Senator.

The PRESIDENT *pro tempore*. That would not apply, the Chair supposes, to communications from the Executive?

Mr. HOAR. No, sir; not from the President; only from the heads of Departments.

The PRESIDENT *pro tempore*. Then, if there be no objection, hereafter communications from the heads of Departments and subordinates will be announced by subject, and referred without reading, unless called for.

Mr. HOAR. And printed in the RECORD.

The PRESIDENT *pro tempore*. And stated in the RECORD. The Chair hears no objection.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of Encampment 69, Union Veterans, of the District of Columbia, praying for the removal of General Grant's remains to Arlington; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. DAVIS, from the Committee on Pensions, to whom was referred the bill (H. R. 6992) to pension Susan E. Freeman, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 5851) to pension Mathew Lambert for services in the Indian war; reported it without amendment, and submitted a report thereon.

Mr. SAWYER, from the Committee on Pensions, to whom was referred the bill (S. 792) granting a pension to Martha J. Dodge, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 4853) to pension Gabriel Stephens, reported it without amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. PASCO introduced a bill (S. 4330) granting a pension to E. A. Tucker; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. REAGAN introduced a bill (S. 4331) to confirm the title to certain lands to the town of Albuquerque, N. Mex.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Private Land Claims.

AMENDMENT TO A BILL.

Mr. HIGGINS submitted an amendment intended to be proposed by him to the deficiency appropriation bill; which was referred to the Committee on Appropriations.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

- A bill (H. R. 1186) granting a pension to John O. Mathis;
- A bill (H. R. 1284) granting a pension to Theodora M. Piatt;
- A bill (H. R. 1338) granting a pension to Mary A. Green;
- A bill (H. R. 1433) granting a pension to Caroline Hayes;
- A bill (H. R. 1568) granting a pension to Mrs. Delphina P. Walker;
- A bill (H. R. 1738) granting a pension to Philip H. Emmert;
- A bill (H. R. 2420) granting a pension to Julia W. Freeman;
- A bill (H. R. 2518) granting a pension to Ozro Harrington;
- A bill (H. R. 2550) granting a pension to William C. Ebert;
- A bill (H. R. 2968) for the relief of Thomas W. Houts;
- A bill (H. R. 3070) granting a pension to Clara Fowler;
- A bill (H. R. 3143) increasing the pension of Mrs. Rochie Brien Buell;
- A bill (H. R. 3229) for the relief of Samuel Burrell;
- A bill (H. R. 3503) for the relief of Delila Roe;
- A bill (H. R. 3528) to grant a pension to James Knetsar;
- A bill (H. R. 3587) to pension Stacey Keener, widow of Tillman B. Keener, deceased, who served in the Indian war;
- A bill (H. R. 3611) for the relief of John F. Mahler;
- A bill (H. R. 3796) granting a pension to Abraham Zimmerman;
- A bill (H. R. 3952) for the relief of Henry A. King;
- A bill (H. R. 4013) granting an increase of pension to Alfred A. Jerome;
- A bill (H. R. 4369) to increase the pension of Milton Barnes;
- A bill (H. R. 4825) granting a pension to Arthur Connery;
- A bill (H. R. 4888) granting a pension to N. E. Palmer;
- A bill (H. R. 5106) granting an increase of pension to Squire West;
- A bill (H. R. 5265) granting a pension to Emma Chapman;
- A bill (H. R. 5472) to remove the charge of desertion from T. J. Nichleson;
- A bill (H. R. 5654) to pension Elizabeth R. Lockett;
- A bill (H. R. 5712) granting a pension to J. G. Fetherstone;
- A bill (H. R. 6070) granting an increase of pension to Agnes M. Bradley;
- A bill (H. R. 6084) for the relief of Thomas Nelson;
- A bill (H. R. 6148) granting a pension to Mrs. Mary J. Sanders, the widow of Thomas A. Sanders, who was a scout in the service of the United States Army in the war of the rebellion.
- A bill (H. R. 6179) to remove the charge of desertion from record of James Blythe;
- A bill (H. R. 6195) granting a pension to Clarrissa Barker;
- A bill (H. R. 6676) granting a pension to John J. Tully;
- A bill (H. R. 7375) granting a pension to Mrs. Susan A. Dean;
- A bill (H. R. 7676) for the relief of Alexander Sturgeon;
- A bill (H. R. 7718) granting a pension to Thomas Egan;
- A bill (H. R. 7917) granting an increase of pension to Eliza Efner, a pensioner of the war of 1812;
- A bill (H. R. 7937) granting an increase of pension to Mrs. Harriet E. Martin;
- A bill (H. R. 8016) increasing the pension of John B. Reed, late lieutenant-colonel of the One hundred and thirtieth Regiment Illinois Volunteers;
- A bill (H. R. 8059) granting a pension to Mrs. Emma A. Stafford;
- A bill (H. R. 8234) granting a pension to Catharine S. Lawrence;
- A bill (H. R. 8561) granting a pension to Martha Torrence;

- A bill (H. R. 8700) granting a pension to Mira Baldwin;
 - A bill (H. R. 8890) granting an increase of pension to Lewis Solomon, a private in Company A, First Indiana Infantry, Mexican war service;
 - A bill (H. R. 8923) increasing the pension of James M. Monroe;
 - A bill (H. R. 9030) to remove the charge of desertion from the record of James M. Thompson;
 - A bill (H. R. 9054) granting a pension to Sarah McCormick;
 - A bill (H. R. 9138) granting a pension to Elizabeth Gushwa;
 - A bill (H. R. 9163) granting a pension to Mrs. Mary Hogan;
 - A bill (H. R. 9212) to relieve John J. Murphy from the charge of desertion;
 - A bill (H. R. 9371) for the relief of Fanny A. Putney;
 - A bill (H. R. 9582) to grant an increase of pension to Simon J. Fought;
 - A bill (H. R. 9590) granting a pension to Matilda Evans;
 - A bill (H. R. 9666) granting an increase of pension to Ransom E. Braman;
 - A bill (H. R. 9692) granting a pension to John A. Johnson;
 - A bill (H. R. 9763) granting a pension to Tunis S. Danford;
 - A bill (H. R. 9897) granting an increase of pension to William B. McCreery;
 - A bill (H. R. 10083) for the relief of George Murray;
 - A bill (H. R. 10101) granting a pension to Elizabeth Phillips, widow of Reuben Phillips, who was killed in engagement while member of Arkansas State Militia;
 - A bill (H. R. 10127) granting a pension to Celia Eichele;
 - A bill (H. R. 10154) to increase the pension of John N. Harris;
 - A bill (H. R. 10202) granting a pension to O. E. Hukill;
 - A bill (H. R. 10208) granting an increase of pension to Moses Graham;
 - A bill (H. R. 10224) granting a pension to William A. Osborn;
 - A bill (H. R. 10234) restoring Rebecca Young to the pension-rolls;
 - A bill (H. R. 10246) granting a pension to Thomas Thompson;
 - A bill (H. R. 10263) granting a pension to Robert A. England;
 - A bill (H. R. 10320) granting increase of pension to Nancy Cato;
 - A bill (H. R. 10334) granting a pension to Wiatt Parish;
 - A bill (H. R. 10427) granting a pension to Ruth Collier, of Tennessee;
 - A bill (H. R. 10465) granting a pension to Margaret Durand, hospital nurse;
 - A bill (H. R. 10491) granting a pension to Halem L. Cook, of Franklin, Ky.;
 - A bill (H. R. 10602) granting a pension to Charles T. Sloat;
 - A bill (H. R. 10651) granting a pension to J. W. Robertson;
 - A bill (H. R. 10679) granting a pension to Clara Reed;
 - A bill (H. R. 10682) granting a pension to Jerusha P. Harding;
 - A bill (H. R. 10710) granting an increase of pension to James H. Vosburgh;
 - A bill (H. R. 10810) granting a pension to Samuel S. Humphreys;
 - A bill (H. R. 10811) granting a pension to Asa Joiner;
 - A bill (H. R. 10951) granting a pension to Lucinda Rawlinsong; and
 - A bill (H. R. 11547) granting a pension to Lucinda Chapin.
- The message also announced that the House had passed the following bills:
- A bill (S. 314) for the relief of Mary B. Le Roy;
 - A bill (S. 388) to remove the charge of desertion now standing against the record of Noyes Barber on the rolls of the Navy Department;
 - A bill (S. 510) granting a pension to John W. Reynolds;
 - A bill (S. 775) granting a pension to Andrew J. Foust;
 - A bill (S. 848) granting a pension to Mary J. Eadie;
 - A bill (S. 916) granting a pension to Mary E. Harney;
 - A bill (S. 973) granting an increase of pension to Virginia L. M. Ewing;
 - A bill (S. 1203) granting a pension to Miss Margaret Stafford Worth;
 - A bill (S. 1256) granting a pension to James A. Myers;
 - A bill (S. 1732) granting a pension to Nancy A. Thornton;
 - A bill (S. 1740) granting a pension to Mary J. Welch, an army nurse in the late war;
 - A bill (S. 2036) granting an increase of pension to Mrs. F. Selina Buchanan;
 - A bill (S. 2043) granting a pension to Edgar M. Cherry;
 - A bill (S. 2066) placing the name of Elizabeth Domm on the pension-rolls;
 - A bill (S. 2366) granting a pension to Florida Kennerly;
 - A bill (S. 2644) for the recognition of F. A. Patterson as a captain of the Third West Virginia Cavalry;
 - A bill (S. 2698) granting a pension to Johanna Loewinger;
 - A bill (S. 2832) for the relief Jesse H. Strickland;
 - A bill (S. 2859) for the relief of Caroline Baker Stevens, relict of the late Col. Robert J. Stevens and daughter of the late Col. Edward D. Baker;
 - A bill (S. 2976) granting a pension to Mary L. Bradley, formerly Mary L. Smith, who served as a nurse in the war of the rebellion;
 - A bill (S. 3101) granting a pension to Anne Rodgers Macomb;
 - A bill (S. 3177) granting a pension to Ursula Lucretia Haight;
 - A bill (S. 3194) granting a pension to Joseph H. Scoopmire;
 - A bill (S. 3498) granting a pension to G. L. Pease; and

A bill (S. 3840) to remove the charge of desertion against George Fetterman.

DAVID L. TRUOX.

Mr. DAVIS. The other day, in passing the pension cases unobjected to, I stated that the committee had eliminated from those that they designed to call up the cases removable under the law passed recently; but in doing that I made two mistakes, one in the case of David L. Truox and the other in the case of Niel Nielsson. I shall ask the Senate to proceed to the consideration of these two bills and relieve these parties from the state they are now in.

First, I ask the Senate to proceed to the consideration of the bill (H. R. 5107) for the relief of David L. Truox.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place on the pension roll the name of David L. Truox, dependent son of John Truox, late a private in Company D, Eighty-second Indiana Volunteers, at \$18 per month.

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

NIEL NIELSSON.

Mr. DAVIS. I ask the Senate to proceed to the consideration of the bill (S. 3477) for the relief of Niel Nielsson.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place the name of Niel Nielsson, of Wilmington, Del., late master-at-arms on board the United States revenue-cutter Seward, on the pension-list.

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

RIVER AND HARBOR BILL.

The PRESIDENT *pro tempore*. If there be no further morning business, that order is closed, and the Calendar under Rule VIII being in order—

Mr. FRYE. I move that the Senate proceed to the consideration of the bill known as the river and harbor bill.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate proceed to the consideration of the bill (H. R. 9486) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT *pro tempore*. The Chair understands the pending question to be on the amendment proposed by the Senator from New York [Mr. EVARTS] to the amendment offered by the Senator from Maine [Mr. FRYE]. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 2 of the printed amendment, line 18, after the word "prescribe," insert "the times and;" so as to read:

That the Secretary of War shall prescribe the times and proper and reasonable regulations for the opening and operating of the draws in said bridges.

Mr. GORMAN. I call attention to the fact that, while the proviso provides that the Secretary of War shall prescribe the times and proper and reasonable regulations for opening the draws, there follows in the same proviso a provision that the draws shall not be opened between half past 6 and half past 10 in the forenoon, and between 5 and 10 in the afternoon. It seems to me that the provision that the Secretary shall prescribe the times, etc., has no place in this amendment, for if the amendment is to be adopted we fix the hours in which the draws shall not be opened, between 6 in the morning and half past 10, and between 5 and 10 at night; and it would seem that that ought to be sufficient, unless it is intended to confer the power in addition to that for him to prescribe other times in which the draws shall not be opened.

Mr. EVARTS. If the Senator will allow me, a general regulation in regard to what is suitable about opening draws, etc., is in the bill otherwise. This temporary regulation comes in in addition to the statutory regulation that the draws shall not be opened during these hours, and thus the Secretary can regulate it the rest of the day and at night.

Mr. GORMAN. So it is the intention to authorize the Secretary of War to prescribe regulations.

Mr. EVARTS. Yes; such as are provided for.

Mr. HAWLEY. Mr. President, I am going to present a proposition as a substitute for all there is on the table and to be on the table on this subject, and I shall say a few words about it. All sorts of compromises are distasteful to me in some respects, but this is a great deal better than anything that has been before the Senate.

The PRESIDENT *pro tempore*. The proposed substitute will be read. The Chief Clerk read as follows:

Improving Harlem River, New York: Continuing improvement, \$30,000; and the Secretary of War is directed to cause the low bridges now crossing said Harlem River to be replaced, at the expense of the owners thereof, by other bridges as soon as the necessary legislation by the State of New York shall have enabled the change in grade to the approaches of said bridges, thus required, to be made, and after the necessary work therefor shall have been completed and opened to travel; and said bridges shall leave a clear space of 24 feet between the high water of spring-tides and the under side of said bridges, and said bridges shall be without any draw-spans or draws or openings in them: *Provided*, That the plans of said new bridges shall in all respects comply with this law and conform to the requirements of the Secretary of War: *And provided*, No part of

this appropriation shall be expended until the owners of said bridges shall be respectively legally authorized to make such changes in the grades of the approaches of said bridges as may be required to conform to the elevations of said new bridges.

Mr. HAWLEY. If I am correctly informed (and if I am mistaken either of the Senators from New York can correct me), when the railroads were authorized to make those great improvements in the northern part of the city of New York they established certain grades for streets, established the bridges, and regulated the whole affair. Any change requires the assent of the Legislature of the State of New York. The proposition to raise these bridges so that they shall be 24 feet in the clear between them and the highest of spring-tides raises the bridges 7 feet and requires a change in all the cost of the approaches to that Fourth-avenue bridge, the chief bridge, that will extend for I do not know how far—far enough to easily overcome the 7 feet and easily descend. Upon a rough estimate by a railroad man that will cost two and a half million dollars. That would be the railroad contribution, not needed for any of their purposes and in their way, and be simply a mere tax upon them in order to preserve a mud basin between the East and North Rivers, because that there will be any extended commerce ever going on through that so-called Harlem River I do not believe, but there will be a commerce, a trifle compared with the commerce of the railroads, and yet embarrassing enough, so that \$100 worth of it will make \$500,000 expense to a quarter of the people of the country.

But this proposition will give us of New England a clear, straight road into New York City, without any draw-bridges, and we can stand our share of the money thrown away on the Harlem River improvements as well as the rest of you.

By the way, I should say—I knew there was one point more—

Mr. GIBSON. I will ask the Senator if Mr. William D. Bishop did not express the willingness on the part of the railroad company that the bridges should be 25 feet clear above high-water mark.

Mr. HAWLEY. That suggestion was made in view of what was better for commerce. Twenty-four feet will be sufficient for heavy barges and tugs and hinged funnels. I thought 25 feet would be better, but I am told that the other bridges established are 24 feet, and it is not worth while to give this additional foot, because the others are not likely to be changed.

I wanted to say that in my judgment the only far-sighted, sensible conclusion for the Government of the United States to come to, and the city of New York, and the State of New York, is to fill up the whole of Harlem River and make a grand boulevard through there which in one day with its carts will carry more commerce than these mud flats will ever maintain. Fill up the river. That is what the Chief of Engineers says. That is what he has told the Committee on Commerce, and that is the bottom judgment, though they would not say it, of the Central Railroad, and the whole of them. Fill the whole thing up. New York wants not more wharfage; she has got a great deal of it unoccupied; a hundred miles of Hudson River she can occupy; also some on the Long Island side that is not improved, some on the east side of New York City, on East River, that is not improved, and more just above Harlem and all about there; but what New York wants is standing room, and wherever the population has been able to encroach on the mud flats along the bays anywhere it has stolen in and built upon it; and it wants those flats about Harlem filled up there now and a very large area given to building. That is what it ought to have. All these things compromise it. It will all come to it in the end. No big water way through the heart of a big city has ever existed, or will ever again, if they can get at the same purposes otherwise.

Mr. REAGAN. Mr. President, I was not present and did not have the benefit of hearing this discussion yesterday, but this is a subject to which my attention has been directed for several years in another branch of Congress, and it seems to me to be as chimerical a scheme as it is possible to conceive of.

It is proposed to make an open way for shipping between North River and East River by way of Harlem River and Spuyten Duyvil Creek. After that work was done it would render necessary the bridging of this channel at the several places where railroads and other roads cross that creek. If it is to be by draw-bridges, as seems to be contemplated by this amendment, then with the population and the business going into and returning from New York the draws would have to be in almost perpetual work.

Any one familiar with the extent of travel and transportation that does now and will hereafter cross that channel must see the utter impracticability of keeping the channel open for navigation and keeping bridges upon it open for railroad and other transportation. Besides, if that difficulty were not in the way the cost of transporting vessels through that canal after it is made would be greater than the cost of carrying the freights around the Battery from one river to the other; and that fact was made clear to a committee which had this matter under consideration by a gentleman who was the owner of a large amount of shipping, one of the largest ship-owners in New York, who stated that it would be cheaper to take tug-boats and carry tows around and other vessels around from one river to the other than to pass them through that canal.

As suggested by the Senator from Connecticut [Mr. HAWLEY], there is no need of doing it for the purpose of wharfage, because the wharf-

age is abundant that is unoccupied. Every way it can be looked at, except possibly in the light of a private speculation in lands—and that it seems to me is of a very doubtful character—in every public aspect in which it can be looked at, this seems to me not only to be a useless, but a seriously injurious project, not merely to the commerce of the country, but to the prosperity of the city of New York.

Suppose that we provide for the elevation of the bridges and for the elevation of the roads. The Government can not destroy private property nor take it for public use without paying for it. If you elevate one of these railroads above so as to affect the business of the property-owners along its line, when you have injured them, the railroad company if it carries out your purpose will be responsible to these private owners for the damage done to their property, and the Government compelling them to make the sacrifice would be very unjust if it did not cover the responsibility that it drove the railroad companies to.

In every possible aspect it seems to me that it is wild and chimerical, that it is based upon an idea of a private speculation in lots and lands which ought not to control Congress when considering a measure which affects the vast transportation that crosses the Harlem River and Spuyten Duyvil Creek. I trust that the amendment will not be adopted, and that the committee's report in favor of striking the clause out of the bill will be sustained.

Mr. WASHBURN. I should like to ask a parliamentary question. What motion would be in order now to leave the bill in the same condition as when reported from the Committee on Commerce; in other words, to strike out the appropriation for this "Harlem River improvement?"

The PRESIDENT *pro tempore*. That will be accomplished by disagreeing to all pending propositions.

Mr. WASHBURN. Then I move to lay the whole subject on the table, with that view.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves to lay the pending amendment on the table.

Mr. HAWLEY. I ask for information whether that would not dispose of the whole question? What would that leave pending before the Senate—the amendment of the committee?

The PRESIDENT *pro tempore*. A motion to lay on the table can only be applied to the pending amendment to the amendment, except by unanimous consent. Of course the question, by agreement, might be taken upon laying on the table the amendment offered by the Senator from Maine [Mr. FRYE], as well as the amendment to the amendment proposed by the Senator from New York [Mr. EVARTS]. If there be no objection and the Senator from Minnesota [Mr. WASHBURN] desires to test the sense of the Senate on that question, the Chair will suggest that the motion to lay on the table may apply not only to the pending amendment to the amendment, but to the amendment itself, offered by the Senator from Maine.

Mr. GORMAN. That is right.

The PRESIDENT *pro tempore*. The Chair hears no objection to that course.

Mr. FRYE. If the Senator from Minnesota will withdraw his motion to table for one moment—

The PRESIDENT *pro tempore*. The Senator from Maine may proceed by unanimous consent. The Chair hears no objection.

Mr. FRYE. The Senators from Connecticut and Texas underrate the importance of this improvement commercially. As the river stands now, only navigable 2 or 3 miles, last year there were carried on it 3,500,000 tons of freight valued at \$120,000,000. Now, that is not to be ignored by any Senator and it is not to be called a mud-hole by any manner of means by any Senator.

Mr. BLAIR. How does that compare with the commerce of Galveston?

Mr. FRYE. Galveston is not nearly so large a town now, but it is hoped it will be very much larger one of these days.

So it must be considered that here is a way which can be made of very great importance commercially. Of course, it is to be done at large expense and at serious damage to the over-river commerce. There is no doubt about that. There is to be inconvenience and some delay and all that sort of thing.

My first view of this was that of the Senator from Connecticut, that it was better to fill this up than it was to have a river way at all. But remonstrances came from New York, from boards of trade and chambers of commerce and from the press of New York, against any such idea as that, which were entitled to consideration.

Now, it is not a serious question for this bridge matter to wait, in my judgment. The first appropriation made for Harlem River was made over ten years ago, \$350,000, and was made to be used provided title to the land was given to the United States without expense. It took ten years to obtain those titles. They were obtained by heavy contributions by the people up and down the Harlem River. I think some contributed very heavily in land, and probably the expense ran up to millions of dollars already paid to secure this way.

This would be a matter of infinite convenience undoubtedly to the people up and down the Harlem River for landing all building materials which are to be used for that section of the city. They are practically cut out now. But they waited ten years in order to complete those

titles. Then two years ago that appropriation was made available, and another appropriation was added to it, and a plan was adopted by which the cost of this improvement would be \$2,200,000. At the rate we make these appropriations (we are making one now for two years of \$350,000) it will be six years at least, if not seven or eight years, before this improvement will be completed.

So that, even if nothing is done about bridges now, there is no great harm to come from it, in my judgment. When the Committee on Commerce struck out this House item of appropriation, it was done with the understanding that the committee of conference should have more time and could give more careful consideration to what ought to be done than could be given by our committee at that time in our haste, and my judgment is that it is a great deal better place to settle the question than it is upon the floor of the Senate with the lack of information which there is to a certain extent of the matter in controversy; and I think now that it is safe myself to trust the committee of conference.

The House of Representatives sent a committee over to New York and they spent some considerable time there in investigating this whole matter of the Harlem River improvement, the bridge question, and everything connected with it; and I presume that they have information which the Senate committee did not have. But, so far as I am concerned, I recognize the importance of the travel between the West and the North and the East to New York City. I believe myself, personally, in solid bridges, although down in my section of the country the feeling would be against solid bridges, because the lumber and bricks and everything of that kind to be carried into this Harlem River for the erection of buildings would come largely from my section of the country and would come in schooners that could not go through a solid bridge. The cargoes would have to be transferred to barges and then floated up.

But my own impression is in favor of solid bridges, and, as I stated yesterday, I have no doubt the city of New York will demand solid bridges in less than ten years.

Now, I am perfectly willing that any of these amendments shall be adopted by the Senate and the matter of any of them will be open in conference, and if the conference committee can not agree and can not settle the question, in my judgment no great harm will be done. Then we can take up the question by itself at the next session of Congress and give a hearing to all parties interested on this very question of bridges.

Mr. HAWLEY. May I ask the Senator whether it could in any way embarrass the question or endanger our views in this matter if the Senate should favorably consider and should give its approval to the amendment I have offered, because that means solid bridges, and then that we should either lay the whole matter on the table or—

Mr. FRYE. I have not the slightest objection to the Senate adopting the amendment which the Senator from Connecticut has offered. The whole question will then be in conference.

Mr. HISCOCK. Mr. President, if the Senator will yield to me a moment, it is fair to assume that the city of New York has no desire to impede, obstruct, or divert travel from the northern and western parts of the State and all of New England to the city of New York. It is fair to assume that there has been no such intention or purpose as that on the part of the city of New York. And it is fair to assume that my distinguished colleague [Mr. EVARTS] would be about as jealous of the commerce of the city of New York and of its being protected and sustained as any gentleman from that State or from any other State.

Now, the policy of the city of New York in respect of Harlem River has been and is bridges 24 feet high. There are some three or four—one is now, as I understand, already planned to replace a wooden bridge, costing some two or three million dollars, I think, and I understand it is to be upon the plan of 24 feet above high water in Harlem River at spring tide. I would sooner that the proposition I understood that the Senator from Connecticut had offered should be voted upon, that there might be an expression of the Senate with respect to solid bridges, and that the whole question should go to the conference in that shape rather than to go there in any other, that leaving the whole matter open.

One remark made by the Senator from Maine I desire to make a reply to. I refer to his remark in respect to this bridge question being left open. If this appropriation is made and this whole bridge question is left open while this improvement is being made, which will cover, as I understand, a period of probably six or seven years, what will be the state of affairs? The reason I object to that suggestion is on account of this section in the bill:

Sec. 4. That section 9 of the river and harbor act of August 11, 1883, be amended and re-enacted so as to read as follows:

"That whenever the Secretary of War shall have good reason to believe that any railroad or other bridge now constructed or which may hereafter be constructed over any of the navigable water ways of the United States is an obstruction to the free navigation of such waters by reason of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw-opening or the draw-span of such bridge by rafts"—

Mark the language—

steam-boats, or other water craft—

We can not tell what size they may be—

it shall be the duty of the said Secretary to give notice to the persons or corpo-

rations owning or controlling such bridge so to alter the same as to render navigation through or under it free, easy, and unobstructed."

I have read the provision as it was reported, though in some respects it has been amended.

Now, the reason that I do not desire to leave this question open absolutely about the bridges is that until it is settled by Congress what sort of bridge is to be built there, with, say, seven years in the front of us, I do not care to leave to the exercise of the judicial power (if it may be so called) of the Secretary of War or of the engineer in charge the removal of the present bridge. I do not care to trust it to the judicial power of that officer or of any board of officers to institute proceedings that within a month or two months' time or six months' time may tear up the present bridge and absolutely cut off the railroads from entering the city of New York. As long as we can reserve that question to ourselves I prefer to do so. That is too serious a question, and I say to the Senators from Connecticut, who are anxious upon this question, that that is a far more serious question than any other which has been presented in this discussion.

Mr. HAWLEY. I will say to the Senator that the whole provision, existing some two years, giving the Secretary of War this extraordinary power, ought to be revised.

Mr. HISCOCK. It exists and it has existed for two years; but what do the hearings amount to under the language of that provision? Let the Senator mark the language of it:

Or otherwise, or where there is difficulty in passing the draw, opening of the draw-span of such bridge by rafts, steam-boats, or other water-craft.

Nothing about their size; and as the Harlem River is to be improved and the occasion for running bricks and lumber and building materials up there increases, the question of tearing down the present Harlem River bridge becomes more imminent and will be more warmly pressed; and that is the serious point in this case.

I am entirely willing that this matter should go to conference upon the amendment which has been proposed by the Senator from Connecticut, and let the conferees of the House and the conferees of the Senate hear the parties who are interested in respect of this matter and attach such provisions to this appropriation as they may deem wise; and I desire here again to call the attention of the Senator from Maine to the fact that the most serious question in this case is the one I have suggested, vesting the War Department, under the language of that section, with the power to tear down or remove the present bridge.

Mr. EVARTS. Mr. President, the Senator from Maine has said some things that I had intended to say and which I therefore can omit. A most intelligent examination of this whole question has been pending in the minds of the people of the city of New York interested, including the railroads interested in traversing this canal. The House of Representatives sent a committee for an examination commensurate with the difficulties and reported the conclusions which they arrived at, which are now impressed upon the river and harbor bill.

An examination by my colleague and myself and those interested in New York City on all sides, discovered that there was this infirmity in the present condition of the law, that the Secretary of War had a perfect right now to remove this 7-foot bridge—I mean this bridge 7 feet above the tide—on the ground that it interrupted ordinary schooner navigation or even lighter draughts, and that the railroad companies were placed between the fires of this exposure and that of the Legislature which is properly the master of the grades and its streets and necessarily of the right of opening draws or bridges that obstruct navigation wholly within the State of New York. If a solid bridge had been authorized by the Legislature of New York the section which has been read and has been amended and made more vigorous here to embrace all the rest of the country in regard to impediments to navigation, it would have swept away a solid bridge at once by authority of Congress under this general legislation.

We are enlightened by the Senators from Connecticut and from Massachusetts, and now re-enforced by the Senator from Texas [Mr. REAGAN], that they all know better what the interests of New York are about four miles of wharfage on each side of open navigation than do the Senators from New York. Why, Mr. President, in another item which all the members of the Committee on Commerce will appreciate, when we show that the appropriation of \$198,000 to widen the depths of water there would be opened by private streets and the system of streets and wharves at private expense of \$10,000,000, that would add four miles to the wharfage of the city of New York and of Brooklyn in an unbroken series, and there would be room for the commerce of the whole country, including that of Texas and Connecticut, and that improvement would reduce the price of wharfage, so high now, greatly necessary for navigation and all interested in its burdens. It would reduce it from fifteen dollars to seven, and with alacrity and unanimity, with a knowledge thus imparted without consulting the Senators from Connecticut, or from Massachusetts, or from Texas, they concluded that it was worth while to do that.

Now, Senators speak here of the large range of wharfage upon the two rivers. The merchants know how much space there is. The merchants know whether there can be wharfage along for four or five miles

on the North River and whether the East River is not now taken up and the Brooklyn shore now taken up, and under that evidence and on that argument \$198,000 was put into this bill to open additional wharfage. Who can estimate the importance to the commerce, including that of Connecticut and Massachusetts and Texas, in having wharfage reduced from \$15 to \$7. And now we are enlightened also that, if counsel can be taken from the Senators from Texas, and Connecticut, and Massachusetts, the Legislature of the State of New York, the common council of New York City, the Chambers of Commerce, the Maritime Commerce Association, and the dozen representatives of all the interests in New York that present themselves here and desire the Harlem River improvement to proceed are to be met by the suggestion from Texas that this is a mud-hole and that there is no navigation.

Mr. REAGAN. I did not make that suggestion.

Mr. EVARTS. And at the same moment we are asked to appropriate \$500,000 for Galveston without anybody from the State of New York talking about the better wisdom of enlargements down there.

Mr. REAGAN. If the Senator will allow me, I did not say anything about that being a mud-hole.

Mr. EVARTS. I thought you did.

Mr. REAGAN. I did not.

Mr. HAWLEY. I think that was my remark.

Mr. EVARTS. You described it distinctly as being an operation in real estate to fill the pockets of individuals at the expense of the appropriations of Congress, and now \$2,000,000 have been appropriated out of the pockets of the riparian owners to put it in the power of the Government at this moderate expense to produce this important change in navigation.

Mr. HOAR. Mr. President, the Senator from New York alluded to the Senator from Massachusetts. I suppose he refers to me. All I said was that I was perfectly willing this excavation should go on, but that I thought the arrangements for providing for the convenience of the railroad crossings and of the commerce ought to be brought up in a separate bill, when the statistics could be brought before the Senate and experts could give their opinion, and that we had not before us now furnished sufficient data to give an intelligent vote on that subject. I distinctly said that I was perfectly willing that the whole work should go on, reserving only this one thing until we could get further information about it, and I said no single one of the matters which the Senator from New York has attributed to me.

Mr. EVARTS. On the contrary, the Senator went almost to the extent of oburgation against the Senators from New York and arraigned them for the presentation of this subject here with an ignorance that they supposed was universal on the subject.

Mr. HOAR. The Senator from New York will pardon me for saying that I did nothing of the kind, and that the only ignorance which I impute to the Senator from New York is an ignorance of what I said—a crass, Egyptian ignorance of it.

Mr. EVARTS. The ears are masters of what words are said after they are uttered. That is a universal proposition. A man who is oburgating may not know that he is oburgating, but the man who is oburgated knows it. When two Senators are arraigned here for having brought in as a new proposition an arrangement so important, so long studied, and so well understood, we are told that now an improvement must go over for the year because of these ideas resting entirely upon the question of the interruption of travel, all of which we are familiar with. You do not want a map of the canal, a dull subject always and not picturesque—you do not want a map to show what a canal 400 feet wide and 5 miles long will look like.

The question is of the people that live there, the interests there, and the interests of the mass of population that urge their tides of travel across it. You do not want a map for them. The Senators from New England are alive to that subject of the amount of travel. We take their word for it, that all the people of the country wish to go across it at least twice a year, or even twice a day. We will also take the other proposition, that all commerce is interested, and that the farthest question of shipment on water or any portion upon railroad transportation that from the time these flatboats and scows become the burden of the wealth of transportation at the cheapest rate, and they are all in favor of having this process of enlarged wharfage for their accommodation, and not to be put in competition with the great steam-ships and foreign commerce that can afford to pay great rates of wharfage. I have not heard a word from the great mass of population in our own State, over, I believe, 6,000,000, that will not fall very much short of the population of all New England, and they travel over this Harlem River and then come down on the Harlem Railroad and the Central Railroad, just as Connecticut travelers and Massachusetts travelers come on the New York and New Haven, and the confluence of all that tide of travel passes over this bridge.

Do not the people of New York who travel back and forth, do not the suburban travelers who live up the Hudson and along the Sound, within the State of New York, know themselves what comes from impediment and what comes from convenience? And then the whole West that comes down through that gap in the Alleghanies where the

Central Railroad passes know all about this. They have to pass over this and go to the city of New York by that route, and some of them have to take this route to get to New England.

What I object to, Mr. President, is not confined to one thing. The Senators from New York are always happy to take the estimate of Senators and public evidence and public authority on subjects that are pertinent to them. One common subject only that is pretended by the Senators from New England is that this travel across the railroad bridge and the other great interest spoken of in this very limited and curtailed operation of 3 miles, amounts in volume of tonnage and the value of the property to what would make the fortune of a small seaport town.

Mr. President, this difficulty from the existing law was brought to the attention of the Senators from New York; it was brought to the attention of the Commerce Committee, and has been under their deliberation for three months. All the enlightenment comes from the other House, from their investigations, and the difficulty is, as my colleague has pointed out, that it will not do to leave the matter under general legislation if there is an intention that there shall be an improvement in the travel across the Harlem River as it now exists, for all these bridges are over the part of it that is now used by commerce and rightfully used by commerce.

In that difficulty, then, there were two propositions. One was solid bridges. But the Legislature is to be consulted in that arrangement. They may not authorize, if they consider it inconsistent with their policy, if they are asked to depart from what is now the arrangement for the existing bridges—I mean new bridges that are raised 24 feet above the tide and under the regulation of draws. All these interests have been fixing their attention on this very subject of this compromise between travel across and the commercial interests and the wharfage interests and all the prices that are affected. There is not one building that will come within the range of 2 miles on either side of this canal that will not feel in the reduction of the cost of getting more abundant materials water-borne and hauled only some 2 miles.

And yet here on this fine summer morning we are entertained with these liberal notions about New York City and its injury and the blame of its merchants, its Chamber of Commerce, its Maritime Association, its financial bodies, and its citizens, that if they follow the advice of the Senator from Texas and the Senator from Connecticut and the Senator from Massachusetts they will be a great deal better off and all the rest of the country! Sir, I believe it has been the custom that particular interests were represented before the Commerce Committee and to hear statements by Senators and citizens who are introduced to them on that particular matter. Now, this whole matter has been weighed from top to bottom; everybody has been consulted, no matter whether he agreed or did not agree. The present situation of power with regard to the removal of the obstructions and this newly invigorated power by which all existing structures not protected by twenty years of existence or by affirmative legislation are at the mercy of the Secretary of War all over this country—in what interest I should like to know? In the interest of commerce, water-borne commerce which we all understand and all appreciate and all intend to maintain?

Where have we any solid bridges? Are the bridges of Boston solid? The men of Boston are solid, but the bridges are not. They have draws, and as things are now those bridges are crossed mainly by persons who make money there and pay their taxes outside of the city. They all come out again every morning and every evening. Why do they not close the draws there? So with Connecticut. We had an example of a draw there in the Norwalk disaster. What was the policy of Connecticut about that? Did they close that bridge against schooners? Not they. They passed a law that every train should come to a halt whether there was any need of it or not, in order to be sure that nothing was to interrupt the train. Whether that is now in force I do not know, but it was the subject of much criticism by travelers.

Mr. HAWLEY. I will say, if the Senator will pardon me, that the object of it was not to save the schooner. It was because one big train pitched in and we lost many good people; and it was to save the people, the passengers.

Mr. EVARTS. That was the motive, and as strong a motive as anybody could feel, to have the draws opened to navigation of the sloops that go into that creek, however deep they may penetrate; but I believe all the travel on this very road, which is a very great road, that the Senators from New England are talking about, every train stopped there, whether a schooner was in sight or not, and there we sat in silence until the train started again. I do not complain of that. I believe in avoiding open draws; but I do not want to be told here that a lesson is to be taught us by Connecticut about close bridges. Is there not a draw at the mouth of the Connecticut on the Shore Line, where all the sloops passing in that river up to Hartford are under observation? Is there not one at Middletown?

Every clause, every section put into this amendment that the Senators from New York have supported was a change of existing law, a change of the provisions in the House bill, and all in favor of travel across and modification of the close limitation that is to be found on the statute-books of this Government in regard to navigation; and yet we are told here that in a mire of ignorance the Senators are found and

can not make either land or water out of it unless there is a year's delay to examine into this subject.

Mr. President, it is not very important whether this goes to conference with closed bridges or with open bridges under the limitation. It is my judgment under the limitation in the present stage of public feeling and public interest and public action that this qualified open draw is the best one, because there is to come about and should come about a general acceptance of what are regarded by the State of New York and the city of New York with equal interest, that is, travel by railroads and navigation and wharf accommodations. Therefore I have no objection to its taking one form or the other. So far as I am advised or have any judgment, the other House is not willing to strike out the whole matter.

Now, Mr. President, look at the great property interests which are involved, and involved upon the promise of the United States that this was to be an improvement and the Government would contribute to it if the land-owners would devote their property to this use. Merchants, dealers for the three or four miles that are now open, have accommodated their trade, have accommodated their communications water-borne outwards and inwards, and the population are now using the great benefits of this imperfect navigation already. Now we are to be told in one breath that we are to incorporate in this very river and harbor bill one of the most searching and comprehensive provisions ever determined upon to remove from all the United States bridges upon no other consideration than that they obstruct water-borne commerce, and in the same breath it is said that this navigation, which transcends in its importance, which transcends in its now use—I will not say how large a proportion, but a very large proportion of the navigation that is seeking nurture and protection, and receiving it from every clause in this manifold bill—must not interfere with the constant use of the bridges.

This is an impossible situation, and it must be solved, for the problem will remain if we take no action for which we have authority and we have judgment that can make an accommodation between the competition of water-borne commerce and wharfage interests in which the whole country is involved, and the traffic across the stream by railroads and otherwise then this imperfect condition can be made by the legislation of New York, but the opportunity of concurrence of opinion among the citizens and their interests will be postponed, if not destroyed.

Mr. WASHBURN. Mr. President, in view of the statements made by the chairman of the committee and the suggestions of others, I am perfectly willing that the vote should be taken on the amendment as offered by the Senator from Connecticut, and then let the matter go to a committee of conference for final determination. I confess that I am not very familiar with the situation at Harlem River, although my prejudices are rather unfavorable, that is, rather against the improvement which has been contemplated there, and which has partly taken place in the last four or five years. During my term in the other House, when I was upon the Committee on Commerce, I came to the conclusion that there was not much in this improvement. But now it seems to me that this matter should go to the committee of conference and there receive a final determination.

What led me to make the motion at this time to lay the whole subject on the table, leaving the bill without any appropriation for this purpose, was the statement made by the Senator from Connecticut that the War Department had advanced the opinion that ultimately this river would be closed, and if such is likely to be the case I thought the sooner Congress stopped the appropriation the better.

Mr. HAWLEY. Let the Senator understand me exactly. It was not an official declaration of the War Department, though I think the opinion was clearly expressed by the Chief of Engineers that it was his judgment. He was not making it as an official report, and I do not know that I violate any confidence in saying that he told the chairman of the Committee on Commerce that his individual opinion was that the best thing to do was to close the river up.

Mr. WASHBURN. For the reason I have stated, I will not renew my motion to lay on the table.

Mr. HAWLEY. Mr. President, the Senator from New York [Mr. EVARTS] who has just spoken smiled at the remarks some of us made on this side that we knew nothing about this question until it was proposed yesterday afternoon about 5 o'clock. He said it was all understood. Now, there has been a negotiation, conversation, and controversy going on between the various interests here that not over five or six Senators knew anything about; and when the river and harbor bill appeared here our New England interests were satisfied by seeing that every thing concerning the Harlem River was crossed out by the report of the Senate Committee on Commerce.

Then, between 4 and 5 o'clock yesterday, when we were reaching, as we supposed, the end of the discussion of the river and harbor bill, a very different proposition was brought in here, an entirely different affair, which none of us who have a vital interest in this matter knew anything about. That was the ignorance of which I spoke. It was inevitable. I did not claim that we were wholly ignorant as to the great interests of transportation and the Harlem River question. I have seen a great deal of literature in the past three or four weeks on that subject, and, for that matter, for ten years past, and I suppose

every New England Senator has been supplied with it. I have been by there time and again, crossing over and over again on the Hudson River Railroad and the New Haven Railroad and looking out, and I have never passed there without some thought in my mind of this pending question.

But the Senator made quite a contrast between the people of Central and Western New York and the people of New England. Their interests are entirely common in this matter. The Senator asked if they in New York had no interest, if they did not understand this question as much as we did, and he gave us to understand that the people of Central New York being wiser than the people of New England were quite willing to agree to draw-bridges. Now, the Senator has never taken a census of opinion of the great Central and Western New York upon whether they would have the Central Railroad trains interrupted every fifteen minutes by little vessels coming into the Harlem basin. Their judgment will be just exactly ours, and I say to the Senator from New York that as the question stands now the judgment of New England and Western New York and the West would be that Harlem River had better be all filled up and rebuilt, for there will ultimately be practically the center of the magnificent city of New York; and these railroads, whatever they may be willing to compromise upon, think so.

But I am willing to yield this, that as to whether there might not be large docks there, to say nothing about transit through, whether there might not be large basins and docks like those below London, is to a large extent a local question. Of course, upon that question the merchants of New York are better judges than I am. If the two things can be reconciled, if large docks in that river can be provided for by passage under the bridges by steam-vessels or vessels drawn by steam, and at the same time the wonderful tide of travel and traffic by rail can be left uninterrupted, I shall be willing and glad of it.

Let the people interested tax themselves; let them even come here to Congress and insist upon taxing the Government millions upon millions of dollars to provide these local docks and I will not particularly complain about it, I will not make any ugly fight about it. But what I am struggling for is a commerce a great deal larger than that and a traffic of two hundred and fifty trains a day, and the road choked and crowded with travel and spending hundreds of thousands of dollars every year to increase its facilities for getting into New York, and probably fifteen millions, a quarter of all the people of the country, are directly interested in that matter of access to the great city. That is what I was talking of; that is the broad question which interests all. It is as much a Connecticut question as a New York City or a New York State question; if anything, a larger question to us than it can be to them, but at least it is equally our question.

Mr. EVARTS. I ask the Senator whether he has had the census taken of Connecticut?

Mr. HAWLEY. Yes; very substantially.

Mr. FRYE. Mr. President, I should like very much to have a vote on this question.

Mr. REAGAN. Mr. President, the remarks which I made on this subject were the result of an investigation of this same question each session of Congress for about twelve years, and the hearing of evidence and the consideration of all the phases connected with it. I had not had the opportunity of knowing the views of the Senator from New York [Mr. EVARTS] and did not know that I should be antagonizing them, and I hope the Senator from New York will understand that my observations were not with a view of antagonizing his views. They were the result of investigations long continued, and a consideration of the subject in all its aspects. It is my misfortune, perhaps, that I reach a conclusion different from that which has been reached by the Senator from New York.

I concede that the local situation of the Senator and the immediate interests of his constituents are much greater than any that I represent, while I look upon the question as one affecting the commerce of the entire country, and one upon which fair argument from any Senator might be listened to without offense.

The first view I had was—and that has been heretofore sustained by the evidence I have heard upon the subject from those directly interested—that if an open water way is made from North to East River, it will cost more to pass vessels through it than it would to take them around from one river to the other by tows or by the convenience of steam-vessels. That is one point.

Another point is that the enormous amount of travel passing over what would be the line of this channel connecting the two rivers is so great that if draw-bridges were made it would require a continual whirl of them to meet the various demands of passing trains and passing vessels, and I repeat—the Senator may consider it unwise or offensive, as he sees proper—that it is in my judgment utterly impracticable without a serious interruption to commerce and travel to make draw-bridges over that stream.

Besides, as I suggested before, if the plan be adopted of requiring these bridges to be raised from 7 feet to 24 feet above high water, it involves the raising of railroad tracks on either side, which must affect the property adjoining them on either side and must affect it injuriously; and either the railroad company or some one else will have to

foot the bills for doing that. The Senators perhaps have considered that. Beyond that, if it should be determined to make solid bridges high enough for vessels and their masts to pass under them, that would require another extension of the grade a long way on each side of the river and would injure the property on each side of these tracks to the amount of millions of dollars. The Senator no doubt has considered that, too.

Mr. President, I will enter into no controversy now with the Senator from New York. He can have his way if he chooses. I merely tell him that if he can succeed it will be for him to receive the condemnation that will come from an interrupted commerce and an interrupted traffic.

Mr. BLAIR. Mr. President, I want to suggest to the Senator from Maine, who will take this matter into conference, one point which has not been evolved during this debate.

Mr. FRYE. The Senator from Maine is afraid that he will never get it into conference. [Laughter.]

Mr. BLAIR. He had better take this idea with him if he does. That the construction of this canal, giving a passage northward to the population and wealth of New York City from the East River to the Hudson River and interchangeably, adds unquestionably immensely to the defense of the city of New York in the case of war. An assault by way of the mouth of the harbor or by way of Long Island Sound or from both directions would be relieved of a very large proportion of its danger by this transit for a retreating naval force or defensive force through this passage, which by being opened in the manner contemplated by the appropriation—for I presume it will—will be made suitable for the transit of a navy provided it be not blocked up by solid bridges.

Whenever this matter is finally settled, whether it be by a bridge which shall not be opened, except in great emergencies, or one which shall be opened daily for transit back and forth, I insist upon it that the war interests of the whole country demand that there should be draws in these bridges even if they are to be used only on an emergency.

Mr. HOAR. Mr. President, I wish to take one minute only to point out what is the precise condition of this debate and what is the precise relation, as I understand, that my honorable friend from New York [Mr. EVARTS] occupies in this matter.

The Committee on Commerce brought in this bill striking out everything in regard to the structure of new bridges, leaving only the provision for going on with the work of excavating. Yesterday afternoon, as we were just about coming to a vote, as we hoped, upon the bill, it was moved to strike it all out, not only to strike out going on with the work, but I think it was stated by one of the committee that he was willing to allow that to go on. Thereupon my honorable friend from New York introduced an amendment providing for draws in all these bridges, and New England Senators pointed out the inconvenience to their constituents as well as to others, and I said, what I think every Senator will bear me out in the truth of, that we were ignorant of the statistics showing the comparative claims of the water commerce on the one side and the land commerce on the other, and that before the question was adjusted between them the Committee on Commerce ought to send for experts and we should have their testimony laid before the Senate.

Now, the Senator from New York, thinking that there is great disrespect to him or to somebody in that suggestion, as I understand it, comes in this morning and not only goes as far as that, but goes a great deal further, and he and his colleague announce their willingness today to abandon for the time being the draw altogether and to provide for a solid bridge.

Mr. HISCOCK. We are willing that it shall go to conference on that proposition.

Mr. HOAR. I do not suppose you propose to have this whole thing settled by four men in conference without the acquiescence of the Senate. Now, it seems to me that when these honorable Senators, or either of them, one day want a solid bridge, and the next day want a draw, and the next day go back to the solid bridge again, there is nothing disrespectful to them and other Senators in asking to be enlightened by having the statistics that will show which is the best.

Mr. WASHBURN. As the Senators from New York it seems agree to the amendment proposed by the Senator from Connecticut [Mr. HAWLEY], which provides for solid bridges, bridges without draws, I do not see the use of any further discussion on the subject. We all seem to be agreed upon that amendment, and I hope, therefore, we may have a vote.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Minnesota to withdraw his motion to lay the amendment on the table.

Mr. WASHBURN. I withdrew it.

The PRESIDENT *pro tempore*. The question then recurs on the motion of the Senator from New York [Mr. EVARTS] to amend the amendment proposed by the Senator from Maine [Mr. FRYE], which will be again stated.

Mr. HAWLEY. The Chair may be right, but my amendment is pending, I suppose.

The PRESIDENT *pro tempore*. It can not be entertained now be-

cause an amendment in the second degree is pending. The Secretary will again state the pending amendment.

The SECRETARY. In line 18 page 2 of the amendment, insert, after the word "prescribe," the words "the times and;" so as to read:

And provided further, That the Secretary of War shall prescribe the times and proper and reasonable regulations for the opening, etc.

The PRESIDENT *pro tempore*. Is the Senate ready for the question upon agreeing to the amendment proposed by the Senator from New York to the amendment offered by the Senator from Maine?

The amendment to the amendment was rejected.

Mr. PLUMB. I move now that the whole subject lie on the table. I mean that all the amendments lie on the table.

Mr. HOAR. Including the committee amendment?

Mr. PLUMB. I understand the amendment of the committee has been disposed of.

The PRESIDENT *pro tempore*. That has been disposed of by agreement.

Mr. PLUMB. There has been developed the widest possible diversity of opinion in the Senate in regard to this very important question. I am not prepared to express any opinion about it myself, although I happen to have seen recently the place and the circumstances and surroundings of this connecting link between the south shore of Harlem River and the north shore, and it impressed me very greatly in certain ways; but I believe that after this discussion to have this whole subject go to a committee of conference without any further instruction except that which may be embodied in the discussion so far had would be the best course.

Mr. HAWLEY. I have offered an amendment this morning in which I shall be glad, and I think the Senate will, to express its judgment, providing for closed bridges through there; and that is apparently the sentiment of the Senate in general, if the sense of the Senate can be taken upon the question.

Mr. PLUMB. The point is, if the Senate should express its opinion on that branch and not upon the other, it possibly might prevent any solution at all. It is better to have something than nothing.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Kansas to submit a motion to lay on the table.

Mr. CULLOM. May I inquire if the amendment of the Senator from Connecticut is pending, so that that will be laid on the table if the motion of the Senator from Kansas carries?

The PRESIDENT *pro tempore*. It has not yet been formally offered.

Mr. HAWLEY. I offered it, but I was not aware that an amendment to the amendment was pending.

The PRESIDENT *pro tempore*. Therefore it was not offered.

Mr. PLUMB. If that amendment has not been offered, I withdraw my motion.

Mr. HAWLEY. I offer the amendment now.

Mr. PLUMB. Then I renew my motion.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to amend the amendment proposed by the Senator from Maine by striking out and inserting what will be read.

The SECRETARY. Insert the following:

Improving Harlem River, New York: Continuing improvement, \$350,000; and the Secretary of War is directed to cause the low bridges now crossing said Harlem River to be replaced, at the expense of the owners thereof, by other bridges as soon as the necessary legislation by the State of New York shall have enabled the change in grade to the approaches of said bridges, thus required, to be made and after the necessary work therefor shall have been completed and opened to travel; and said bridges shall leave a clear space of 24 feet between the high water of spring tides and the under side of said bridges, and said bridges shall be without any draw-spans or draws or openings in them: *Provided*, That the spans of said new bridges shall in all respects comply with this law and conform to the requirements of the Secretary of War: *And provided*, No part of this appropriation shall be expended until the owners of said bridges shall be respectively legally authorized to make such changes in the grades of the approaches of the said bridges as may be required to conform to the elevations of said new bridges.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Kansas to move to lay the amendment on the table.

Mr. ALLISON. Before that vote is taken, if the Senator from Kansas will allow me a moment, I desire to ask what will be the situation of the question if these amendments are laid upon the table?

Mr. EDMUNDS. It will stand on the clause of the bill.

Mr. ALLISON. It will stand on the committee amendment?

Mr. PLATT. No, it will stand on the clause of the bill.

The PRESIDENT *pro tempore*. As the Chair understands, the bill came from the House of Representatives with a provision included between lines 7 and 20, on page 29. The Committee on Commerce reported an amendment to strike out that provision, which has been agreed to. Therefore, the whole provision concerning the improvement of Harlem River has been eliminated from the bill. The Senator from Maine proposed to amend by inserting another provision upon the same subject, to which the Senator from Connecticut has offered an amendment.

Mr. HAWLEY. As a substitute.

The PRESIDENT *pro tempore*. The Senator from Kansas moves to lay the amendment on the table, which, if it prevails, will leave the provision eliminated from the bill.

Mr. PLUMB. That is what I desire, Mr. President.

The PRESIDENT *pro tempore*. Then the question before the committee of conference, if the decision stands, will be upon agreeing to the amendment of the Senate striking out the provision.

Mr. PLUMB. I do not make the motion in order to cut off debate. If any Senator wishes to speak I shall withdraw the motion for that purpose; but it seems to me the Senate will get by a short cut at some result on this subject by means of the motion I have made better than otherwise. I think, on the whole, it will be better to let the matter go to conference in order that there may be that adjustment which finally must come under some different circumstances than those obtaining here now.

The PRESIDENT *pro tempore*. The Chair then understands the Senator from Kansas to withdraw his motion to lay the amendment on the table.

Mr. PLUMB. I will, for the purpose of allowing any one to speak.

Mr. EDMUNDS. I think we had better take the direct question, in order to have the sense of the Senate to guide the conferees on the subject. I think the debate is pretty much exhausted.

Mr. PLATT. I should like to make an inquiry.

The PRESIDENT *pro tempore*. The Chair will hear the Senator from Connecticut.

Mr. PLATT. Was the motion of the Senator from Kansas, which is now withdrawn, a motion to lay the amendment of the Senator from Maine on the table or the amendment of my colleague?

The PRESIDENT *pro tempore*. It could only be applied, except by unanimous consent, to the amendment proposed by the Senator from Connecticut, that being the pending question. By unanimous consent, the question can be taken upon laying the amendment of the Senator from Connecticut and the amendment of the Senator from Maine on the table as one question, if the Senate desires.

Mr. EVARTS. Mr. President, I apprehend that the Senator from Kansas was not present at the whole of the debate this morning and is not quite apprised of the situation reached in the minds of Senators. There came to be a somewhat general feeling that it was not of any very vital importance whether the improvement went into a conference with a solid or with a draw bridge; but the Senate has disposed of the latter point of preferring a draw-bridge to go into conference, and I supposed had reached very general concurrence that this amendment for solid bridges should go to conference.

We shall have made very little progress if we are to come back here with the question whether we shall adhere to our rejection of the Harlem River improvement, and the House adhere to it, as seems to be quite probable that they will do. We therefore reduce somewhat, perhaps I should say a great deal, the elements of discussion, because all these amendments relate to the appendant provision of the House proposition, not to the appropriation at all. It is to leave the whole matter open, to have the bridges removed at once with all the inconveniences that have been pointed out. Now, as the Senator from Vermont suggests, let us take the sense of the Senate whether we wish this to go into conference with solid bridges.

Mr. GORMAN. Mr. President, this is an improvement in the State of New York, and it is not a gracious thing perhaps to oppose the wish of the Senators from that State; but as a member of the Committee on Commerce, which has given this matter a great deal of attention, I desire to say that the House committee which framed this bill, as was well stated by the Senator from New York nearest me, appointed a special subcommittee to go over with the Government engineers to determine what was the proper thing to do in this particular case, and the result is the provision found on page 29. When it came to the Committee on Commerce of the Senate that committee recommended that the provision should be stricken out with a view to have further information and further investigation when it came to a matter of conference between the two Houses.

I think that what we have before us is probably a very extreme proposition, and for one I do not want to be committed to a provision that requires a solid bridge over the Harlem River and that the improvements of that river shall be suspended until after the action of the Legislature of New York, and the determination of that question, and therefore I shall vote for the motion of the Senator from Kansas, believing that if it is left precisely as the Senate has it now, with the House provision stricken out, when it goes into conference the conferees on the part of this body and the House can then consider all the various propositions that are presented, and remodel this clause in some form that will be exactly right and just to the Harlem River improvement and to the railroad company and to the commerce of that great metropolis.

Mr. HAWLEY. I ask the Senator just a question. Why not let a vote be taken upon this proposition, which certainly interests a great many people and will settle three-quarters of it, and then make a motion to lay the whole question on the table if he wants?

Mr. EDMUNDS. Mr. President, I think that conferees—perhaps that is a very old-fashioned notion—are supposed to insist upon and adhere to the views of the body they represent, and that we do not send a thing to conference as we do to a committee of seven, or nine, or eleven gentlemen of the body to report to us for consideration, but we send a thing to a conference on account of a disagreement between the two Houses in respect of which the conferees of each represent the

views that either House has before expressed and with due diligence and firmness present the considerations and insist upon them.

Now, then, to leave this thing at sea, as I may say—although there is not any sea in the Harlem River until we make one by digging out above these bridges—it seems to me it is not just to impose such a responsibility upon whoever the Senate conferees may be (and we know exactly who they will be of course, according to our usual course of proceeding), but that the Senate ought to express itself. We have discussed this question quite as much as the conferees could and the Senate ought to express its opinion as to what, according to the light it now has, it desires to have done, so that our conferees, if the matter should go to conference, will understand what it is that they represent as the judgment of the body that has appointed them to confer with the other House.

I hope, therefore, that we shall take a vote by yeas and nays on these pending propositions as indicating the judgment of the whole body of Senators after this debate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas, to lay the amendment upon the table.

Mr. CULLOM. I hope the Senator will withdraw the motion, and let us take a vote directly upon the amendment.

Mr. EDMUNDS. Taking a straight vote.

Mr. CULLOM. On the discussion now.

Mr. PLUMB. Very well; I withdraw the motion.

The PRESIDENT *pro tempore*. The motion to lay the amendment on the table is withdrawn.

Mr. PLUMB. I want to say now that I very much hope the amendment will not be adopted; and in saying that I say it, of course, with much deference to the wishes of the Senators from New York and those from New England, who are closely interested in the subject-matter. I was up there last fall, and, in company with a friend, examined the situation, and it seems to me it would be a great national misfortune to have that channel closed by the erection of a closed bridge only 24 feet high.

I do not want to regard this wholly as a local question, and I should dislike very much to have the Senate commit itself in favor of an obstruction of that kind to the permanent navigation of the Harlem River. There has been found elsewhere opportunity to adjust the relations of those interested in navigable waters to those who by means of railroads cross them. That ought to be done in this case. It can easily be done. The corporations coming in there are amply able to build bridges of sufficient height and with draws which, while accommodating their purposes, will accommodate also the purpose of those interested in the water transportation and the other purpose which has been spoken of here, what might at some time be termed one of national defense; and whatever is done in this way ought to be done after a great deal of deliberation and care, and I very much hope that whatever is done it will not take this shape.

The PRESIDENT *pro tempore*. The question recurs on agreeing to the amendment proposed by the Senator from Connecticut [Mr. HAWLEY].

Mr. SHERMAN. Let it be read.

The PRESIDENT *pro tempore*. It will be again read.

The SECRETARY. Substitute for the amendment proposed by Mr. FRYE the following:

Improving Harlem River, New York: Continuing improvement, \$350,000; and the Secretary of War is directed to cause the low bridges now crossing said Harlem River to be replaced, at the expense of the owners thereof, by other bridges as soon as the necessary legislation by the State of New York shall have enabled the change in grade to the approaches of said bridges thus required to be made, and after the necessary work therefor shall have been completed and opened to travel; and said bridges shall leave a clear space of 24 feet between the high water of spring-tides and the under side of said bridges, and said bridges shall be without any draw-spans or draws or openings in them: *Provided*, That the spans of said new bridges shall in all respects comply with this law and conform to the requirements of the Secretary of War; *And provided*, No part of this appropriation shall be expended until the owners of said bridges shall be respectively legally authorized to make such changes in the grades of the approaches of said bridges as may be required to conform to the elevations of said new bridges.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

Mr. EDMUNDS. As this covers the whole matter, though I am in favor of it, I ask for the yeas and nays upon it, in order that we may get a definite judgment of the Senate.

The PRESIDENT *pro tempore*. The Senator from Vermont asks that on this question the yeas and nays may be entered on the Journal.

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

Mr. BLACKBURN (when his name was called). I am paired generally with the Senator from Nebraska [Mr. MANDERSON], but I have his authority to vote upon all questions involved in this bill. I vote "nay."

Mr. PASCO (when his name was called). I am paired with the Senator from Illinois [Mr. FARWELL]. In his absence I withhold my vote.

Mr. SHERMAN (when his name was called). I am paired with my colleague [Mr. PAYNE]; and not knowing how he would vote on this

question, I withhold my vote, unless it shall be necessary to make a quorum.

Mr. WILSON, of Iowa (when his name was called). I am paired with the Senator from Maryland [Mr. WILSON].

The roll-call was concluded.

Mr. BATE. I wish to state that my colleague [Mr. HARRIS] is absent, not well enough to be in the Chamber this morning, and is paired with the Senator from Vermont [Mr. MORRILL].

Mr. PASCO. I wish to give notice that my colleague [Mr. CALL] is absent, and is paired with the Senator from South Dakota [Mr. PETTIGREW].

Mr. CULLOM. If the Senator from Florida will allow me, I will state that I am satisfied my colleague [Mr. FARWELL] will be entirely willing that he shall vote on this question in any way he chooses.

The PRESIDENT *pro tempore*. Does the Senator from Florida desire to be recorded?

Mr. PASCO. I vote "nay."

Mr. TELLER. I wish to state that my colleague [Mr. WOLCOTT] is paired with the Senator from West Virginia [Mr. KENNA]. My colleague is detained from the Senate by sickness.

Mr. PLATT. I am paired with the Senator from Virginia [Mr. BARBOUR], but I do not think he would object to my voting upon this question, and after consultation with his colleague [Mr. DANIEL] I will take the liberty to vote. I vote "yea."

Mr. HIGGINS. I am paired generally with the Senator from New Jersey [Mr. MCPHERSON], but I do not think he will object to my voting on this question, and I vote "yea."

Mr. FRYE. I desire to state to the Senator from Delaware that the Senator from New Jersey with whom he is paired requested me to say to the Senator that on the river and harbor bill he could vote as he pleased.

Mr. MANDERSON. I desire to announce that my colleague [Mr. PADDOCK] is necessarily absent from the Chamber to-day and is paired with the Senator from Louisiana [Mr. EUSTIS].

Mr. STOCKBRIDGE. I desire to state that my colleague [Mr. McMILLAN] is absent, and is paired with the Senator from North Carolina [Mr. VANCE].

Mr. CULLOM (after having voted in the affirmative). I observe that the Senator from Delaware [Mr. GRAY] is not present, and I should be glad if the Senator from Maryland [Mr. GORMAN] would indicate, if he knows, how that Senator would vote. I am paired with the Senator from Delaware [Mr. GRAY].

Mr. GORMAN. I do not think it makes the slightest difference.

Mr. CULLOM. I will allow my vote to stand, then.

Mr. DANIEL. I wish to state, to avoid any possible misunderstanding, that I am paired with the Senator from Washington [Mr. SQUIRE], but not regarding this question such as to require a recognition of the pair, I take the liberty of voting "yea." If there is any exception to it or if any one thinks it will be objectionable, I shall withdraw my vote.

Mr. SHERMAN. Under the circumstances I feel at liberty to vote, and I vote "yea."

Mr. QUAY (after having voted in the affirmative). I observe that the Senator from West Virginia [Mr. FAULKNER], with whom I have a general pair, is not in his seat, and while I am not clear that the pair applies to this vote, I shall prefer to withdraw my vote.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania withdraws his vote.

Mr. EVARTS. I am paired with the Senator from Alabama [Mr. MORGAN].

Mr. HISCOCK. The Senator from Alabama [Mr. MORGAN] mentioned to me that he was about to leave the Chamber, but was willing that my colleague should vote upon this question.

The PRESIDENT *pro tempore*. Does the Senator from New York desire to be recorded?

Mr. EVARTS. I have stated the grounds upon which I place my view of the competing views of open draws and closed bridges, and I have agreed that it shall go into conference. As I understand that is the vote, I shall vote "yea."

Mr. COCKRELL. I am paired with the Senator from Massachusetts [Mr. DAWES]. I do not know how he would vote on this matter and I do not know whether I should vote. A good many have been voting irrespective of pairs. I will leave it to his colleague to say whether I shall vote or not.

Mr. HOAR. I have had no conversation with my colleague upon this question, but from my general knowledge of the interests of the community that he represents I should feel very confident that he would vote "yea." But I have no right to represent him and I shall content myself with that statement.

Mr. COCKRELL. Then, under the circumstances, I shall observe the pair, for I should vote "nay."

Mr. QUAY. I desire to announce the transfer of my pair with the Senator from West Virginia [Mr. FAULKNER] to the Senator from Illinois [Mr. FARWELL], and I vote "yea."

Mr. PASCO. That arrangement will be satisfactory to me. As I have already voted, I shall allow my vote to stand.

The result was announced—yeas 22, nays 26; as follows:

YEAS—22.			
Allison,	Everts,	Mitchell,	Sherman,
Cassey,	Hawley,	Platt,	Spooner,
Cullom,	Higgins,	Power,	Teller,
Daniel,	Hiscock,	Quay,	Washburn.
Dixon,	Hoar,	Reagan,	
Edmunds,	Manderson,	Sawyer,	
NAYS—26.			
Allen,	Coke,	Gorman,	Ransom,
Bate,	Colquitt,	Hale,	Stockbridge,
Herry,	Davis,	Hampton,	Turpie,
Blackburn,	Dolph,	Ingalls,	Vest,
Blair,	Eustis,	Pasco,	Walshall.
Cameron,	Frye,	Plumb,	
Carlisle,	Gibson,	Pugh,	
ABSENT—36.			
Aldrich,	Farwell,	McMillan,	Sanders,
Barbour,	Faulkner,	McPherson,	Squire,
Blodgett,	George,	Moody,	Stanford,
Brown,	Gray,	Morgan,	Stewart,
Butler,	Harris,	Morrill,	Vance,
Call,	Hearst,	Paddock,	Voorhees,
Chandler,	Jones of Arkansas,	Payne,	Wilson of Iowa,
Cockrell,	Jones of Nevada,	Pettigrew,	Wilson of Md.
Dawes,	Kenna,	Pierce,	Wolcott.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment proposed by the Senator from Maine [Mr. FRYE].

Mr. HAWLEY. I move to lay the amendment on the table.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to lay the amendment on the table.

The motion was agreed to.

The PRESIDENT *pro tempore*. Are there further amendments to the bill as in Committee of the Whole?

Mr. FRYE. The committee amendments have all been acted upon except one touching the authority to be given the Baltimore and Potomac Railroad Company for a new wagon-road near the Long Bridge.

The PRESIDENT *pro tempore*. That was ruled out of order.

Mr. FRYE. I do not know whether the then Presiding Officer ruled it out or not, but it was understood that at a later period I would renew it, after the Senator from Vermont had had an opportunity to investigate the matter somewhat, and I simply reserved that amendment to offer it at some time later.

The PRESIDENT *pro tempore*. It can be renewed in the Senate. Are there further amendments to the bill in Committee of the Whole?

Mr. VEST. I offer an amendment, which I send to the desk.

The PRESIDENT *pro tempore*. It will be reported.

The SECRETARY. On page 69, after the word "sum," in line 23, insert:

And of all unexpended balances from former appropriations for the improvement of the Missouri River, or any part thereof;

So as to read:

Provided, That in the discretion of the commission such portion of said sum and of all unexpended balances from former appropriations for the improvement of the Missouri River, or any part thereof, as they may deem proper, shall be expended in the protection of harbors and localities on any part of the river within said limits.

Mr. DOLPH. I should like to ask the Senator from Missouri if it is the intention to transfer any unexpended balances of any previous appropriation for the Upper Missouri to the improvement of the stretch of river mentioned in this clause.

Mr. VEST. No, sir; nothing of that sort.

Mr. DOLPH. Would not the amendment as offered have that effect?

Mr. VEST. No, sir. I will just state to the Senator that the object is to put under the control of the Missouri River Commission the balances unexpended under the last two river and harbor acts, to make those amounts subject to the discretion which we vest in the commission by the pending bill, and nothing that goes to the upper portion of the river above Sioux City can be affected by it at all.

Mr. DOLPH. The amendment, though, as read at the desk, provides for the transfer of the unexpended balances of appropriations for the improvement of the Missouri River or any part thereof.

Mr. VEST. That is true.

Mr. DOLPH. Is it not possible that there is an unexpended balance of appropriation to improve the river above Sioux City?

Mr. VEST. No, sir; not above Sioux City.

Mr. DOLPH. Did not the last river and harbor act make an appropriation for that purpose?

Mr. VEST. No, sir; all below. The whole object of my amendment is this: We made appropriations for specific localities in the last river and harbor act and the work was not done. There were balances left in some instances, and in others the amount was not touched at all because it was not deemed sufficient by the commission to do the work intended. Those are continuing appropriations; they are not covered back into the Treasury.

Mr. DOLPH. I understand that perfectly well, but I can not see the object of the amendment. I suppose it is to allow those unexpended balances to be distributed under this proviso.

Mr. VEST. Under the last river and harbor act we made appropriations for specific localities, naming the points. We have done away with that system now and leave it to the general discretion of the commission, and my amendment simply proposes to take the amounts that were unexpended at these different localities for the general improvement of the river, if there is any, and put them under the discretion of the commission, as we do in regard to the appropriations we make in this bill.

Mr. DOLPH. The last river and harbor act contained the following provision:

Improving Missouri River from mouth to Fort Benton: Continuing improvement, \$1,000,000, including removal of obstructions, surveys, and examinations, to be expended under the direction of the Secretary of War, in accordance with the plans, specifications, and recommendations of the Missouri River Commission, except as herein modified.

I have an impression—perhaps the Senator can tell me whether it is correct or not—that there has been work done on the river above Sioux City, and that there is in progress now a survey and examination of the river above. The effect of this amendment would be to transfer all the funds appropriated by the last river and harbor act unexpended to the portion of the river below Sioux City.

Mr. VEST. If the Senator will notice this bill, it uses in the last line on page 69, the twenty-fifth line, the words "within said limits." That would confine it below Sioux City. That answers the objection the Senator makes.

Mr. DOLPH. It would confine the application of the appropriation therein made, but it would not confine the transfer of the balances to that part of the river.

Mr. VEST. I do not intend to take any unexpended balances for points above Sioux City and I have not the slightest objection to modifying the amendment so as to make that clear.

Mr. SHERMAN. I desire to suggest that the amendment is too broad. If confined within the last four years I should have no objection to it, but there may be balances of appropriations made for the last fifty years for the Missouri River, for forty years at least. I think the provision ought to be limited. If, as the Senator says, he only desires to cover the last two river and harbor acts, I would say "appropriations within the last four years."

Mr. VEST. I have no objection to that. I do not intend to take any more.

The PRESIDENT *pro tempore*. The amendment as modified will be reported.

The SECRETARY. On page 69, line 23, after the word "sum," it is proposed to insert:

And of all the unexpended balances from former appropriations during the last four years for the improvement of the Missouri River below Sioux City, or any part thereof.

Mr. SHERMAN. That is right.

Mr. MANDERSON. I ask that the proviso be read with that amendment.

The PRESIDENT *pro tempore*. The proviso will be read as it will stand if the amendment be adopted.

The Secretary read as follows:

Provided, That in the discretion of the commission, such portion of said sum and of all the unexpended balances from former appropriations during the last four years for the improvement of the Missouri River below Sioux City, or any part thereof, as they may deem proper, shall be expended in the protection of harbors and localities on any part of the river within said limits.

Mr. DOLPH. The shape that the amendment is put in now obviates one objection that I made to it, that by the last river and harbor bill the appropriation was \$1,000,000 for the improvement of the river from the mouth to Fort Benton; and that amount covered not only the reach of river described in the paragraph under consideration in the present bill, that is, the Missouri River from its mouth to Sioux City, but also the reach covered by the paragraph on the top of the next page, "Improving Missouri River between Great Falls and Sioux City."

The effect of the amendment now would not be to transfer any portion of the appropriation for the improvement of the Missouri River made under the last river and harbor act, or rather would not be to authorize its expenditure under this proviso of the present bill, but I think would cover the portion of any unexpended balances of the appropriation made for the improvement of the Missouri River under the last river and harbor act included in the paragraph which undertook to distribute that appropriation to the improvement of different points on the river, as, for instance, at Council Bluffs, Iowa, and Omaha, Nebr., and the Omaha and Council Bluffs bridge, and Sioux City, Iowa, etc. The effect of it would be to authorize those express appropriations.

Mr. WILSON, of Iowa. Of the appropriation of \$1,000,000 made in the last river and harbor act, \$775,000 was designated for particular places named in the act, leaving about \$225,000 for application to the river in the discretion of the commission. Of course, only a part of that amount could be applied to the river above Sioux City.

Mr. DOLPH. It would be for division by the Secretary of War, or else it would be a question that they were not competent to determine, as to what portion of the unexpended balances should be applied above Sioux City.

Mr. WILSON, of Iowa. I suggest, however, if the amendment of

the Senator from Missouri prevails for taking whatever unexpended balances there are applicable to the river, either above or below Sioux City, and applying them to the river below Sioux City, leaving nothing for the river above out of the unexpended balances, it is unjust to the river above Sioux City.

Mr. DOLPH. The amendment as it is now worded only places appropriations made for the improvement of the river below Sioux City within this proviso; but what I was going to suggest is that the last river and harbor act provided for a distribution of \$775,000 of the appropriation to various named points. It is quite possible that the expenditure of that money at those points has been commenced and that the material has been contracted for. I call the attention of the Senator from Missouri to what appears plain to me, that his amendment would authorize the Secretary of War to stop the expenditure of the money appropriated in the last river and harbor act at those points and to distribute it at any point he chose below Sioux City.

Mr. VEST. Mr. President, my object is to make this bill consistent with itself. We have now in the bill done away with the appropriations for specific localities. I think we have wisely done so, and I propose by this amendment to make the unexpended balances subject to the same general discretion of the Commission which is provided for in the bill. It is just as fair to one locality as another. If work has been commenced at Sioux City, Iowa, or Plattsmouth, Nebr., or St. Joseph, Mo., or any other point, and the Missouri River Commission think that the unexpended balance with the amount appropriated in this bill should be applied in certain proportions to any of those localities, I would leave it to their discretion. That is the criterion which we have adopted in the pending bill. That is all of it. It is just as fair to one locality as to another. We ought to leave all these matters to the Missouri River Commission or we ought to abolish it. There is no other logical conclusion. I have always contended that we ought to trust the commission or not trust it.

Now, what is the condition of affairs at present? We appropriated a certain amount, \$40,000, for instance, at Plattsmouth, Nebr. It was not enough, and the Missouri River Commission did not use it. They said it would be throwing it away to commence the improvement with that amount of money; that it would require three or four times as much in order to do anything at all. That amount was not covered back into the Treasury and not a dollar was used, and yet in this bill we provide for a general discretion to the Missouri River Commission and let that \$40,000 remain there not to be used at all. It is not right.

Mr. ALLISON. May I ask the Senator from Missouri what information he has respecting the amount of these unused balances?

Mr. VEST. The amount is stated in the report of the engineers as about \$600,000 for different localities, and a part of the amount for the general improvement of the river, continuing appropriations not covered back into the Treasury, that have not been expended.

Mr. ALLISON. Are those balances of specific appropriations made for certain points on the river?

Mr. VEST. Yes, some of them; for instance, at Plattsmouth, Nebr., \$40,000 was appropriated.

Mr. FRYE. The Senator's amendment relates only to the Missouri River, I understand.

Mr. VEST. That is all.

Mr. FRYE. The amount of unexpended balances is only \$203,000.

Mr. VEST. I stand corrected. I was speaking about the whole amount for the Mississippi and the Missouri. It is \$203,000 for the Missouri.

Mr. POWER. Mr. President—

Mr. VEST. Does the Senator wish to ask a question?

Mr. POWER. I wish to say a word. The appropriation in the last Congress was \$1,000,000 for the river from the mouth to Fort Benton. Now, they have done some work above Bismarck, but very little, most of the work being below. According to the Senator's amendment, with his understanding, that money is taken by the commission, and as the present bill divides the river at Sioux City it seems to me it would be fair to give a portion of this unexpended money to the upper river from Sioux City to Fort Benton. This is all I wish, and it seems to me to be plain equity.

Mr. VEST. Under the provisions of this bill all the river above Sioux City is taken away from the Missouri River Commission and put under the Bureau of Engineers. That was done in deference to the wishes of the Senators from Montana and the Dakotas.

Mr. POWER. Yes, sir; that is right; for which we are very thankful. We want that done.

Mr. VEST. As a matter of course, if this amendment is adopted the proportion of the general appropriation of \$1,000,000 in the last river and harbor act, which was intended for the upper river and was not expended, will be applied by the Bureau of Engineers in the improvement of that portion of the Missouri River.

Mr. POWER. That is all we wish.

Mr. VEST. That is all. We can not, of course, mark it out and limit it in so many dollars and cents. We have got to leave that to the Bureau of Engineers, and it is all "leather and prunello," because substantially the whole river is under the Bureau of Engineers. The Missouri River Commission has three engineer officers on it and two

civilians, and the three engineer officers control the commission. Under the provisions of the present bill we have simply changed the name of the controlling power. The Bureau of Engineers controls the river now above Sioux City; but it is exactly the same power that controls it below in the shape of the Missouri River Commission. Of course they will take this legislation of Congress as indicating that each portion of the river shall have its just proportion of the balance remaining unexpended, this \$203,000.

Mr. POWER. That is the Senator's idea of his amendment?

Mr. VEST. There is no doubt about that, none in the world.

Mr. POWER. That is satisfactory.

The PRESIDENT *pro tempore*. The Chair will state that the amendment of the committee which it is proposed to amend having been agreed to as in Committee of the Whole, it can only be amended in the Senate.

Mr. VEST. Let me understand the Chair. Does the Chair mean the amendment originally offered?

The PRESIDENT *pro tempore*. The amendment proposed by the committee having been agreed to as in Committee of the Whole, it can only be amended when the bill comes to the Senate.

Mr. VEST. I suppose there will be unanimous consent to its amendment now.

The PRESIDENT *pro tempore*. If there be no objection, the question can now be taken upon the amendment of the Senator from Missouri.

Mr. SHERMAN. I suppose additional matter could be added to the amendment already agreed to.

The PRESIDENT *pro tempore*. Not after it has been agreed to as in Committee of the Whole, except by unanimous consent.

Mr. SHERMAN. I do not so understand the rules. We can not strike out what has been agreed to as in Committee of the Whole, but we can add to it, by an express provision of the rules. However, I do not wish to make the point.

Mr. VEST. I ask unanimous consent that my amendment may be entertained.

The PRESIDENT *pro tempore*. The Chair hears no objection. The question will be taken on the amendment as in Committee of the Whole, if there be no objection.

Mr. PLUMB. Let the Secretary read the amendment.

The PRESIDENT *pro tempore*. It will be again read.

The SECRETARY. After the word "sum," in line 23, page 69, it is proposed to insert:

And of all unexpended balances from former appropriations during the last four years for the improvement of the Missouri River below Sioux City, or any part thereof.

Mr. GORMAN. I suggest to my friend from Missouri that instead of saying "all unexpended balances" he say "the unexpended balances, amounting to \$203,000, are hereby appropriated."

Mr. ALLISON. "Not exceeding \$203,000."

Mr. GORMAN. "Not exceeding \$203,000."

Mr. VEST. I will ask the chairman of the committee what is the exact amount. I have not the report before me.

Mr. FRYE. Two hundred and three thousand dollars.

Mr. VEST. That was my recollection. I have no objection to modifying my amendment so as to insert "amounting to \$203,000."

Mr. DOLPH. Allow me to ask the chairman of the committee or the Senator from Missouri what is that \$203,000?

Mr. VEST. That is the amount of unexpended balances.

Mr. DOLPH. That is the amount of the whole balances.

Mr. FRYE. Made up of eighteen balances for different works on the Missouri and \$63,509 of appropriations made by the act of February 22, 1890. Wherever an appropriation has been made for a special work, a particular sum for a particular work, they always withhold, if they possibly can, a balance for contingencies, and very many of these balances are simply balances that have been held for contingencies.

Mr. DOLPH. Do I understand that in addition to the \$203,000 there is another balance of \$63,000?

Mr. FRYE. No, they are \$203,000 in all.

Mr. DOLPH. The total balance of the \$1,000,000 appropriated in the last river and harbor act is \$203,000?

Mr. FRYE. Yes, sir.

Mr. DOLPH. That is precisely what I do not want to see put in this appropriation, because, as has been stated, \$775,000 were appropriated for works at various points near and below Sioux City. Then there was left a balance of the \$1,000,000 of general appropriation for the entire river from the mouth of the river to Fort Benton. I see no objection to providing that the Secretary of War may now apply the balance which has been appropriated for various points below Sioux City to different points in his discretion, but the Senator from Montana objects that the entire balance of the whole appropriation of \$1,000,000 for the whole river, from the mouth of the river to Fort Benton, should be put within the discretion of the Secretary of War to be expended below Sioux City, and I think his objection is a valid one. The way the amendment now stands, it would only cover the appropriation made for different points below Sioux City.

Mr. VEST. How could it be apportioned?

Mr. DOLPH. I am not proposing to apportion it. I understood the Senator to propose that the general balance, that is, the balance of the

amount which was appropriated by the last river and harbor act, which could be applied generally for the improvement of the river, should be distributed by the Secretary of War.

Mr. VEST. The trouble about that is that we have divided the jurisdiction in the present bill. All that part of the river above Sioux City under the pending bill is to be under the control of the Secretary of War and all below is under the control of the Missouri River Commission. I do not want to take anything from the upper part of the river.

Mr. DOLPH. But if you appropriate the whole unexpended balance you will do so.

Mr. VEST. There is not one dollar of unexpended balance of the general fund for the improvement of the whole river, the million dollars. The whole of it comes out of the specific appropriations.

Mr. DOLPH. That is what I understood a moment ago, but I understood the chairman of the committee to say that it embraced the entire balance.

Mr. VEST. That is really the fact.

Mr. ALLISON. I understood from the Senator in charge of the bill that of these unexpended appropriations \$63,000 was from the appropriation of \$1,000,000 and that the remainder was from specific appropriations made for specific places. So there is no trouble in dividing it if you want to divide it.

Mr. DOLPH. The specific appropriations were part of the \$1,000,000; \$775,000 was taken out of the \$1,000,000 appropriation, and the Secretary of War was directed to apply it to specific points. If the whole of the balance, that is, the difference between \$775,000 and \$1,000,000, has already been expended, there is no trouble about it; let the whole balance be applied in the discretion of the Secretary of War to these points; but if it has not, I do not think the Senate wants now to take the amount which was appropriated for the general improvement of the river in the last river and harbor act and apply it to particular points or allow the Secretary of War in his discretion to do so.

As the amendment stood before the last proposition was made, it only allowed the Secretary of War or the Missouri River Commission in their discretion to expend the appropriations made for the improvement of the Missouri River below Sioux City at these various points. As there was no specific appropriation for the improvement of the Missouri River between its mouth and Sioux City, except the appropriations for these localities, that would do no harm, and it would leave the general balance of the \$1,000,000 to be expended under the direction of the Secretary of War anywhere on the river where the condition of work seemed to require it.

Mr. ALLISON. It seems to me an easy thing to arrange this \$203,000; and that appears to be the object desired. I suggest that three-fourths of this sum be placed under the Missouri River Commission, or two-thirds of it, the remainder to be expended above Sioux City under the direction of the Secretary of War. Then you will have a fair division.

Mr. DOLPH. Does not the Senator see that that may divert from the localities for which specific appropriations were made under the river and harbor act money appropriated and devote it to the improvement of the Upper Missouri above Sioux City?

Mr. ALLISON. I do not think there is any danger of that if a proper amount is reserved for the portion of the Missouri River above Sioux City. I think under the Missouri River Commission the tendency has been to expend all the money as near the mouth as possible.

The PRESIDENT *pro tempore*. The Chair understands that the words "not exceeding two hundred and three thousand dollars" are proposed to be inserted by the mover of the amendment after the word "balances."

Mr. DOLPH. I object to that. I think the amendment is well enough as it is, and I am not certain yet that it does not cover the entire balance of the whole appropriation for the Missouri River.

The PRESIDENT *pro tempore*. In order that there may be no misunderstanding, the Secretary will read the proposed amendment as modified by the addition suggested by the Senator from Missouri.

The Secretary read as follows:

And all unexpended balances from former appropriations during the last four years for the improvement of the Missouri River below Sioux City, or any part thereof, not exceeding \$203,000.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on agreeing to the amendment?

The amendment was agreed to.

Mr. PLUMB. I move, after the word "Commission," in line 22, to insert "to be approved by him;" that is to say, I want the plans for the improvement of the Missouri River to be approved by the Secretary of War or the Chief of Engineers. It seems to me that there ought to be that much supervision over this commission at headquarters. There ought to be some responsibility in the War Office for the expenditure of this money, and not have it as it is now, when you go to the War Department about these appropriations to be told that they do not pretend to exercise any supervision over them. I do not know but that the Missouri River Commission is composed of men who know all about this business. At all events, the plans ought to be approved by the Chief of Engineers. Of course they will be if they are subjected by law to the approval of the Secretary of War.

Then there is another important matter to be considered. This river is subject to the jurisdiction of two separate forces. The part from Sioux City down is under the jurisdiction of the Missouri River Commission, and from there up it is under the jurisdiction of the Secretary of War. There ought to be some uniformity about the business, and it certainly can not do any hurt in any event that the plans which this commission propose shall be subjected to the scrutiny of the Secretary of War.

The PRESIDENT *pro tempore*. The proposed amendment will be stated.

The SECRETARY. After the word "Commission," in line 22, on page 69, insert "to be approved by him."

Mr. VEST. I do not know that I object specifically to the amendment. The whole matter has come to be in such a nebulous condition that I do not know that any satisfactory solution can be reached at all. I have never contended but for one thing from the beginning, and that was that we ought either to abolish the commission for the Mississippi and the Missouri Rivers or we ought to accept their conclusions. If we are to subject all their estimates and all their plans to the Secretary of War, then it follows, as a matter of course, that the commissions are utterly unnecessary.

Mr. PLUMB. Oh, not at all; they are advisory.

Mr. VEST. They are composed, the majority of each of them, of officers of the Engineer Bureau and under the control of the Secretary of War, so that substantially we have exactly the same result in either case.

This division of the jurisdiction over the Missouri River was against my protest and opposition in the committee. I agree with the Senator from Kansas that we ought to have the control of this river as an entirety. We ought not to split it up; it ought to be under one jurisdiction, and it seemed to me the worst sort of legislation to divide it. But the Senators from the new States were so persistent and had such influence in the committee that they succeeded in taking that part of the river above Sioux City and putting it under the Bureau of Engineers, so that we have the anomaly of one part of the river under the Missouri River Commission and the other part under the Bureau of Engineers.

If the amendment of the Senator from Kansas prevails, the whole river is substantially under the Bureau of Engineers, because the plans will be subject to the approval of the Secretary of War, and we know how the business there is transacted. He refers everything to the Bureau of Engineers and accepts their conclusions. The way in which the work is done is very well known to every Senator who has had any connection with it. There is a local officer of the Bureau of Engineers in control of each district, all the navigable streams in the United States being divided into districts. That engineer officer reports to the Chief of the Bureau of Engineers, and whenever the Secretary of War desires information in regard to these navigable streams he refers the matter to the Chief of the Bureau of Engineers and he refers it to the local engineer in charge.

I have never known a case yet, in my experience of twelve years in service upon the Committee on Commerce, where the opinion of the engineer officer in charge was not accepted by the Chief of the Bureau of Engineers and by the Secretary of War.

As a matter of course the Secretary of War knows nothing about it. He defers to his bureau officer, to the Chief of the Bureau of Engineers, and he again defers to the opinion of his subordinate who is in charge of the river or lake, and that is all of it.

Under the influences, which all of us understand, that operate in legislation, frequently of course under protestations and representations of Senators as to their local interests, this river has been chopped up. It was done against my judgment, but it has been done. I represent a State upon the lower part of the river, and with my experience as to the work done by the Missouri River Commission, I want it retained. I want it if for no other reason because even at Kansas City and for 12 miles above there they have increased the depth of the river from 3 feet to 12 feet by using dikes and wing-dams. I have the official reports here to show that fact and I know it to be so personally myself. If anybody has any doubt about the operation of the jetty system, let him go to that portion of the Missouri River and he will have an ocular demonstration of it.

Mr. GIBSON. I should like to ask the Senator from Missouri what proportion of the amount appropriated in the last river and harbor act was allotted to the general improvement of the river and how much out of that went to special local improvements which were of no advantage to the river itself.

Mr. VEST. Seven hundred and seventy-five thousand dollars out of \$1,000,000 went to local improvements, and \$225,000 went to the general improvement of the river. That shows the result of local influence in this body. Senators will come in here and say, "My town must be provided for;" another one says, "My town must be provided for;" and in the meantime we complain of the Missouri River Commission because the general improvement of the river does not go on; and yet when they try to improve the river generally and systematically, and it is the only way it can be done, Senators protest against it and say, "There is an unjust distribution of this money and I demand that my State shall have so much of it."

I have more towns in the State of Missouri applying for appropriations to-day than in any other State upon the banks of that river. If I were here simply as a politician I would advocate specific appropriations, because I could make political capital by securing them. But it is wrong. The same argument applies to the Mississippi River.

We ought to do one thing or the other. We ought to act as statesmen or we ought to act as politicians. If we want to improve these great rivers let us abide by the recommendations of the commissions or let us abolish them and take the matter into our own hands and scramble for appropriations at these different points. That is the whole of it.

Mr. PLUMB. Mr. President, it seems to me there are the best of reasons for having the commission subject to the jurisdiction of the Secretary of War. We have a parallel to what I propose in the operations of the War Department with reference to the coast defense. We have a board on ordnance and fortifications, of which the Secretary of War is *ex officio* the president. That board adopts a plan for the manufacture of guns and things of that kind, which are committed to it by Congress, and yet everything in regard to the expenditure of money, everything which goes to determine that which shall finally be done, is subject to the discretion of the Secretary of War, and he can set aside the findings of this board; he can decline to expend any of the money in the manner which they recommend.

In practice, of course, he does not do that, I suppose, and yet, after all, representing the nation at large, that he should have that power I do not doubt. I do not think we ought to set up within his Department a commission over which he has no control whatever. We ought to have him for our own purposes, because we can reach him as we can not reach the Missouri River Commission, located at a distance. The Missouri River Commission is composed arbitrarily. Its *personnel* may change at any time. It may be good to-day and bad to-morrow—of course I speak relatively. We ought to have here at the seat of Government the opportunity to supervise and overlook what is going on through the medium of the commission on the Missouri River. That does not disturb the Missouri River Commission at all.

On the contrary, it gives to the Missouri River Commission the benefit of the counsel of the Chief of Engineers, who is supposed to be more familiar with all the plans for the improvements of rivers and harbors throughout the entire country than anybody else. It enables him to put them in the possession of matters which may be matters of great importance to them, which otherwise they might not get, and brings a proper subordination into the affairs of the War Department. I think it will tend to unify and make more available the funds which we appropriate for the improvement of the Missouri River and make one plan applicable to the entire system.

I am not urging that there shall be any segregation of portions of this money for the purpose of improving the river at particular points. I did believe, and do believe now, that we shall get more good out of money to be spent in that way if it were so spent reasonably and judiciously, but it has been decided to do the thing the other way and I am willing that it shall be done that way; and we can see whether that is best or not; but I do believe that we ought to have the plans of the Missouri River Commission subjected to the scrutiny of the Secretary of War and the Chief of Engineers.

Mr. MANDERSON. Mr. President, I quite agree with the suggestions made by the Senator from Kansas as to the advisability that there should be a supervision of the reports and schemes of the Missouri River Commission by the Secretary of War. If the propositions submitted by this commission are propositions that look to the good of this river and to its permanent improvement, certainly nothing can be lost by that supervisory control that will be given to their schemes by the engineer force of the Secretary of War. So I think this amendment should prevail.

But I rose more particularly, Mr. President, to protest against the suggestion of the Senator from Missouri that it is a waste of the public money to make expenditures at particular localities. The scheme he refers to, the improvement of the Missouri River, has changed under the operations of this commission. The original proposition was not to improve the river by a system of reaches commencing at its mouth, but to take particular localities and improve those localities. Congress authorized here and there along the Missouri River the construction of bridges for railroad purposes, and it was important not only for the interests of the railroads, but for the public good, that the channel of the river at the points where those bridges were constructed should be confined between the piers of the bridges. An expenditure was made on this system of improving the river here and there by the direction of the commission and by the engineer force of the War Department in the earlier days, and work was done here and there that it was presumed would make permanent banks where the work was done.

I know on the eastern border of the State of Nebraska, at Nebraska City, at Brownville, at Omaha, and other points, years ago the Government supplemented the work of private parties and made that which looked like a permanent and well established bank, and thereupon private parties made improvements upon the bank. Many manufacturing establishments were erected, notably at Omaha, upon this supposed permanent bank of the river, and upon the invitation of this work that was done by the Government of the United States large

manufacturing establishments were erected. There is an enormous smelter, that it seemed was properly placed and properly located because of this Government work. If there is to be no expenditure upon localities, then the hundreds of thousands of dollars that have been expended under the direction of the engineers of the United States will go for naught and much of the work done will be destroyed.

Mr. President, I favor the present scheme of the Missouri River Commission for the general improvement of that river. I think the system of improvement by reaches, commencing at its mouth, is the correct system. But at the same time I do not think that we ought to lose sight of the fact that great industries have been established on the invitation of the Government of the United States and that the work here and there along the river should not be permitted to be destroyed because we are unwilling to make further expenditures in those localities. I think it was not for political purposes that these expenditures were made, but it was for the public good, and it really has worked to the permanent improvement of that great water way.

Mr. VEST. Mr. President, I want to say in reply to one observation of the Senator from Nebraska, that, if he has read the report of the Missouri River Commission, the supplementary report especially, he will have found that there is no disposition on the part of the Missouri River Commission not to expend any more money at localities. On the contrary, they distinctly state, as distinctly as possible, that they propose to preserve the work already done at localities, and therefore in the pending bill we have provided a discretion to them to continue that work.

Mr. MANDERSON. I may have misunderstood the position of the Senator from Missouri. I understood him, without reference to what the report of the commission was, to protest against the expenditure in particular localities.

Mr. VEST. I stated that I had from the beginning protested against these specific appropriations because they took away the discretion of the Missouri River Commission which we had created by law, or else we had created nothing. In other words, we make a commission for the improvement of the river and pay their salaries and pay their expenses for that purpose, and we then say to them, "We created you to improve the river, but you shall do so and so." Now, is that right? Is it logical? We either ought to have a commission and abide their recommendation and hold them responsible or we ought to take this matter entirely out of their hands.

But that is a different proposition from an absolute neglect of the work which we have compelled them to do. On the other hand, I hold that since we have, against my protest, expended money at specific localities which ought to have been expended in the general improvement of the river, we ought not to throw that money away that has been spent on those improvements, but we ought to preserve them. We have created a certain condition of things by the improvements at different localities, and after having done that we ought to retain those improvements and at any rate prevent their having been put there from doing mischief to the river as it was. If we were now to stop the improvements at different localities we should put the river in a worse condition than if we had never done anything there at all. That is not proposed by this commission.

What I have endeavored to do here to-day by the amendment was, as I have always tried to do, to have something like a systematic improvement of the river. This thing of jumping sporadically from one point to another, as one Senator and another is able to obtain an appropriation by superior adroitness or superior industry, is all wrong. Take the Mississippi River for instance. There is not a meeting of the Commerce Committee on the river and harbor bill but what our committee-room is thronged with Senators representing constituencies upon that river pleading with us to take the general sum appropriated for the whole river and apply it to localities within their States. What is the result? We have a Mississippi River Commission and continual complaint that the Mississippi River is in a bad condition, overflowing its banks, etc., and yet when we look into the facts we were responsible. We take away the money from the general improvement of the river and give it up to specific improvements. A great many of them are half done and the next overflow washes them out.

The only possible way in which to defend such a state of things is upon the general ground that you take the money out of the national Treasury and expend it, distribute it, put it into circulation. That is the only argument, for whatever it is worth; because as a business proposition it is utterly indefensible. It is unjust to the commission, it is unjust to the people.

Whenever you open the door to these solicitations for improvements at specific localities, they become irresistible, and whenever you make one you are bound to make the rest. If I put in a river and harbor bill one dollar for a single point in Missouri, I am immediately constrained to appropriate for every other point. They are all my constituents, and if I do not do it I subject myself to the charge of having been partial to certain localities at the expense of others. The result is that the whole appropriation substantially is taken, against the remonstrance of the Missouri River Commission and of the Mississippi River Commission, and then at the next session of Congress Senators and Representatives abuse these commissions because they have not done what they were created to do.

I think practically the amendment of the Senator from Kansas will leave matters as they are. I have no idea that the Secretary of War would ever interfere with the discretion of these commissions. He would do just as he always has been doing. He knows nothing about it, and he subordinates his judgment to that of the officers in charge of the work on the river.

But there is one other thing about it, and I call the attention of the Senate before they adopt this amendment to this fact: You have created a commission; you have given them some discretion; you pay them to do a certain work. Is it treating that commission with exact courtesy or fairness to say that you will put their judgment entirely under that of the Secretary of War, who knows nothing about it? Is it not a reflection upon the commission itself?

Mr. ALLISON. It seems to me that it can be no reflection upon this commission. Three of them are engineer officers, I understand.

Mr. VEST. That is true, but they are members of the commission.

Mr. ALLISON. The majority of them are engineer officers and the other two are civil engineers. Can it be possible that the commission is not to be under the supervision of the Department that has the expenditure of this vast sum of money, because it will be the vast sum of money, as the Senator knows, before the river is improved as it ought to be and as I hope it will be? It seems to me that when we appropriate in a river and harbor bill a large sum of money it ought to be under the general control and supervision of the head of the War Department, so that if the commission make imprudent contracts or make mistakes the Secretary of War himself can call their attention to them.

I agree in the main with what the Senator says as to the effect of this amendment. Under ordinary circumstances we know the Secretary of War will not interfere with this commission any more than he interferes with the other engineers on these great rivers. I know the chief of this commission, one of the most eminent engineers in the Army. Undoubtedly, when they make a report or suggestion for an improvement to the Secretary of War, the matter will be referred to the Chief of Engineers, and, unless it is materially defective, it will be adopted. But it is possible that even these three engineers may make a mistake in respect to some branch of the improvement. I hope the Senator will not object to the amendment.

Mr. VEST. I do not care particularly about the matter, though I think it is rather illogical, because, if what the Senator from Iowa says has any force at all, it goes to the extent of saying that the War Department, which acts as a bureau of engineers, ought to have control.

Mr. ALLISON. I ask that the amendment be read again.

The PRESIDENT *pro tempore*. It will be again reported.

The CHIEF CLERK. On page 69, line 22, after the word "commission," insert the words: "to be approved by him."

Mr. VEST. That is, by the Secretary of War.

Mr. ALLISON. I do not see any objection to the Secretary of War exercising general supervision over this matter.

Mr. VEST. Then I make another suggestion, that if that is done for the Missouri River Commission, it ought to be done for the Mississippi River Commission.

Mr. ALLISON. Undoubtedly; they should all be served alike. When we are expending these great sums of money it ought to be done under the supervision or eye of the head of the Department.

Mr. GIBSON. Mr. President, I take some interest in the work being done by the Mississippi River Commission. It is a mistake to suppose that the commission handles the money furnished by our appropriations for the purpose of executing that work under the plans they submit. The Mississippi River Commission recommend certain plans for the regulation and improvement of the river, but those plans are executed by the army officers, detailed by the Secretary of War, and who report to the commission, so that the whole work of the Mississippi River commission is in the hands of West Pointers, young men who have learned their trade at West Point, and to-day they have had about eleven years' experience in works on that river.

I should be perfectly willing to accept the amendment offered by the Senator from Kansas, that the plans and works on the Mississippi River should be approved by the Secretary of War or by the Chief of Engineers. I see no objection in the world to that. It does not necessarily refer to the sums appropriated to any particular locality, nor do I believe it would arrest the progress of this great work for the commerce of the Mississippi River.

Mr. VEST. Mr. President, I do not want to consume any further time, but I wish to state, so that I shall not be put in any ridiculous position, that we have always provided that these appropriations, since the creation of the commission—

shall be expended by the Secretary of War in the systematic improvement of the river according to the plans and specifications of the commission.

We have always adopted that provision both as to the Mississippi River Commission and the Missouri River Commission. Any Senator can see that that is entirely different from what is proposed to be done by the amendment of the Senator from Kansas. The Secretary of War expends the money, but he must do that according to the plans and specifications of the commission. If that amendment prevails we

take away the discretion of the Missouri River Commission as a final act and vest it in the Secretary of War; and, instead of the Secretary of War simply expending the money, as the Senator from Louisiana says, as he has been doing, according to these plans and specifications, he will now expend it according to his own plans and specifications. That is the difference.

Mr. GIBSON. Mr. President, I do not concur with the Senator from Missouri. He will expend the money in accordance with the plans, specifications, and recommendations of these commissions, approved by the Secretary of War—

Mr. VEST. Exactly.

Mr. GIBSON. Or by the Chief of Engineers. Now, I take it that under any circumstances all the engineering work conducted by the officers of the Government or by officers appointed by the President would be done by those who report to the Chief of Engineers, and the Chief of Engineers in forwarding their reports to the Secretary of War would approve or disapprove the plans that had been submitted by them to the Secretary of War.

Mr. VEST. Is that done with this commission now?

Mr. GIBSON. It is not done for the Mississippi River Commission, because it was expressly provided in the act creating that commission that they should report to Congress.

Mr. VEST. Exactly.

Mr. GIBSON. There was a reason for it. There was a divergence of opinion among the engineers of the United States as to the proper method of treatment of the Mississippi River. A new plan had been devised by Captain Eads, the plan of contraction, which plan had been condemned by many of the engineers of the United States Army. When Captain Eads proposed to apply this plan for the treatment of the mouth of the river in order to secure deep water there, it was objected to by many engineers of the United States Army and by the popular opinion in New Orleans and in the southern valley of the Mississippi River. The Chief of Engineers at that time was not in favor of that plan. General Humphreys was the Chief of Engineers at that time, and I think he had been a member of the board that had given an opinion against the plan proposed by Captain Eads.

The representatives from that portion of the country desired to have a commission which would give full efficacy to the plan which had been proposed by Captain Eads and which had been successful at the mouth of the river. He came before the committees of Congress and declared that it could be readily applied to the whole river, and that if applied we would have 20 feet of water all the way from New Orleans to Cairo—deep water—whereas there was at that time only 4½ feet to 5 feet of water in low seasons; and that there would be 16 feet of water from Cairo to St. Louis, whereas during low seasons they only had 4½ feet on the bar.

In order, therefore, to escape the influence of the Chief of Engineers, who had been brought up in the old-fashioned belief that the bed of the river was harder than its banks, and that if an attempt was made to contract the channel it would wash away the banks or jetties instead of washing the bottom of the river, the act was so framed that he should report to Congress directly.

While I am willing that this change should be made in the act—for it would be tantamount to that—for the creation of the Mississippi River Commission, I do it for this reason: The engineers of the Army have been educated for the last seven years; they have been educated because they have given personal attention to the phenomena of the Mississippi River, and especially have the young engineer officers of the Army who have been engaged in this work become acquainted with the laws that control the phenomena of that river. They are all familiar with these theories.

You can hardly find any one in the Mississippi River Commission or among the engineers of the United States Army who would oppose the plan of contraction as the proper plan for dealing with that river. I think it is hardly possible that you would be able to find a person in the Mississippi River Valley who would oppose it seriously. It is the universal sentiment. The Chief of Engineers himself is strongly in favor of that plan. I take it that all the proprieties of military relations and conduct should be observed as far as can be done without injury to these great improvements.

Therefore, I think that when an engineer of the Army or a civil engineer undertakes to devise plans to execute these great works of internal improvement his plans should be submitted to him who has been selected by the President of the United States to be the chief of this army of engineers, the chief to preside over the execution of these great works, under whose administration the money is to be expended. For that reason I can not, sir, agree with the Senator from Missouri that the recognition of his position in this relation is any disparagement whatever to the junior officers of the Army, who constitute a majority of these commissions, or to the engineers who have been appointed from civil life to occupy places on these commissions.

These are my reasons, Mr. President. I am perfectly willing, if the Senate should adopt the amendment proposed by the Senator from Kansas in respect to the Missouri River Commission, that the same amendment may be adopted with respect to the Mississippi River Commission.

Mr. VEST. Mr. President, what I said has been repeated with great elaboration by the Senator from Louisiana. I simply wanted to call attention to the fact that we were making a change in the law, and whenever you put in the provision that the plans and specifications of those commissions shall be approved by the Secretary of War, you do away substantially with the commissions as commissions.

Of course, a majority of the commissions have always been constituted of officers of the Engineer Bureau, but they have acted as engineers, and their plans and specifications were a finality. Now we do away with that, because when you say that the Bureau of Engineers or the Secretary of War can approve or disapprove, that will be the end of this finality of discretion in these officers completely and absolutely.

Mr. ALLISON. Will the Senator allow me to interrupt him a moment? I think three or four commissions have been created in respect to specific improvements on the river above the rapids.

Mr. VEST. Exactly.

Mr. ALLISON. Those commissions assembled, and they prepared the plans and specifications which are always submitted before final action to the Secretary of War.

Mr. VEST. As a matter of course, and the Senator could not bring a better illustration and one which is more applicable to the truth of what I have said than just what he now says. We always provided that they should report to the Secretary of War; and when we created the Mississippi River and the Missouri River Commissions we specifically provided that they should report to the Secretary of War.

Mr. ALLISON. Very well, then, Mr. President, if that be the case, the sooner we retrace that step the wiser, and the better it will be for this Government, in my judgment. It seems to me that there ought to be no *imperium in imperio* here, no one connected with these improvements higher than the Secretary of War, who is responsible for all these great improvements.

Mr. VEST. I am not discussing that question, Mr. President. I have already stated that it will be practically the same thing with any commission created with a majority of engineer officers upon it; it has always been that way; and as long as you have these gentlemen appointed it will be exactly as if they reported to the Secretary of War. But I wanted the Senate to understand that they are making this change and that it is absolutely useless to retain these commissions if that is done.

Mr. ALLISON. Well, Mr. President, the Mississippi River Commission is located on the Mississippi River at St. Louis and St. Paul, and it has three engineer officers and two civilian engineer experts. Is it not perfectly plain that in making plans and projects for the expenditure of this \$900,000 these gentlemen will be upon the ground and will prepare their plans, can report them to the Secretary of War, and that he can look over them and see whether or not they are defective, whether or not they are extravagant, whether or not they involve much more money than the Government is willing to expend in that way? It does seem to me that this commission is a necessary part of this expenditure, but that it ought to be subjected to the proper scrutiny of the chief of the War Department.

Mr. VEST. Would the recommendations of the engineer officers on these commissions, or their reports, be worth any more, if made to Congress, than if made to the same officers as officers in the Engineer Bureau? It is just the same thing.

Mr. ALLISON. Then what is the objection to the amendment?

Mr. VEST. And if we abolished that commission the very same men would be detailed to do the same work upon the Mississippi River and would make the same reports.

Mr. ALLISON. Very well; and the reports would be received by the Secretary of War.

Mr. VEST. Two years ago I proposed to abolish this commission, and with the concurrence of the committee moved an amendment to the river and harbor bill having that object in view; and I did it for the very reason I am giving now, that three engineer officers were detailed for that duty and that it was useless to have these salaries paid and all the expenses of the commission paid, when we paid no attention whatever to their recommendations. But the Senators from the other part of the river resisted me so strongly that my amendment was defeated. Now that the change has come on the other part of the river and those gentlemen want to abolish the commission, as a great many of them do, the whole thing is in such a condition that we are going on from one river and harbor appropriation bill to another in a nebulous sort of way, without any system. It is simply "catch as catch can."

The PRESIDING OFFICER (Mr. MANDERSON in the chair). The question is on the proposed amendment of the Senator from Kansas [Mr. PLUMB].

The amendment was agreed to.

Mr. POWER. Mr. President, I offer an amendment, on page 70, after line 5, to add the following proviso:

Provided, The steamer Josephine and all the property now in use above Sioux City, the property of the United States, shall be used in the prosecution of said work.

The amendment was agreed to.

Mr. VEST. What is the necessity for that, Mr. President? It is the property of the United States, and why should we put a limitation

here upon the Secretary of War? He has control now of the upper part of that river. Suppose he finds that steamer is not adapted to that service anywhere, or that he wants a more powerful boat, or that it is out of repair, or anything of the sort, why should we take this discretion away from him?

The PRESIDING OFFICER. Unless there be objection, the vote by which the amendment of the Senator from Montana was adopted will be reconsidered by the Senate. The Chair hears no objection. The amendment is before the Senate.

Mr. VEST. I should like to hear from the Senator from Montana some reason why he thinks the amendment should be adopted.

Mr. POWER. Mr. President, my reason for offering the amendment is that the property now on the Missouri River above Sioux City was purchased by the Engineer Corps from appropriations made for that improvement, and not by the Missouri River Commission, which had charge of it under one of the last appropriation bills; and the reason for offering the amendment is that the upper river could get the property back without contention that belonged to that portion of the river. It was purchased by the Engineer Corps, under the Secretary of War, with appropriations made for that specific purpose and for the upper river.

Mr. VEST. Let it remain there, Mr. President. What is the use of any legislation about it? It is the property of the United States and is under the control of the Secretary of War. If we take away the Secretary's discretion in the matter by this amendment, what is to be done with that boat?

Mr. POWER. If you will read the amendment you will see.

Mr. VEST. Let it be read again.

The PRESIDING OFFICER. It will be again reported.

The amendment was again read.

Mr. VEST. There is a mandatory provision that the Secretary of War shall use this property whether it is fit for use or not. We just absolutely take away his discretion and say he shall use all the property he has there. That will never do.

Mr. POWER. The property has never been below.

Mr. VEST. Very well; let it stay above. Nobody wants to take it away.

Mr. POWER. Suppose the commission take that boat down the river.

Mr. VEST. The commission could not take it away.

Mr. POWER. Then what harm will be done by the amendment?

Mr. VEST. The commission has no jurisdiction above there and the Secretary of War has absolute control. If this amendment is adopted we step in and tell him he shall use that property whether he wants to do so or not. It may not be fit for the use it was intended for. There is no trouble about the matter. The amendment is utterly unnecessary.

The PRESIDING OFFICER. The question is on the proposed amendment.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Montana [Mr. POWER] has offered another amendment, which will be reported.

The CHIEF CLERK. On page 88, in line 20, after the word "and," insert "cañon next below;" so as to read:

Missouri River, between Great Falls and cañon next below Stubb's Ferry.

The amendment was agreed to.

Mr. REAGAN. I ask the chairman of the committee if we are now in a condition to take up and act on amendments that have been passed.

The PRESIDING OFFICER. The Chair calls the attention of the Senator from Texas to the fact that there is pending an amendment offered by the Senator from Montana.

Mr. REAGAN. I thought that was disposed of.

The PRESIDING OFFICER. The Senator from Montana offers an amendment, which will be read.

The CHIEF CLERK. On page 88, between lines 19 and 20, after the word "Montana," insert the words:

Missouri River, between Sioux City and Fort Benton.

The amendment was agreed to.

Mr. REAGAN. Mr. President, I was not present when the committee's amendment on page 64 was passed which authorized the Secretary of War to pay to M. J. Adams \$5,000 for claims growing out of the test made by him of what is known as the Adams flume.

Mr. FRYE. That is not open to amendment now. If the Senator desires a disagreement to the amendment, a motion will have to be made after the bill is in the Senate.

Mr. MITCHELL. I offer an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. On page 92, after line 15, insert the following:

Yam Hill River, from its mouth to McMinville, with a view to improving the same by removing snags and other obstructions.

The amendment was agreed to.

Mr. MITCHELL. I also offer another amendment. On page 83, after line 15, I move to insert a new heading and the following item:

IDAHO.

The Upper Snake River between the Huntington Bridge and Seven Devils'

mining district in Idaho, with a view to overcoming obstructions to steam-boat navigation.

The amendment was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

- A bill (H. R. 1466) granting a pension to Mrs. Mary Ewald;
- A bill (H. R. 2279) granting a pension to Abraham W. Jackson;
- A bill (H. R. 2414) increasing the pension of Nelson Rich;
- A bill (H. R. 2415) granting a pension to Nancy Carey;
- A bill (H. R. 2427) granting a pension to Fletcher Galloway;
- A bill (H. R. 2526) authorizing the President of the United States to grant an honorable discharge to William L. Lenua;
- A bill (H. R. 3734) granting a pension to John Mann;
- A bill (H. R. 4396) granting a pension to John Grant;
- A bill (H. R. 4688) granting a pension to Rev. Thomas James;
- A bill (H. R. 5065) for the relief of John R. Brown;
- A bill (H. R. 5239) granting a pension to Mrs. Mary Hyde;
- A bill (H. R. 5860) for the relief of Andrew J. Blackstone;
- A bill (H. R. 5861) for the relief of George Farwalt;
- A bill (H. R. 6129) to relieve Luther Green from the charge of desertion;
- A bill (H. R. 6170) directing the issuance of an honorable discharge to David L. Lockerby, late of Company A, Ninety-sixth New York Volunteers;
- A bill (H. R. 6338) granting a pension to Eben Muse;
- A bill (H. R. 6686) for the relief of Coplin McKelvey;
- A bill (H. R. 5736) granting a pension to John L. Lindel;
- A bill (H. R. 6853) for the relief of Allen Morris;
- A bill (H. R. 7124) granting a pension to Mrs. Adelia Near, widow of Sylvester Near, of Company H, One hundred and twentieth Regiment New York Volunteers;
- A bill (H. R. 7252) for the relief of Thomas A. McLaughlin;
- A bill (H. R. 8210) granting an increase of pension to Maria L. Caraher;
- A bill (H. R. 8570) for the relief of Maj. John M. Laing;
- A bill (H. R. 8997) granting a pension to Charlotte B. Nutting;
- A bill (H. R. 9084) granting a pension to David Stockwell;
- A bill (H. R. 9252) for the relief of Frank Schader;
- A bill (H. R. 9270) granting an increase of pension to Charles E. Osborn;
- A bill (H. R. 9316) granting an increase of pension to Thomas G. Boss;
- A bill (H. R. 9504) granting a pension to Gottlieb Hunziker;
- A bill (H. R. 9529) granting a pension to Emma G. Clark;
- A bill (H. R. 10033) granting a pension to Isaac Riseden;
- A bill (H. R. 10231) to increase the pension of Sanford Kirkpatrick;
- A bill (H. R. 10245) to place the name of Hettie McConnell on the pension-roll;
- A bill (H. R. 10350) granting a pension to Elizabeth Patten;
- A bill (H. R. 10526) to remove the charge of desertion from the record of Ezra Abbott, late of Company I, Twenty-first Michigan Volunteer Infantry;
- A bill (H. R. 10557) for the relief of W. G. Trice;
- A bill (H. R. 11122) granting a pension to Sarah Anderson;
- A bill (H. R. 11169) granting a pension to Isadora Ritter, formerly Isadora De Wolf Dimmick;
- A bill (H. R. 11309) granting a pension to Maria Hassendeubel and Apollonia Hassendeubel;
- A bill (H. R. 11345) to increase the pension of Thomas Beaumont;
- A bill (H. R. 11417) to increase the pension of Cecilia I. Woods;
- A bill (H. R. 11530) granting a pension to Thomas J. Wilkins; and
- A bill (H. R. 11543) granting a pension to James H. Means, doctor of medicine.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. 11380) making appropriations for additional clerical force and other expenses to carry into effect the act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," from July 20, 1890, for the balance of the fiscal year ending June 30, 1891, asked for a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CANNON, Mr. BUTTERWORTH, and Mr. FORNEY managers at the conference on the part of the House.

The message further announced that the House had passed the joint resolution (S. R. 71) directing the Librarian of Congress, the librarian of the Senate, the librarian of the House of Representatives, and the librarian of the Department of Justice, respectively, to deliver extra or duplicate copies of law books to the law department of the Howard University, with an amendment in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had

signed the enrolled bill (H. R. 7058) to ratify and confirm an agreement entered into by commissioners on the part of the States of New York and Pennsylvania in relation to the boundary line between said States; and it was thereupon signed by the President *pro tempore*.

BUSINESS OF THE SESSION.

Mr. QUAY. Mr. President, with the consent of the chairman of the Committee on Commerce, I desire to introduce some morning business, if there be no objection.

The PRESIDING OFFICER (Mr. MANDERSON in the chair). The Senator from Pennsylvania asks unanimous consent that the Senate consider a resolution which he sends to the desk, and which will be read for information.

The Chief Clerk read as follows:

Ordered, That during the present session of Congress the Senate will not take up for consideration any legislative business other than the pending bill (H. R. 9416); conference reports; general appropriation bills; pension bills; bills relating to the public lands, to the United States courts, to the postal service, to agriculture and forestry, to public buildings; and Senate or concurrent resolutions.

Ordered, 2, That the consideration of all bills, other than such as are mentioned in the foregoing order, is hereby postponed until the session of Congress to be held on the first Monday of December, 1890.

Ordered, 3, That a vote shall be taken on the bill (H. R. 9416) now under consideration in the Senate and upon amendments then pending, without further debate, on the 30th day of August, 1890, the voting to commence at 2 o'clock p. m. on said day, and to continue on that and subsequent days, to the exclusion of all other business, until the bill and pending amendments are finally disposed of.

Notice is hereby given, pursuant to Rule XL, that the foregoing orders will be offered for adoption in the Senate.

It is proposed to modify for the foregoing stated purpose the following Rules, namely, VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXXVIII, XXXV, and XL.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania that he be allowed to introduce the order just read for information?

Mr. EDMUNDS. I object to his being allowed to introduce it.

The PRESIDING OFFICER. Objection being made, it can not be received.

AMENDMENTS TO DEFICIENCY BILL.

Mr. HIGGINS submitted an amendment intended to be proposed by him to the deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. COCKRELL (by request) submitted an amendment intended to be proposed by him to the deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. ALDRICH, from the Committee on Rules, reported an amendment intended to be proposed to the deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

RIVER AND HARBOR BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 9486) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. SANDERS. On page 70, under what I believe was a misapprehension, the Committee on Commerce proposed to strike out the words "Great Falls," in line 1, and insert in lieu thereof "Fort Benton."

The geographical situation there is this: The town of Great Falls stands at the head of a series of rapids and cascades about 18 miles long, the lower fall of which is the Great Falls of the Missouri River. In the apprehension that it was contemplated to expend this money upon some of those cascades and up to the city of Great Falls, it was changed to Fort Benton. I did not have it in contemplation that any of that money should be expended except upon the navigable reach of the Missouri River at the foot of the falls, about 18 miles below Great Falls.

What I wish to do now is to have the vote reconsidered—and I make that motion—by which "Great Falls" was stricken out and "Fort Benton" inserted, when I shall move to insert, after the words "Great Falls," the words "of the Missouri River in Montana;" so that it will be definite that there is not contemplated an expenditure of any money in the rapids or falls of the river itself.

I wish to state why that is of some consequence: This is an avenue of commerce for the settlements of the State of Montana. Fort Benton has been for many years the most eastern settlement of that State, and lowest down the river. I believe that an examination of it, without material expense, will show that the river is navigable for 40 miles further towards the remainder of the settlements of that State. Hence I am anxious that it should be clearly defined that it is not intended that this shall be to the city of Great Falls, but simply to the foot of the falls themselves in the river, and that the matter shall remain as I intended.

Mr. FRYE. Mr. President, this amendment would not now be in order, but I ask unanimous consent that, having been put in by the committee, the words "Fort Benton" be stricken out—

Mr. EDMUNDS. On what page?

Mr. FRYE. On page 70, at the top of the page. I ask unanimous consent that "Great Falls" be inserted in the place of "Fort Benton," as suggested by the Senator from Montana.

Mr. EDMUNDS. Let that be read for information, so that we may see where we are.

The PRESIDING OFFICER. The Senator from Montana will please send his amendment to the desk, so that it can be reported.

Mr. SANDERS. My motion is to strike out "Great Falls" and insert these words in lieu thereof:

The foot of Great Falls of said river in Montana.

The PRESIDING OFFICER. The Senator from Montana asks unanimous consent that the vote whereby the words "Great Falls" were stricken out and "Fort Benton" inserted be reconsidered by the Senate and that the following amendment be adopted by the Senate.

Mr. EDMUNDS. Let it be reported for information.

The CHIEF CLERK. In the first line strike out the words "Fort Benton," and after the word "between" insert the following words:

The foot of Great Falls of said river in Montana.

So as to read:

Improving the Missouri River between the foot of Great Falls of said river in Montana and Sioux City, \$350,000.

The PRESIDING OFFICER. Is there objection to this request for unanimous consent?

Mr. EDMUNDS. I would like to have it explained, Mr. President, how that differs from what had been agreed to by the use of the words "Fort Benton."

Mr. SANDERS. It extends by some 40 miles the area or length of the river upon which this \$350,000 may be expended—I speak in round figures—into and towards the settlements in the State of Montana.

Mr. EDMUNDS. It goes above Fort Benton?

Mr. SANDERS. Yes.

Mr. EDMUNDS. By 40 miles?

Mr. SANDERS. My colleague says it is not so far as that. It has been supposed to be 40 miles, and has been called that distance for several years.

Mr. EDMUNDS. Is Fort Benton now at the head of the Missouri River navigation?

Mr. SANDERS. Yes, it has been known as the head of navigation. It is where freight has been loaded and unloaded.

Mr. EDMUNDS. What are the obstacles between Fort Benton and Great Falls?

Mr. SANDERS. There are none except in low water; the water is shallow; but the river is an essential unit from the foot of Great Falls to Sioux City. Heretofore we have said Fort Benton because, there being no settlements near Fort Benton, nobody has been accommodated by boats going farther up; but now other settlements have grown up in that vicinity and near by that may be accommodated by this extension of, say, 40 miles.

Mr. EDMUNDS. But what I wish to ask, as a question of topography, geography, or hydrography, is whether between Fort Benton, by name, which has heretofore been understood to be the head of navigation of the river, and the foot of Great Falls there are any cascades or cataracts that require the building of locks, or canals, or anything of that sort?

Mr. SANDERS. Not any. It is a stretch of level river.

Mr. EDMUNDS. Very well.

The PRESIDING OFFICER. There being no objection to the reconsideration, the question is on the amendment of the Senator from Montana [Mr. SANDERS].

The amendment was agreed to.

Mr. EDMUNDS. Mr. President, I move to amend, on page 15, the paragraph concerning the use by private parties of one of the Government piers on Grand River, at Fairport, in Ohio, by striking out all after the words "eighty-one," in line 15, including the word "army," in line 22, and inserting in lieu thereof:

On prepayment of such rent therefor and under such arrangements as to time and use and such other conditions of such right as shall be prescribed by the Secretary of War, and always revocable by him, and which shall not be extended beyond the close of the year ending June 30, 1891, and thereafter no Government pier or dock shall be leased to or used by private persons.

Mr. President, I offer this amendment at the request of my friend, the Senator from Ohio [Mr. PAYNE], who was compelled to go away. He is familiar with that subject. I also offer it, I may say additionally, on my own account, for we had some consideration of this matter, I think, on the last river and harbor bill.

The old law authorized the Secretary of War to grant permission to private parties to use Government jetties and piers for their private purposes, generally railroad purposes, on the payment of rent to be fixed by him. The occupation of that pier by vessels lying alongside to discharge coal, iron, etc., to the railroad tracks running onto the pier, has obstructed by just that much the narrow channel between the two jetties, enough to prevent vessels from going into the interior part of the harbor.

When I made an inquiry, having had my attention called to it a month or two ago by the War Department, it was found that the \$2,000 rent had not been paid. But it is due to the railroad company to say that, their attention having been called to it, as I am informed by the Secretary of War, they have since paid the rent, so that so far the United States has received \$2,000 on that particular pier for giv-

ing the exclusive right to use it to this railroad company as against all comers, which I think is wrong of itself. The piers were not built for that purpose. They were built for the common interests of every-

body. Meantime, this business on Lake Erie, particularly at Buffalo and other places, of private interests getting the advantage of the use of these piers, to the exclusion of other people and to the obstruction of the passage of vessels between them, had become so extensive that the attention of the whole transportation interest, the whole internal sea interest, as I may say, was called to it; the attention of the whole Northwestern Lake interest and of the people engaged in the trade was drawn to it.

There have been given me by a gentleman of the highest character these original documents: First, a protest by the Erie Board of Trade (Erie being a Pennsylvania town on Lake Erie) against the whole of this sort of thing, as follows:

At a meeting of the Erie Board of Trade, held on Monday evening, July 14—

This year—

the following preambles and resolutions were unanimously adopted:

"Whereas the United States has expended large sums for the creation, improvement, and maintenance of harbors in the interest of commerce and for the benefit of the general public; and

"Whereas this body has become aware that legislation in Congress is proposed—

One of the propositions being this very item which we are now speaking of—

which conveys the right to control certain property of the United States at the entrance to several harbors on the Great Lakes to private corporations; and

"Whereas the policy of granting the use of United States docks and piers to private parties would be a dangerous and pernicious policy that would extend in every direction if once inaugurated;

"Resolved, That this board of trade looks with disfavor upon any and all such concessions, and does hereby urgently protest against such legislation.

"Resolved, That the secretary of this body is instructed to transmit copies of these resolutions to our members of the Senate and House of Representatives."

A. K. McMULLEN, President.

A true copy from the minutes. Attest:

D. BENSON, Secretary.

The following resolutions were adopted by the board of directors of the Board of Trade of the city of Chicago at their meeting held July 15, 1890:

Whereas this Board of Trade is informed that certain legislation is pending in the Houses of Congress of the United States which in effect proposes to give to private parties or corporations certain water frontage, which is national property, at the entrances to different harbors upon the Great Northern Lakes; and

Whereas the sense of this body is opposed to the granting of such concessions and the dispossessing of the National Government of its power over such of its property as is involved in this proposed legislation:

It is resolved, That this board of trade does in the strongest manner protest against such legislation as in the highest degree prejudicial to the public interests in the matter of transportation on and navigation of the said lakes.

It is further resolved, That the secretary is directed to transmit to the Committees on Commerce and to the Committees on Rivers and Harbors of both Houses of Congress copies of these resolutions, and also to the secretaries of the several boards of trade in the lake cities.

GEO. F. STONE, Secretary.

Then follows a protest by a great number of private shippers and persons engaged in transportation, addressed to Hon. THOMAS J. HENDERSON, chairman of the House Committee on Rivers and Harbors:

SIR: The undersigned, vessel-owners, managers, and agents at the port of Chicago, Ill., respectfully petition your committee to do all in your power to compel the removal of individuals or corporations occupying the Government pier at the port of Buffalo, N. Y.—

That is not this particular pier, but it falls within what has been said before—

and we would further respectfully request that individuals or corporations be prohibited from using the United States Government—

There is evidently the omission of the word "piers," I suppose—

at any of the ports of the Great Lakes, such piers having been constructed for the purpose of protecting the entrances to the harbors and not for the occupancy of private individuals or corporations of any kind whatsoever.

W. M. Eagan, D. T. Helm, P. Finn, Thomas G. Crosby, C. W. Elphicke, James A. Myers, Calvin Carr, Hugh McMillan, A. L. Fitch, E. E. Richardson, J. G. Keith, D. Talbot, J. C. Evans, J. J. Rardon, C. A. McDonald, C. J. McGill, D. B. Linstead, John Prindiville, A. T. Spencer, J. L. Dunham, J. L. Higgin, T. T. Morford.

Then, Mr. President, follows a set of resolutions that are in print, and are not therefore to the same extent authentic as the others I have presented, but I have no doubt the resolutions express the opinion of the Lake Carriers' Association in respect to their interests and affairs. It appears that they had a meeting at Buffalo on July 15, 1890—

Mr. FRYE. I will say to the Senator from Vermont that that has been laid on the table four different times already. That will obviate the necessity of reading it, unless the Senator desires.

Mr. EDMUNDS. I would like to state them for the information of Senators who may not have seen them. I shall not occupy a great deal of time. I think this is a matter of sufficient importance to justify me in stating them. I will condense, for the purpose of getting along and saving time.

These resolutions were adopted at a meeting of the Lake Carriers' Association, held at Buffalo, N. Y., July 15, 1890. They refer to three bills pending before Congress, in which in some way the Government piers on the Great Lakes are given over to the free and exclusive use of certain firms and corporations for purposes of private gain.

They further declare that the use of these piers for commercial purposes necessarily diminishes the available width of the harbor entrances at these points, and thus creates an obstruction to the commerce of the Great Lakes.

They then recite that these bills before Congress are therefore injurious to individual commerce and injurious to every vessel navigating the Lakes and to every shipper whose property is carried on these vessels, and that the policy is a dangerous and pernicious one.

They further protest against the passage of any and all bills and enactments designed to grant the use of any United States pier, wharf, or other Government property to private individuals or corporations.

Then come the resolutions of the Chamber of Commerce of Milwaukee of the 31st of July last, a little more than two weeks ago, referring to the same subject and declaring that that body is opposed to the granting of such concessions and the dispossessing of the National Government of its power over such of its property as is involved in this proposed legislation; and therefore the board resolves that it protests in the strongest manner against such legislation as in the highest degree prejudicial to the public interests in the matter of transportation on and the navigation of the said lakes.

Then follows a resolution of the Philadelphia Maritime Exchange, which refers particularly and directly to the Buffalo affair, which is not the question I have in hand, but which is embraced in the general proposition.

The Boston Chamber of Commerce, on the 25th of July, passed resolutions of the same character, against allowing to private persons or corporations the occupation of these piers of the Government, and jetties that are built in order to secure a full and free passage between them into the harbors and rivers to which they belong, as being an unjust favoritism to particularly favored parties and corporations, and as obstructive, and everybody must see that it is obstructive, to the free and undiminished width of the passage between those piers.

Mr. HOAR. Mr. President, I would like to ask the Senator from Vermont, as he seems to have given this subject much attention—and I have not given it any—in regard to the amendment, which I see is in the following words:

And thereafter no public pier or dock shall be leased to or used by private persons.

So that it would cut out, the entire length and breadth of the United States, the smallest possible use of Government piers or docks by any private person under any circumstances. Now, are there not many localities where there would be found no other pier but a Government pier and where the uses of commerce might require that some temporary or other arrangement for the use of such Government pier be made? I ask the Senator for information, whether this phraseology of his is not more sweeping than justice requires.

Mr. EDMUNDS. I think it is impracticable, Mr. President, to make any exclusive provision unless you make it sweeping and general or unless you give a discretion to some executive officer to determine what piers, and under what circumstances, should be used for private purposes; and that opens the very mischief that now exists, to the great discomfit of commerce.

I do not know any such instance, though I can imagine one at the front of the town where I live, the breakwater, which may be called a pier, and which is, say, 300 yards away from the docks; a schooner might run in there in distress during a gale and might run to that pier and tie fast. It is true that that would be a trespass, but nobody would ever take any notice of it, and nobody ever did. There is no authority of law now to occupy a pier for any such purpose.

But I do not think there is any danger in respect to having this exclusion general and sweeping. So I hope, Mr. President, the Senate will agree to the amendment drawn by my friend from Ohio [Mr. PAYNE] and which I have offered at his instance, but which, having had some knowledge in regard to before, I most heartily concur in.

Mr. FRYE. I would like to ask the Senator from Vermont if the last three lines were in Senator PAYNE'S amendment.

Mr. EDMUNDS. All that I have changed in his amendment was to change the date to June, 1891, in order to make it perfectly clear when the thing was to end.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. On page 15, line 15, after the words "eighteen hundred and eighty-one," strike out all down to and including the word "Army," in line 22, as follows:

Under such limitations as to time and use as shall be approved by the Secretary of War; and in consideration thereof the owners of such dock property shall, at their own proper cost and expense, sufficiently repair, renew, and protect the portion of said pier so used, and do all necessary dredging in Grand River, in front thereof, all such repairs, renewals, and dredging to be done under the supervision of the Chief of Engineers of the United States Army.

And insert the following in lieu thereof:

On prepayment of such rent therefor and under such limitation as to time and use, and such other conditions of such right as shall be prescribed by the Secretary of War, and always revocable by him, and which shall not be extended beyond the close of the year ending June 30, 1891; and thereafter no Government pier or dock shall be leased to or used by private persons.

Mr. SHERMAN. Mr. President, that last clause would seem to me to destroy every harbor on the lakes. Rather than adopt that amend-

ment we had better refuse to pass this bill. I know how these lake harbors are. The rivers emptying into Lake Erie are very small comparatively, but very important. Their mouths make very good harbors, but the streams are small and narrow. The widest of these openings, I think, is about 200 feet. I will ask the Senator from Maine if I am correct about that.

Mr. FRYE. I think it is about 200 feet.

Mr. SHERMAN. The Government makes an opening usually at the mouth of these rivers. The Government, in improving these harbors, has cut out the bar and opened it for some distance up the body of the creek or river, and then extended a pier out one or two or three hundred feet, according to the shoalness of the bank.

Now on Lake Erie, and especially at this port of Fairport, there is a commerce almost marvelous. The Senate would scarcely believe the figures if I gave them. The total tonnage that now comes out into the lake through the Sault Ste. Marie and along the shores of the State of Ohio and going to Chicago amounts to over 10,000,000 tons of the single item of iron ore. In this town of Fairport, according to the statements made to me, the tonnage has gone up within a few years to 1,200,000 tons, an amount so vast as to seem almost impossible for a little harbor like that.

Then iron ore is also received in this harbor by the railroad companies, largely Pennsylvania companies and Ohio companies, and is transported and converted into all forms of iron. Vessels necessarily must come up this mouth and must be unloaded over this pier, and these railroads have purchased land behind these piers or out beyond them and have made artificial earth embankments by extending out opposite the pier the ground where they can receive this iron ore and transport it to their tracks running down alongside the pier and thence off into the country where it is converted into iron.

Therefore this last provision inserted here would absolutely destroy all the benefit derived by the commerce of the country from all these piers, I may say, on all the lakes, because they are all more or less subject to these conditions I have named.

To the first part of this, which my colleague showed me, I have no objection, because I think the Government of the United States ought to have the right to provide that when its vessels are unloaded alongside these piers they shall not be unreasonably held there, and that if they should receive any damage caused by this commerce the owners of that commerce should repair it. But the railroads must carry over the Government piers to their land, by the heavy machinery they have planted there, this iron ore, without which they could not get along at all.

The result is that different railroad companies have, inside the piers of the Government, purchased or made land, and they have there vast machinery, powerful machinery, by which they unload a vessel in a very short period of time.

As a matter of course, so far as the first part of the amendment is concerned, I have no objection to saying that any damage or any unnecessary delay should be prohibited; and the Secretary of War should have power to make regulations to prevent any injury from being done. But the vessels must lie alongside the pier in order to reach the place for unloading the iron ore.

The last part of the amendment is the part to which I mainly refer. That is clearly subject to the point of order that it is legislation on an appropriation bill, and legislation of the most dangerous character. Certainly I think the Senator from Vermont can hardly be familiar with the peculiar characteristics of the localities and the nature of these piers on Lake Erie, or he would hardly propose it. At any rate, I make the point of order now that it is not in order so far as the regulation of the pier is concerned.

I have no objection at all to the use of this pier, the necessary use of it, by all those companies on their paying a reasonable amount for their use. Whatever may be proper legislation in connection with the use of the pier, what guards should be had to prevent injury, and, if injured, what sum should be paid therefor—I do not know what kind of a charge it would be, but something should be paid for the use of the pier while the vessel is lying alongside. The channel is never less than 200 feet, so that vessels can go in and pass out. Sometimes a half dozen of these vessels will be unloading at the same time close together and not interrupt the passage of other vessels in and out.

That is the only way by which the commerce of that country can be conducted. To destroy that is to destroy the commerce. It were better not to make any appropriation, better not to build a pier. A pier, from the nature of things, is necessarily built along the line of the river and also out into the lake, sometimes two or three hundred feet, and all this commerce must go over this pier.

The PRESIDING OFFICER. The Chair understands the Senator from Ohio to raise the point of order as to the latter part of the proposed amendment, the point of order being that it is general legislation on an appropriation bill?

Mr. SHERMAN. Yes, sir; I make the point of order on the last part.

So far as the amendment of my colleague is concerned, which was shown me by him at the time, I do not see that there is anything unreasonable in it. But I am quite sure that it did not contain this

clause, for my colleague, who knows all about this commerce, would see that it would destroy the commerce of Cleveland, and Ashtabula, and other places where the amount of commerce is simply immense. Cleveland is in precisely the same condition. If the Government piers could not be used there, so that vessels might be unloaded on the Government piers, or over them, as they usually are, the commerce of Cleveland would be practically closed.

Mr. EDMUNDS. Mr. President, either the whole of the amendment I have offered is in order or the whole of it is not. It is legislation, but it relates directly to the management of the property that we have provided for in the next line above.

Mr. SHERMAN. It relates to the whole country around.

Mr. EDMUNDS. It relates to the property provided for in the next line above, where we appropriate \$21,300. It has been held many times in this Senate—though it may be held the other way to-day, I do not know—that when an appropriation bill contains a legislative provision it is competent to amend that without being subject to the point of order. It is unnecessary to state what otherwise would happen. It would be perfectly absurd. The House has put in here twelve or thirteen lines of pure legislation in regard to the management of the property of the United States.

Now, my proposition is—or rather that of the Senator from Ohio, although I concur in it with all my heart—to amend that legislative provision already in the bill by putting it into shape, as I think, better for the public interest. So much for the point of order.

I wish to tell my friend from Ohio that the whole of that amendment, except the matter of a change of date to make it 1891 instead of the year 1890—which I thought was not clear, as the Senator will see by looking at it—is the same amendment that was left with me by our honored friend, Senator PAYNE. Whether the Senator from Ohio now absent was right or wrong in it, it is his amendment just as it stands, except in the matter of perfecting the date in order to make it clear in that respect.

Mr. President, in order to meet the suggestion of my friend from Massachusetts and my friend from Rhode Island in regard to some of these piers and breakwaters, that for our common interest they have to be resorted to at times and in case of distress, etc., by everybody on equal terms, I desire to modify the amendment I have offered, so as to make it read as the Clerk will report.

The PRESIDING OFFICER. The Senator from Vermont modifies his amendment—

The CHIEF CLERK. So as to read:

On prepayment of such rent therefor, and under said limitations as to time and use and such other conditions of such right as shall be prescribed by the Secretary of War, and always revocable by him, and which shall not be extended beyond the close of the year ending June 30, 1891; and thereafter no Government pier or dock shall be leased to or be permitted to be used by private persons otherwise than in common by all, under such regulations as the Secretary of War may prescribe.

Mr. EDMUNDS. That, Mr. President, I think, meets the suggestion of my friend from Massachusetts, that wherever this may be done with safety to the public interest it shall be done freely and to everybody alike, and that exclusive privileges shall not be given to anybody.

Mr. SHERMAN. The question is subject to a division, and I make my point of order on the last part, that it is legislation applying to all the property in docks in the United States of America.

But I wish to call attention also to the provision as it stands. It seems to me that it accomplishes every object that is desirable, with a simple addition that a reasonable charge might be made for the use of these docks. I will read it as it now stands in the bill on page 15:

The owners of dock property abutting on the east Government pier on Grand River—

That is proper legislation—

shall have the right to load and unload coal, ore, and other freight over so much of said pier as lies north of the inner shore-line represented on map in the Report of the Chief of Engineers of 1881, under such limitations as to time and use as shall be approved by the Secretary of War, and in consideration thereof the owners of such dock property shall, at their own proper cost and expense, sufficiently repair, renew, and protect the portion of said pier so used, and do all necessary dredging in Grand River, in front thereof, all such repairs, renewals, and dredging to be done under the supervision of the Chief of Engineers of the United States Army.

Now, Mr. President, this proposition, as it stands, contains every safeguard that is reasonable and right; that is, they shall control the part that they occupy temporarily, and any repair or renewal of the pier at the place shall be borne by the company, and all necessary control in front of their property, of such renewals and repairs, shall be under the supervision of the Chief of Engineers; so that if any possible damage is done to the pier it must be restored, replaced, and repaired by the railroad company.

I think myself it would be well enough, although it is rather a small matter for the United States Government to deal in, to charge them a reasonable rent for the use of this pier. But from the very nature of things they must use the pier. They could not unload their vessels without using the pier.

The extent of the navigation is only so far as the improvements have been made, probably not more than 200 feet from the shore. Then the pier is run out to the lake-shore line, and these railroad companies

that use the pier or who run their tracks over the pier build out extensive works on this shore-line by making new land; and it is utterly impossible for them to unload their vessels in any other way except alongside the pier, and they must carry the freight over the pier. It is impossible to do it in any other way.

Mr. MITCHELL. If the amendment should be adopted, would it not be well to provide for vessels engaged generally in private enterprises though they might sometimes have Government freight?

Mr. SHERMAN. Oh, yes; I take it that the general provision contained in the bill will accomplish that. I made the point of order on that, but I do not suppose that will be adopted any way. I am only talking about this particular case now.

Sometimes I know there is a struggle between rival railroads, but each of the railroads that has a connection at this port has a place where it can unload its vessels. They own the land in the rear of the pier, made at great expense, and, without that privilege of carrying their commerce over the pier, as a matter of course they would withdraw their railroad tracks and withdraw all that commerce, and that would be the end of it.

You might just as well require them before they touch Lake Erie to build a pier to enable them to bring their vessels up to land. That is the idea, to apply to all the commerce of the country. As a matter of course that disposes of all your river and harbor improvements.

Now, these railroads are the agents of the people. They come there for the purpose of carrying this lake commerce to the interior, and they can not approach the waters of the lake except at a Government pier unless they build a pier themselves, and that is beyond the use or the means at the disposal of any private company or private corporation. They must necessarily use the facilities furnished by the Government. No private citizen, no private corporation could build a pier into Lake Erie without being guilty of a criminal act.

Individuals can not invade the navigable waters of the lake without the permission of Congress, and Congress does not in any case that I know of give private parties the right to build a pier into navigable waters. That is done by the Government of the United States in aid of commerce; and then private corporations and citizens come and use the facilities which have thus been rendered to commerce; they ought to use them wisely and it ought to be under strict regulation, but necessarily they must use these piers as the places and means of transporting or handling products, whether corn or wheat or iron ore or coal.

Here at this particular place and at all the ports along Lake Erie the great articles of commerce are coal and iron ore. The amount of coal now shipped from Ohio to Canada is greater far than the amount of coal shipped from Nova Scotia to the United States, while the amount of coal shipped to other ports of the United States, especially the Northwest, is greatly larger than the entire tonnage of coal from Nova Scotia.

This commerce is in these great articles, one of coal going northwards clear up to Port Arthur and far up to Duluth and all along the upper country. The coal is carried from here one way, and iron ore is brought back, and at half a dozen of these wharves along the shores of Lake Erie these articles are exchanged, one sent away and the other coming in, and these piers are good for nothing at all and there is no use in building them unless they are aids and facilities for this commerce.

To say by the general provision of the amendment of the Senator from Vermont that no Government piers shall be used by private people is absolutely to destroy their use. The Government of the United States does not want to use these piers, or very rarely. While there is only one Government vessel on the whole of the northern lakes and we are bound by treaty arrangement not to have any more, if nothing could land at these piers but that poor Government vessel, what would be the use of building them? They are built for private purposes, to aid commerce conducted by private individuals, and to deny that use to them is to destroy them.

I think I need not discuss the matter further. I know of no objection to the bill as it stands in this respect, and I shall vote against any amendment since I have come to read carefully the provisions of the bill.

Mr. FRYE. Here are the two piers at Chicago [indicating on a map]; here is the crib-work on the left-hand side on the Chicago River, about 2,500 feet long, extended right along the shore of the river on this side. On this side the crib-work here and here and here and here [indicating]—the scale is about 150 feet to the inch—it is about 600 feet. Then comes the Government pier, about 600 feet long.

Now, if the amendment proposed by the Senator from Vermont is adopted, of course nobody could have the use of any of this 2,000 feet [indicating] or of any of this on the right-hand side of the river, and over 2,000 feet of that river front would be actually closed up to commerce.

On the left-hand side this is owned here [indicating], the first 400 feet, by Mr. McCormick, and occupied by the Western Transit Company. The next 200 feet are occupied by the Lehigh Valley Transit Company, and so on, the whole length of the Government pier there on the left-hand side being occupied.

There is no way on the face of the earth for them to make any use

of the Chicago River for that 2,000 feet unless they handle their freight over that left-hand pier [indicating], which renders it practically useless.

On the right-hand side take the Government pier in red ink, about 600 or 700 feet long. The Illinois Central Railroad has built in the rear of that pier the whole length, about 200 feet wide and about 600 feet long—has built up land, owning right up against the Government pier. The Illinois Central Railroad can not use that land and the river unless it can handle its freight over the Government pier. The Government pier is not worth one cent to the Government of the United States. It has been built and has served its purpose, and is to all intents and purposes the boundary line of the river dock on each side, and the Senator's amendment proposes that no one shall be permitted to use that for the entire length.

I wish to say to the Senator that the vessel-owners have sent in a very heavy petition in favor of permission to use this Government pier, and a bill passed the Senate a short time ago to authorize that use. Now, the Senator proposes to amend his amendment by providing that all people shall have the free use, and in that way to obviate the objection which was made. But how can anybody have the free use of these piers when the land behind them is owned by private parties? It would be a trespass every time they undertook to make use of it if those parties forbade their going over the land.

Here is where the Illinois Central Railroad has owned this land, the whole 600 feet [indicating]. How can anybody except the Illinois Central Railroad land goods over that pier on to the land, and how on this other side [indicating], where it is owned by private parties the whole distance?

When these piers were started the land did not go down to the piers, but it has been made by gradual accretions until it extends the whole length of the pier except about 175 feet, as I understand, on this right-hand pier [indicating], reaching out into the lake, and all of the accretions are owned by somebody. In the rear of the Government pier the land is owned down to it. On each side of the Government pier the land is owned up to it by somebody.

Now, as a matter of course no one can desire to obtain a lease except the party who owns the land adjoining. The Government could not sell this pier to anybody except the person who owned the land adjoining. I do not see for the life of me the slightest objection to using these piers, and I do see a very serious objection to the latter part of the amendment of the Senator from Vermont.

Now here [exhibiting another map] is Fairport, which is under consideration. On the left-hand side [indicating] is a pier and on the right-hand side a pier, extending out, perhaps, 2,000 feet into the lake. It is all deep water between those two piers. The Government pier on the right-hand side [indicating] extends the whole length there. The land has been made by accretion until it reaches out to that point on this side [indicating]. It did not reach it at all when it was started. On the other side the accretions have extended the land up to this point nearly 1,500 feet [indicating]. Now, the land on the outside of each of these piers is owned by private parties, and if the Senator's amendment were adopted no one could use these piers or could be permitted to do so, for that is all that the amendment of the committee provided for, that the freight should be landed over the Government piers. That is the only way that that river can be used from that point [indicating], the northerly end of the pier to the southerly end of the pier—the only way that that river can be used by vessels bearing freight to be landed on the shores here [indicating] is by landing over the Government pier.

Take the pier at Buffalo, about which considerable disturbance has been made. The pier has been occupied over and over again by railroad corporations; and cribs, or whatever they call them, for coal, have been built right in the piers, and the Government has been compelled twice to send a company of soldiers there to clean out the Government piers occupied without any authority of law. I went down and had an interview with General Casey in relation to these things, and he told me he could not see any earthly reason why these piers should not be occupied. They vary from 15 feet wide on the top to 25 feet. They extend from 2,500 to 3,000 feet out into the lake, and gradually these accretions come until perhaps the pier of itself will not be more than 100 feet into the lake.

All that land is owned by somebody, and General Casey says why all that should be closed up and commerce not have free access into these piers is beyond his comprehension. The only objection that has ever been made to it by anybody before the committee, or made to me privately, has been that very likely two or three vessels might lie side by side in front of one of these piers unloading, and if they did that that would fill up the passage and delay and hinder vessels which were coming through the opening. Of course it would, but there is not a city in the United States, certainly none of the large cities, that does not confer the authority on harbor-masters, so that the harbor-master can make a rule that no more than one vessel shall be permitted to lie beside the pier, that no one shall discharge more than one hour or two hours or three or four hours. It is entirely within the power of the harbor-master. If there is no harbor-master then the municipal authorities can provide without the slightest difficulty that these vessels

shall not lie so as to discommode vessels that are coming in and going out.

General Casey says that these piers are utterly useless to the Government. They can all be leased to parties who are entirely responsible, so that the Government can be relieved of all expense of keeping them up and keeping them in repair; it can be relieved still further from the expense of dredging the river in front of the piers, and even beyond that it can obtain rentals from parties who desire their use.

Of course, I have not the slightest interest under the sun in this matter. It does not have any extension down into the region of the country where I live. The only care I have about it is to give commerce as free and unlimited and uncontrolled liberty in these piers and over these piers as possible.

Mr. EDMUNDS. I think we should all agree that commerce should have free intercourse and that it should not be sold out to private corporations for the exclusive occupation of works of the United States. Perhaps that is an obsolete idea, but I still retain it for one.

Now, when we take these two maps that my friend has referred to, what do we find? What he calls the Chicago River beginning with the first map, as shown on that blue map, is part of Lake Michigan. That is, the piers were not built along the shores of the Chicago River. They were built in order to get over the bar outside of the mouth of the Chicago River into Lake Michigan, unless I am greatly misinformed.

Mr. FRYE. That is simply a just criticism of my language. That is what I understand it was.

Mr. EDMUNDS. Am I not right?

Mr. FRYE. You are right.

Mr. EDMUNDS. Very well. I suppose the Senator meant that. We should not have any controversy about topographical facts.

Now, in order to admit vessels, all vessels of all people of the United States, on equal terms into the city of Chicago and into what is called the Chicago River, there being a bar at the outside of the river, the United States was called upon to build and did build two piers extending from either end of the bank of the river out into the lake across the bar, and then dug it up. There were some people at that time who supposed that the United States at Chicago owned the land on one or both sides as a reservation—Fort Dearborn reservation, I believe it was—and whatever there was in front of it out to navigable water on the lake belonged to the United States as a piece of property, but through one arrangement and operation, partly by the vote of the Senate and otherwise, it turns out that the railroads became the proprietors of it without the United States getting any compensation.

That may have been right, it may have been wrong, but that is the fact. Having got into possession of this shoal water outside of the piers in Lake Michigan, they ran their tracks close down to the edge of the piers and probably upon them, but I am not sure about that, but no matter, and then undertook to exercise or obtain authority from time to time to make use of those piers as wharves and docks for their exclusive use, the United States having built them, to the exclusion of everybody else who might wish to run a schooner alongside of a pier or drive up on the pier without touching the railroad track at all, which is outside of it, being 25 or 50 feet wide, into the city. But no, the railroad corporation is to have the exclusive privilege of that frontage; by right or by wrong it has become the possessor of the waters of the lake which have filled up artificially and otherwise behind the pier. I may be entirely wrong, but I do not think that is right.

The same thing is true at Fairport, in the State of Ohio. It is not a lining by a dock of the shore of a river inland; it is the projection of two jetties to make a free passage between them from the deep waters of the lake up into the river, where everybody stands on an equal footing. The piers being projected, it would be extremely convenient for a railroad that wishes to monopolize the whole business to run down to this pier, where there would be shelter against the wind, and have nobody else allowed to go on the pier and run there in this case, and getting a monopoly.

I do not believe in monopolies, and I do not believe in the Government of the United States—differing from my friend from Ohio—building these works for the benefit of private parties. The Government builds them to make a passage-way in these shoal waters of Lake Erie into a river that it was thought commerce required to have improved and give access to.

Now, there is a curious thing about the progress of this legislation. In the former law it was provided that the Secretary of War might grant licenses to anybody that he pleased to occupy by transit over it of this Grand River pier that we now have in the bill on the payment of such a rent as he should think would be right. That gave, in my opinion wrongfully, power to the Secretary of War to put the use of that pier into the exclusive possession of one party. However, he did it at a rent to be paid of \$2,000 a year, and only a lease for one single year. That expired a few months ago and the railroad company did not pay the rent. They occupied the pier to the exclusion of everybody else. They have since paid it, since attention was called to the fact that they had not paid it. So the rent is now paid, but the lease has expired.

Under the old law, if this was all out, the Secretary of War would

have the right to lease that pier again to that company or to anybody else who would pay for it for such rent as he could, but this House bill provides a perpetual and irrevocable grant to the owners of the dock property abutting on this Government pier; that is, the people got out in the shoal water and in possession and ownership, I assume, of the thing behind it, a perpetual right, irrevocable as it stands, a grant of title to make use of that pier for their purposes and an exclusive use for their purposes; and for what compensation? I am not reading the words now of it, but the effect of it is that the consideration they are to pay for it, the limitation only being as to time and use, the time and manner of use to be approved by the Secretary of War—and in consideration of it what are they to do? Pay \$2,000 a year as they did last year? Not at all. They are to agree that they will take care of that pier as far as they occupy it on their front at their own expense, and they agree that they will take out the sand in front of it!

In other words, it becomes the exclusive property of these people, they agreeing to keep it in repair, to keep the sand out in front of it. That is a great deal worse than the law was last year. It becomes theirs absolutely, with an obligation which it will be somewhat difficult to enforce, as we have found about some other property of the United States—a duty to keep the navigation clear. Suppose they do not, what are you going to do about it? You are going to tax the people of the United States to dig it out at the public expense, and then you are going to bring an action at law against them, and what luck you would have in such an action at law remains to be seen.

Mr. FRYE. The first portion of the amendment of the Senator from Vermont I do not have the slightest objection to, and as the amendment is capable of division, one portion of it relating to the item under consideration and the other portion being general law, I ask for a division of the amendment.

Mr. DOLPH. I do not propose to discuss this precise question, but there are some suggestions I desire to make in regard to the use of Government bulkheads or breakwaters made for the purpose of improving the navigation of the navigable waters of the United States.

I do not agree with the Senator from Ohio [Mr. SHERMAN] that they are constructed intentionally for the purpose of affording what might be called dockage room or wharfage. The United States, I apprehend, would have no power to construct breakwaters for that purpose unless it was for its own use as docks, but under the authority of Congress to regulate commerce between the States Congress has power to improve the navigable waters of the United States and can exercise it and protect the same, and in the exercise of that power wherever it is necessary to build a bulkhead and breakwater proceed to occupy the bed of the navigable waters of the United States for the purpose of constructing such works.

The beds of the navigable streams belong to the States by virtue of their sovereignty. The ownership, however, as I understand it, is subject to the right of the necessary use of the same for the purposes of navigation. Congress, therefore, in constructing these piers occupies the property of the States and necessarily interferes even with the riparian rights of shore-owners, who are subordinate also to this right of the use of navigable streams for the purpose of their improvement.

Sometimes these piers or bulkheads are built at right angles with the shore, sometimes they are built diagonally from the shore, so as to form an acute angle with the shore, and sometimes they are built along nearly parallel with the shore. In fact, they may be conceived of as being built in almost any direction and interfering more or less with riparian rights. I do not apprehend for a moment that the United States acquired, by the use of this property, the bed of the stream and the shore and, by its interference with and appropriation of the rights of shore-owners, a right to construct a public wharf or to maintain erections for that purpose. The right of the United States to maintain such a structure, I apprehend, is for the purpose of improving navigation. But there are certain equities in favor of the shore-owners, who are entitled to certain riparian rights which I think ought to be recognized. Certainly they ought to be recognized if the license is to be issued or executed by the United States to use these structures.

I do not know that the case under consideration in the city of Chicago differs materially from any other case. To be sure, there it appears that there has been an accretion of the shore, but that accretion becomes a part of the shore, becomes subject to private ownership, and is undoubtedly at the present time subject to private ownership. It would certainly be beyond the power of Congress, and it would be inequitable to say that the entire public should have the right to the use of this bulkhead or breakwater, so as to connect with the adjacent shore and deprive the owner of his riparian rights.

It was for that reason that I thought when this portion of the bill was under consideration in the committee that this was a fair provision, because it seemed to recognize the right of the shore-owner and to give him the opportunity of utilizing his riparian rights in connection with the Government work and at a fair compensation to the Government in the way of rebuilding and maintaining in repair the Government breakwater.

The question is accompanied with difficulty in any light in which you view it. I think the shore-owner has certain rights which ought

to be recognized, and the power of the Government is limited in the use of the property.

I suppose the Senator from Vermont does not believe for a moment that, if one of these piers should become no longer necessary for the improvement of navigation or should be in fact no longer used in that connection, still the Government could maintain the pier and interfere with private property both upon the ground and the pier itself, and lease it out for the purpose of a dock and receive revenue from it.

Mr. EDMUNDS. That is exactly what I am opposed to. I think, as far as we are concerned, there should be a common right to everybody, and let the riparian owners and the vessel-owners arrange their own affairs on their own account.

The PRESIDING OFFICER (Mr. MANDERSON in the chair). The Senator from Maine [Mr. FRYE] has demanded a division of the pending question. The Chair is of opinion that the amendment is clearly divisible, and he will indicate to the Secretary the point where it seems to be clearly divisible. That which will now be read is the first proposition to be acted upon.

The Secretary read as follows:

On prepayment of such rent therefor and under such limitations as to time and use and such other conditions of such right as shall be prescribed by the Secretary of War, and always revocable by him, and which shall not be extended beyond the close of the year ending June 30, 1891.

The PRESIDING OFFICER. The second proposition will now be read.

The Chief Clerk read as follows:

And thereafter no Government pier or dock shall be leased or permitted to be used by private persons otherwise than in common by all under such regulations as the Secretary of War may prescribe.

The PRESIDING OFFICER. The question is on the motion to strike out and insert the first proposition.

Mr. SHERMAN. I think the Senator from Vermont is in error in proposing to strike out the clause which enables the Chief of Engineers to require them to make certain repairs, because the motion of the Senator from Vermont strikes that all out. The last clause in the part that has been read I move to strike out. Let it be read again from the beginning.

The Chief Clerk read as follows:

On prepayment of such rent therefor and under such limitations as to time and use and such other conditions of such right as shall be prescribed by the Secretary of War, and always revocable by him.

Mr. SHERMAN. That last clause I propose to leave out.

Mr. EDMUNDS. Not the last.

Mr. FRYE. That prepayment of rent takes the place. It is fully as well for the Government to make its own repairs.

Mr. SHERMAN. I have no objection to their paying a reasonable rent.

Mr. EDMUNDS. The Senator from Ohio wishes to get out the limitation to 1891.

The PRESIDING OFFICER. The Senator from Ohio wishes to strike out the words which will be read.

The Chief Clerk read as follows:

And which shall not be extended beyond the close of the year ending June 30, 1891.

The PRESIDING OFFICER. The question is on striking out from the first proposition the words just read. Is the Senate ready for the question? [Putting the question.] The "ayes" seem to have it.

Mr. EDMUNDS. Let us have a division.

The question being put, there were, on a division—ayes 27, noes 5.

The PRESIDING OFFICER. The vote disclosing the want of a quorum, the roll of the Senate will be called.

Mr. EDMUNDS. The shortest way will be to have the yeas and nays. That will save one call.

The yeas and nays were ordered.

Mr. COCKRELL. Let the amendment be again reported.

The PRESIDING OFFICER. The question being on the motion to strike out and insert the first part of the proposition, the Senator from Ohio moves to strike out of the first proposition the words which will be read.

The Chief Clerk read as follows:

And which shall not be extended beyond the close of the year ending June 30, 1890.

The Chief Clerk proceeded to call the roll.

Mr. CULLOM (when his name was called). I am paired with the Senator from Delaware [Mr. GRAY]. I withhold my vote until I see whether a quorum is obtained, and, if not, I shall cast my vote afterwards.

Mr. PASCO (when his name was called). I am paired with the Senator from Illinois [Mr. FARWELL]. In his absence I withhold my vote.

Mr. SHERMAN (when his name was called). I am paired with my colleague [Mr. PAYNE].

Mr. WILSON, of Iowa (when his name was called). I am paired with the Senator from Maryland [Mr. WILSON]. In his absence I withhold my vote.

The roll-call was concluded.

Mr. DAVIS. I am paired with the Senator from Indiana [Mr. TURPIE], but by arrangement I am at liberty to vote. I vote "yea."

Mr. COCKRELL. Notwithstanding I am paired with the Senator from Massachusetts [Mr. DAWES], I understand from his colleague [Mr. HOAR] that I am at liberty to vote, and I vote "nay."

Mr. CULLOM. If a quorum has not yet voted I will take the liberty of casting my vote.

The PRESIDING OFFICER. No quorum has yet voted.

Mr. CULLOM. Then I vote "yea."

Mr. PLATT. I am paired with the Senator from Virginia [Mr. BARBOUR]. My vote can make no possible difference, and I withhold it.

Mr. BATE. My colleague [Mr. HARRIS] is absent from the Senate on account of sickness. He is paired with the Senator from Vermont [Mr. MORRILL].

Mr. FAULKNER. I desire to say that my colleague [Mr. KENNA] is detained from the Senate by reason of illness. He is paired with the Senator from Colorado [Mr. WOLCOTT].

The result was announced—yeas 40, nays 9; as follows:

YEAS—40.

Aldrich,	Cullom,	Hampton,	Pugh,
Allen,	Daniel,	Hawley,	Quay,
Allison,	Davis,	Higgins,	Ransom,
Berry,	Dixon,	Hiscock,	Sanders,
Blackburn,	Dolph,	Hoar,	Sawyer,
Cameron,	Eustis,	Manderson,	Spooner,
Carlisle,	Faulkner,	Mitchell,	Stockbridge,
Casey,	Frye,	Moody,	Teller,
Coke,	Gibson,	Plumb,	Walthall,
Colquitt,	Hale,	Power,	Washburn,

NAYS—9.

Bate,	Edmunds,	Hearst,	Reagan,
Blair,	Gorman,	Jones of Arkansas,	Vest,
Cockrell,			

ABSENT—35.

Barbour,	George,	Morrill,	Stanford,
Blodgett,	Gray,	Paddock,	Stewart,
Brown,	Harris,	Pasco,	Turpie,
Butler,	Ingalls,	Payne,	Vance,
Call,	Jones of Nevada,	Pettigrew,	Voorhees,
Chandler,	Kennerly,	Pierce,	Wilson of Iowa,
Dawes,	McMillan,	Platt,	Wilson of Md.
Everts,	McPherson,	Sherman,	Wolcott.
Farwell,	Morgan,	Squire,	

So the motion to strike out was agreed to.

The PRESIDING OFFICER. The question now recurs upon the first proposition as amended.

Mr. FRYE. There is no objection to that.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The question now recurs upon the second proposition of the amendment, which will be stated.

Mr. SHERMAN. I raise the point of order on that that it is general legislation applying to all piers.

The PRESIDING OFFICER. The second proposition of the amendment will be stated.

The Chief Clerk read as follows:

Hereafter no Government pier or dock shall be leased to or permitted to be used by private persons otherwise than in common by all under such regulations as the Secretary of War may prescribe.

The PRESIDING OFFICER. Upon this amendment the Senator from Ohio raises the point of order that it is general legislation upon an appropriation bill. The Chair holds that it is general legislation, because while it applies to this particular section it applies to all other docks and piers, and is clearly, the Chair thinks, general legislation, and therefore it can not be received under the rules.

The bill is still in Committee of the Whole, and open to amendment.

Mr. SPOONER. I send to the desk and offer the amendment of which I gave notice yesterday, to come in after the amendment proposed yesterday by the Senator from Vermont [Mr. EDMUNDS] and adopted.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin will be stated.

The CHIEF CLERK. After section 6 it is proposed to insert the following as a new section:

That it shall not be lawful to cast, throw, empty, or unladen, or cause, suffer, or procure to be cast, thrown, emptied, or unladen, either from or out of any ship, vessel, lighter, barge, boat, or other craft, or from the shore, pier, wharf, furnace, manufacturing establishments, or mills of any kind whatever, any ballast, stone, slate, gravel, earth, rubbish, wreck, filth, slabs, edgings, sawdust, slag, cinders, ashes, refuse, or other waste of any kind into any port, road, roadstead, harbor, haven, navigable rivers, or navigable waters of the United States which shall tend to impede or obstruct navigation, or to deposit or place, or cause, suffer, or procure to be deposited or placed, any ballast, stone, slate, gravel, earth, rubbish, wreck, filth, slabs, edgings, sawdust, or other waste in any place or situation on the bank of any navigable waters where the same shall be liable to be washed into such navigable waters, either by ordinary or high tide or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: *Provided*, That nothing herein contained shall extend or be construed to extend to the casting out, unloading, or throwing out of any ship or vessel, lighter, barge, boat, or other craft any stones, rocks, bricks, lime, or other materials used, or to be used, in or toward the building, repair-

ing, or keeping in repair any quay, pier, wharf, weir, bridge, building, or other work lawfully erected or to be erected on the banks or sides of any port, harbor, haven, channel, or navigable river, or to the casting out, unloading, or depositing of any material excavated for the improvement of navigable waters into such places and in such manner as may be deemed by the United States officer supervising said improvement most judicious and practicable and for the best interests of such improvements, or to prevent the depositing of any substance above mentioned under a permit from the Secretary of War, which he is hereby authorized to grant, in any place designated by him where navigation will not be obstructed thereby.

SEC. 2. That it shall not be lawful to build any wharf, pier, dolphin, boom, dam, weir, breakwater, bulkhead, jetty, or other structure outside established harbor-lines without the permission of the Secretary of War in any port, roadstead, haven, harbor, navigable river, or other waters of the United States in such manner as shall obstruct or impair navigation, commerce, or anchorage of said waters; and it shall not be lawful hereafter to commence the construction of any bridge, bridge-draw, bridge piers and abutments, causeway, or other works over or in any port, road, roadstead, haven, harbor, navigable river, or navigable waters of the United States, under any act of the Legislative Assembly of any State, until the location and plan of such bridge have been submitted to and approved by the Secretary of War, or to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of the channel of said navigable waters of the United States, unless approved and authorized by the Secretary of War: *Provided*, That this section shall not apply to any bridge, bridge-draws, bridge piers and abutments, the construction of which has been heretofore duly authorized by law, or be so construed as to authorize the construction of any bridge, draw-bridge, bridge piers and abutments, or other works, under any act of the Legislature of any state, over or in any stream, port, roadstead, haven, or harbor, or other navigable water not wholly within the limits of such State.

SEC. 3. That all wrecks of vessels, and other obstructions to the navigation of any port, roadstead, harbor, or navigable river, or other navigable waters of the United States, which may have been permitted by the owners thereof or the parties by whom they were caused to remain to the injury of commerce and navigation for a longer period than two months, shall be subject to be broken up and removed by the Secretary of War, without liability for any damage to the owners of the same.

SEC. 4. That it shall not be lawful for any person or persons to take possession of or make use for any exclusive purpose, build upon, alter, deface, injure, obstruct, or in any other manner impair the usefulness of any sea-wall, bulk-head, jetty, dike, levee, walk, pier, or other work built by the United States for the preservation and improvement of any of its navigable waters, or boundary marks, tide-gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works.

SEC. 5. That every person, persons, or corporation offending against the provisions of this act shall, for each and every such offense, forfeit and pay a penalty of \$250, besides such other sum as may be found, in any action for the recovery of the penalty or penalties incurred under this act, to be the expense of making good the damage incurred or of removing to a proper place the things deposited in violation of this act, such penalties to be recovered by action in the name of the United States in any district court within whose jurisdiction such offense shall be committed, or in any district wherein the defendant may be found, said action to be instituted by the district attorney for such district at the instance of any person complaining.

SEC. 6. That any damage for injury done to any property of the United States mentioned in section 4 of this act by any vessel shall be a lien upon such vessel, her machinery, apparel, and furniture, the payment of which may be enforced by the United States in a suit instituted in the admiralty court of the district wherein said injury was done, or in the district where said vessel may be found.

SEC. 7. That it shall be the duty of officers and agents having the supervision, on the part of the United States, of the works in progress for the preservation and improvement of said navigable waters, and, in their absence, of the United States collectors of customs and other revenue officers, to enforce the provisions of this law by giving information to the district attorney of the United States for the district in which any violation of any provision of this act shall have been committed.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin [Mr. SPOONER].

Mr. CARLISLE. Do I understand the Senator from Wisconsin to offer this as an amendment to the bill now pending?

Mr. SPOONER. Yes, sir.

Mr. CARLISLE. It may be that the provisions in this amendment are entirely unobjectionable, but it seems to me that it is too important a measure to be taken up in this way, and I make the point of order upon it.

Mr. DOLPH. I hope before that is done the Senator from Kentucky will allow me to state that this is a precise copy of a bill which has passed the Senate at the present session and has been reported favorably in the other House by the Committee on Rivers and Harbors and is upon the Calendar there. It has been three times considered and reported by the Committee on Commerce of the Senate. It has been twice passed by the Senate and twice reported favorably in the other House.

Mr. CARLISLE. My only purpose in making the point of order is to facilitate the consideration of the bill now before the Senate. I think it is the desire of Senators on both sides of the Chamber to dispose of the bill to-day, and it does seem to me that if we take up a long and important matter like the one just read we shall not be able to dispose of the river and harbor bill to-day. If I could be assured that it could be disposed of in a very short time I would not insist upon the point of order, but I am afraid if we get into a discussion of this amendment it will continue for the remainder of the day. The measure, as I understand, has passed the Senate as a separate bill and is now pending in the House of Representatives, and if we pass it here as part of this bill it will still have to be considered in the House and it seems to me that the House might just as well dispose of the bill that they have.

Mr. SPOONER. Mr. President—

The PRESIDING OFFICER. The Chair calls the attention of the Senate to the rule which requires that when this point of order is made it shall be decided without debate. Senators can proceed only by con-

sent of the Senate. Is there objection to the Senator from Wisconsin proceeding?

Mr. CARLISLE. I will reserve the point of order until the Senator from Wisconsin concludes.

Mr. SPOONER. I shall take no time of the Senate in discussing either the point of order or the proposed amendment. I suppose the point of order is well taken, if the Senator from Kentucky desires to press it, although this amendment is not more general legislation than some propositions which the Senate has ingrafted upon the pending bill.

As stated by the Senator from Oregon [Mr. DOLPH]—the bill, I think, was drawn by him and is known as the Dolph bill—this proposition was considered by the Senate some years ago and passed. It was again passed at the last session on the unanimous report of the Committee on Commerce, I believe, and it was again passed at this session, the Committee on Commerce unanimously reporting in favor of it.

The Chief of Engineers very earnestly recommended the passage of the measure in his report, which will be found on page 16 of the report of the Secretary of War, and my attention was called to the necessity for it by obstructions which were being placed in the St. Louis River at the head of Lake Superior, which will almost inevitably cause in a very short time an obstruction to navigation and defeat the utility of expenditures being made there by the Government.

Mr. FRYE. Will the Senator allow me a moment?

Mr. SPOONER. Certainly.

Mr. FRYE. I call the Senator's attention to the fact that a very important amendment, offered by the Senator from Vermont [Mr. EDMUNDS], has been adopted which will take care of just such cases as the Senator mentions on the St. Louis River.

Mr. SPOONER. As I understand the amendment adopted on the motion of the Senator from Vermont, it does not take care of such cases. The amendment offered by the Senator from Vermont deals with existing obstructions, but practices which will result necessarily in an obstruction, which constitute in themselves each day a trespass in a sense, but which are not yet obstructions, would not be covered, as I understand it, by the amendment offered by the Senator from Vermont. After they become obstructions, not having been authorized by law and not having existed for twenty years, they could be removed under the proposition ingrafted upon the bill yesterday on motion of the Senator from Vermont.

What I wanted to accomplish was to put it in the power of the War Department all over the country where the public money is being expended in improving harbors and rivers, great or small, to prevent, by prosecution or by the remedy of injunction or such other appropriate remedy, these daily trespasses which in the end are to constitute obstructions and to cost the Government a great deal of money to remove.

There have been, within my own recollection, a number of instances where obstructions have been created in this way. I called the attention of the War Department to the trespass which was inevitably to become an obstruction, and they wrote me that there was now no power under the law to prevent it, and called my attention to the fact that the Department had been for years back urging the necessity of some legislation that would protect our harbors and rivers from obstructions to navigation and commerce, and referring to the report in favor of this bill and the recommendation for it. In fact it has passed the Senate, but has not yet passed the other House.

Of course the power to make these improvements involves the power to protect them after they have been made, and it is a very singular fact during all the years the Government has been expending hundreds of millions of dollars that this power which clearly exists in Congress has lain dormant and unexercised. It seems to me proper that in connection with a bill appropriating such a vast sum of public money—and there are no unwise expenditures of public money on the whole among these improvements—there should be clearly in the War Department power to protect them from trespass and ultimate destruction.

If there are provisions in this amendment which are objectionable, they may be stricken out in the conference committee, and they may make such changes as will adapt the proposition to that offered by the Senator from Vermont, and make the whole harmonious; and that was my purpose. But, if the Senator from Kentucky insists upon his point of order, of course the amendment will have to go out.

Mr. CARLISLE. I think under the circumstances I must insist on the point of order.

The PRESIDING OFFICER. The Chair sustains the point of order, as the amendment is clearly general legislation.

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

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed to insert at the end of line 2 on page 53, in the clause making appropriations for "Improving Cumberland River, Tennessee and Kentucky, below Nashville," the following:

The \$5,000 heretofore appropriated by act of 2d of August, 1882, for "improving the Cumberland River above the mouth of Jellico, Kentucky," which said sum of \$5,000 is yet held over under said act and not expended, be applied to the removal of snags and sand-bars in the said Cumberland River above Nashville,

Tenn., said amount to be thus expended under the direction of the engineer in charge of that work, and with the approval of the Secretary of War.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee.

Mr. BATE. I would state that this is not an appropriation of money, but it is merely a transfer of an appropriation, which has heretofore been made, to suit the convenience of the engineer who has charge of the entire work, and I offer the amendment at his suggestion.

The law of 1882, under which that \$5,000 was appropriated to part of the Cumberland River above the mouth of Jellico, will not allow it to be applied to the other part of the river for the removal of snags and sand-bars between that point and Nashville, and the engineer suggests that this \$5,000 be allowed to be utilized in that way. It is now of no use. It has been appropriated since 1882 and unused. I ask that the amendment be adopted.

Mr. EDMUNDS. I should like to hear an explanation by the chairman of the committee of what the Chief of Engineers says on this subject.

Mr. BATE. I have it here, and I have his report.

Mr. EDMUNDS. I should like to hear it read.

Mr. BATE. Here it is. Let it be read.

The PRESIDING OFFICER. The paper will be read, if there be no objection.

The Secretary read as follows:

ENGINEER OFFICE, UNITED STATES ARMY,
Nashville, Tenn., June 30, 1890.

MY DEAR SIR: I desire to ask your attention to the inclosed clipping from my annual report of 1887 in reference to change of application of the \$5,000 appropriated by act of August 2, 1882, for "improving the Cumberland River above the mouth of Jellico, Kentucky."

This money could be very advantageously used for keeping in repair the present system of works and snagging in the "Cumberland River above Nashville, Tenn."

The appropriations now available for this part of the river are strictly applicable only to the construction of locks and dams, leaving nothing for other much-needed work; and as the above-named \$5,000 can not be expended at the place specified in the act until further legislation is had, of which there is great doubt, it would seem advisable to change the application to "improving Cumberland River above Nashville, Tenn.," as above suggested.

Very respectfully, your obedient servant,

J. W. BARLOW,
Lieutenant-Colonel of Engineers.

HON. WILLIAM B. BATE,
United States Senate, Washington, D. C.

Mr. EDMUNDS. That letter is not from the Chief of Engineers or from the War Department. I should like to have the chairman of the committee tell us what his information about the matter is. This is from the gentleman in charge of the particular thing, sent direct to the honorable Senator from Tennessee. What do his superior officers say about it?

Mr. FRYE. The Chief of Engineers says nothing in relation to it, as I remember, at all. It was not brought to the attention of the Chief of Engineers, and he makes no allusion to it.

Mr. BATE. I would say to the Senator from Maine, as well as to the Senator from Vermont, that this letter came to me, as it will be seen by the date, not very long since, and I offered an amendment immediately covering the proposition and sent it to the Committee on Commerce. I called the attention of the clerk of that committee to it, as the chairman was not present at the time, and it was printed, and has been lying upon the table here for at least two weeks. The amendment merely provides for the transfer of the appropriation, as Senators will see, from one point on the river to another, to be under the charge of the same man, who is a lieutenant-colonel of the United States Army and assigned to that duty as an engineer. I think the transfer should be made. That part of the river that we ask the appropriation to be used for is navigable, and boats are daily plying on it, but snags and sand-bars are in it that ought to be removed, which are obstructing navigation and which are also endangering to some extent the lives of the people passing upon these boats.

This money has been lying idle for eight years. It has been already appropriated to that particular river, and this bill confines the money that has been appropriated to the Cumberland River and other localities specifically, and not for this purpose; and therefore I ask that this little amount of \$5,000 be placed under the direction of the engineer, subject to the approval of the Secretary of War, so that it may be utilized in this way and the snags may be taken from the river. It asks no increase of appropriation whatever.

Mr. EDMUNDS. Mr. President, this item, of course, as I understand, has not been estimated for by the Chief of Engineers or by the Secretary of War or by the Secretary of the Treasury, and would therefore be objectionable as a matter of order; but I do not make the objection. To simply add \$5,000 at the wish of my friend from Tennessee to the \$26,000,000 already in the bill is so infinitesimal a matter that I for one shall make no point of order about it.

While I am up, I might just as well say that I had intended to offer an amendment to this whole bill, when it should have been gone through with, to put the law, if agreed to by the Senate, into the condition we have put it on one or two former occasions, when the appropriations proposed were immense and when the state of the Treasury

was quite otherwise, of granting one-half this sum, say \$13,000,000 in round numbers (which is a little over one-half of the total amount appropriated by the bill), to be expended by the Secretary of War, under the direction of the President of the United States, in continuation of the works going on and their preservation, as the public interests shall best require; which would lead him, as it did on former occasions, to expend the bulk of the money for great rivers and places, the expenditure on which would accommodate the largest body of the people of the United States for the time being, just as in any municipality the people would all agree that the great, principal highway through their village or town ought to be first put in repair before they went to the lanes and the by-ways.

The state of the Treasury, Mr. President, I am very much afraid—I am almost afraid to say it; it may not be Republicanism or whatever—may turn out, as we now stand on the appropriations proposed in this bill and in the other bills that have passed both Houses and that have passed one or the other, and which, in the round effect, will come to be the law that is passed, will turn out on the 30th of June, 1891, to be I fear, \$50,000,000 in round numbers short of the estimated income, assuming that we do not take the duty off sugar.

But take the estimate of the income as it is reported to us by the Secretary of the Treasury in his annual report, which estimates the incoming revenues on the supposition that the customs laws and the internal-revenue laws are to be substantially what they are. In that state of things, although I have always been in favor and still am of liberal appropriations out of the Treasury of the United States for national purposes of internal improvement, as distinguished from mere local and neighborhood purposes, with which I think we have nothing to do, I am quite unwilling to bear my eighty-fourth part of the responsibility of sending to the President of the United States an aggregate appropriation of \$26,000,000, when we have already \$5,000,000 unexpended from the last appropriation. I say \$5,000,000; I state that in round numbers. I believe there is in the hands of the Secretary of War a little over \$5,000,000, drawn out of the Treasury and in the hands of disbursing officers and liable on contracts—a little less, but it is safe for all the purposes I have to say five millions, which added to the \$26,000,000 to be drawn from the Treasury, makes \$31,000,000.

I have said, Mr. President, that I had intended to submit such a proposition to the Senate, which I have here drawn up in a careful way, and following the action of Congress on one or two previous occasions that, I think, were similar to this, but I have become convinced that I shall only weary the patience of the Senate and enter upon a perfectly useless and hopeless enterprise to do it; but I think it right to say what I have said.

Mr. FRYE. Mr. President, in reply to the Senator from Vermont, I desire to say—and what I have to say shall be said briefly—that the deepening and preservation of rivers and harbors, everybody will admit, are an absolute necessity to the commerce of the country. I have no hesitation in saying that the appropriations made for harbors on the lakes in the last twenty years have reduced the freight rates one-half. Any Senator who will look into the commercial growth of the lakes will be perfectly amazed. There is nothing like it in the whole world outside of the United States. The size of the vessels has increased within the last ten years one-half, and that increase in size has been an absolute necessity, because in small vessels freighting can not be done at present prices. That increase in the size of vessels and their draught has demanded of the United States increased water, and it is just as important that Congress should make the necessary appropriations for that increase as it is to make any appropriations for any purpose of the Government.

Mr. President, the appropriations for rivers and harbors are subjected to a scrutiny that no other appropriations are. In the first place, in every district there is a local engineer, without any selfish interest whatsoever. He makes his examinations and investigations and reports to the Chief of Engineers how much money, in his opinion, ought to be expended for the next year. Then the Chief of Engineers takes each one of these estimates, examines it with great care, and gives his opinion as to how much Congress ought to appropriate for each particular improvement for one year. Now, take it for the coming year. The local engineers have reported that \$46,565,095 ought to be appropriated for the rivers and harbors of the United States for this year, and the Chief of Engineers has reported, after a careful revision of their figures, that \$38,532,550 should be appropriated, and to that is to be added \$8,346,250, the estimates of the Mississippi and Missouri River Commissions.

Mr. President, every Senator knows that this bill which is now under consideration is a bill to cover two years. The bill passed two years ago was for two, and this is for two, and if it does carry \$26,000,000 it does not carry, counting it two years, over one-quarter of what the Chief of Engineers, whose duty it is under his oath to deal fairly and justly with the Treasury of the United States, estimates ought to be appropriated. It is not the one-sixth of what the local engineers estimate ought to be appropriated. In my judgment, that is a sufficient reply to the Senator from Vermont in his intimation that this bill is extravagant.

One word more. The Senator says there are \$5,000,000 left of the

appropriations of two years ago. I wish to say to the Senator and to the Senate that these expenditures are carefully guarded and controlled by the Chief of Engineers and by the Mississippi and Missouri River Commissions, and that they in their discretion determine that there must be always a reserve for contingencies; and the propriety of this course was illustrated the other day when an accident happened at the Sault Ste. Marie Canal. Suppose there had been no reserve for contingencies, what would have become of the commerce of this country passing through that gateway between the lakes? One million seven hundred and fifty thousand dollars were reserved from the appropriation of two years ago for this purpose and had not been expended. It is in the Treasury of the United States.

Again, I can point to the Senator a dozen or twenty items in the last river and harbor bill where the appropriations were so small that the Engineer Department determined that no work could be economically done until further appropriations had been made, and thus have all been held back for another appropriation in order that the work could be done economically.

Again, there are some \$700,000 reserved or held to-day in the Treasury of the United States because contractors in their bids refused to make a bid, in the opinion of the Chief of Engineers, prudent and economical for the Government.

Again, about \$600,000 of the \$4,000,000 have been retained because on a few of our great rivers the high water of the last year interfered with its expenditure, which is now going on.

At the end of the next two years, if this appropriation be made, undoubtedly it will be found that from three to four million dollars will still be in the Treasury of the United States; and, Mr. President, under no circumstances, under no contingencies, will the Treasury Department be called upon this year for more than one-half of the money in this bill, and the next year for one-half; and in view of the commerce of this country, in view of the commerce of the Great Lakes, the increase in the size of the vessels, and the demand for deeper water, are \$13,000,000 a year an extravagant sum for a reasonable response to the requirements of our immense commerce, for making and keeping in condition three hundred and sixty-four rivers and harbors?

Complaint is made, Mr. President, of the increase in the Senate bill. One million dollars of these became necessary because the House did not appropriate the \$1,000,000 for the Mississippi River, but sent it to the Senate in a separate resolution. Two million dollars have been added, or nearly two million, because the Senate committee, wishing to adopt a new policy, and a true policy, of providing for the completion of certain great works, reported and the Senate passed two bills, one for Galveston and the other for the Sault Ste. Marie, and they are still in the House unacted upon, and hence the Senate is compelled to increase this bill by that amount, and no Senator will rise and say that the expenditure is injudicious or unwise.

Intimation is made by the Senator from Vermont that what he calls local improvements are of no special importance to the people of this country, and that he is willing to spend what is necessary for great harbors and rivers of the Republic, and so on; and the Chamber of Commerce of New York is represented before the Committee on Commerce by its president and directors, and insists upon expenditures of ten and fifteen million dollars for building levees up and down the Mississippi River, at the same time criticising "local" improvements, and the metropolitan press of New York insists that many items in the bill are money thrown away; that every bayou and creek improved is simply wasting the public moneys; that the expenditures for most of the rivers of the South are simply local, of no account to the Republic. I wish to say, in response to these suggestions, that I once held myself similar ideas, only rejected when it became my duty as a member of the Committee on Commerce to investigate in relation to these matters.

I wish to place in the RECORD a statement. The State of North Carolina, I think, has been abused in this direction as much as any State in the United States, because the distinguished Senator from North Carolina [Mr. RANSOM] is the most persistent man for appropriations for his own State there is the Senate and is said to be the most successful. Roanoke River, North Carolina and Virginia: Expenditures commenced in 1872; have continued for seventeen years; improvement over 129 miles; total expenditure, \$82,000; reduction of freight charges from 25 to 75 per cent.; development of annual commerce, total, \$10,800,000; increase in commerce, 130 per cent. Does the Senator from Vermont say that that is local and ought not to be expended and is not justified?

Pamlico and Tar Rivers, North Carolina: Work commenced in 1876; continued thirteen years; total expenditures, \$64,500; reduction of freight charges, 12 to 50 per cent.; development of annual commerce, \$4,000,000, 60 per cent., by reason of the improvements made.

I am reading from a report of one of the best engineers in the United States Army, Mr. Bixby. I could go on here, but I will not. I will ask that these tables be printed in the RECORD as a part of my remarks. I will say that these rivers were not selected themselves as illustrations, but simply because this engineer in charge of this district obeyed a request of the Chief of Engineers, made some four or five years ago, that the engineers should make careful computation as to the improvements and the increased commerce by reason of the improve-

ments, and the decrease in freight rates and insurance rates. I shall append the statement to my remarks.*

So much has been said about creeks—and it is an unfortunate name for a great river—I wish to call attention to three or four creeks that are not in the South.

Wappinger's Creek. That is in New York, where most of this criticism comes from. The commerce which annually passes through this creek amounts to 70,000 tons, and its value is \$6,500,000; and yet it is a creek.

Mr. EDMUNDS. Where is that?

Mr. FRYE. I do not know.

Mr. EDMUNDS. What is the kind of commerce there?

Mr. FRYE. I do not know that.

Mattawan Creek, New Jersey, has an annual commerce of 130,000 tons, valued at over \$2,000,000.

Alloway Creek, New Jersey: Its commerce annually is \$1,000,000.

Now, I do not go into the South for creeks. I simply happened in looking over the river and harbor bill to see these creeks in New Jersey and New York and I selected them as illustrations. Many more can be found in the South.

Now, take some other improvements. Suppose we had refused improvements, for instance, on some of the lake harbors. Take Ashtabula Harbor, Ohio. In 1867 151 vessels, with 13,000 tons, used that harbor. We went to work improving it. In 1889, during eleven months, 2,228 vessels entered and cleared whose cargoes were valued at \$8,965,534, and the entire expenditures made on that harbor up to now are \$427,000. The business of this harbor will increase the next two years enormously, and there has been a committee on here demanding a large increase of the expenditure there on account of the increased size of the vessels. There are two or three more harbors I might put in.

Mr. SHERMAN. Has the Senator got the tonnage there?

Mr. FRYE. No, sir. Two thousand two hundred and twenty-eight vessels entered last year. It does not give their tonnage, but the freight they carried was worth \$8,965,534, and I made the remark that probably in the next two years it will be doubled.

Mr. EDMUNDS. Call it ten millions.

Mr. FRYE. No, Mr. President, I will not call it as the Senator suggests. I call it exactly what it is.

Mr. EDMUNDS. What is it?

Mr. FRYE. Eight million nine hundred and sixty-five thousand five hundred and thirty-four dollars.

* The table referred to is as follows:

Benefits of river and harbor improvements in North Carolina and South Carolina.

Name of river or harbor.	Date of commencement of work.	Duration (years).	Length of river worked (miles).	Total expenditure.	Reduction on freight charges (per cent.).	Development of annual commerce.	
						Total.	Per dollar expended.
1. Roanoke River, N. C. and Va.	1872	17	129	\$82,000	25 to 75	\$10,800,000	\$130
2. Pamlico and Tar Rivers, N. C.	1876	13	86	64,500	12 to 50	4,000,000	60
3. Contentia Creek, N. C.	1881	8	63	43,400	40 to 59	1,200,000	30
4. Trent River, N. C.	1879	10	43	49,500	25 to 75	500,000	19
5. Neuse River, N. C.	1878	11	198	233,000	25 to 75	4,220,000	20
6. New Bern to Beaufort, N. C.	1885	4	42	24,000	25	200,000	8
7. Bogue Sound, N. C.	1886	3	41	14,500	25	80,000	5
8. Beaufort Harbor, N. C. (see note below)							
9. New River, N. C.	1882	7	42	18,000	15 to 20	500,000	30
10. Black River, N. C.	1889	3	70	2,250		400,000	200
11. Cape Fear River, N. C., above Wilmington.	1881	8	112	81,000	33	2,000,000	30
12. Cape Fear River, N. C., below Wilmington (see note below)							
13. Georgetown Harbor, S. C.	1880	9		24,000		3,000,000	125
14. Winayaw Bay, S. C. (see note below)							
Totals.....			826	608,150	*31	23,900,000	*40

*Average.

Nos. 6 and 7 (see above): A considerably greater development may be expected as soon as improvement is completed.

Beaufort Harbor, North Carolina: In 1880 the bar entrance was rapidly deteriorating. Now erosion has been stopped, and a fine harbor made permanent.

Cape Fear River, North Carolina, below Wilmington: The available depth in the river and on the bar has been increased from about 9 feet in 1873 to an average depth of 17 feet, and the commerce (now about \$20,000,000 per annum) is increasing more rapidly than ever.

Georgetown Harbor, South Carolina: The increase in the commerce is in part due to the Government improvement of the neighboring rivers.

Winayaw Bay, South Carolina: The completion of this improvement (just begun) will probably be accompanied by an addition of at least \$8,000,000 to the commerce of Eastern South Carolina.

In general, the above-indicated increase in commerce has also been quickly followed by a rapid development of the adjacent country, and, in many cases, by a large increase in the population and value of real estate in the river towns.

Mr. EDMUNDS. I am speaking of the tonnage of the vessels.

Mr. FRYE. I do not know anything about the tonnage of the vessels.

Mr. CULLOM. The number of vessels is 1,092.

Mr. FRYE. Last year it was 2,228 in eleven months, in 1889.

Mr. CULLOM. This is for the year 1889, as is shown here.

Mr. FRYE. That is only entry. I had entries and clearances both.

Now, I can remember when the great Kanawha River was the bugbear of the United States. It was buffeted to and fro in the newspapers as an attempt on the part of an extravagant Congress to make a river. Well, it was an attempt to make a river. There is no doubt about that. There was the river there, but it had such leaps in it that it was useless as it stood, and the attempt on the part of the United States was to make a river. It went to work. It has its two-thirds made now. It commenced in 1881, and during that year there was freighted down that river 9,000,000 bushels of coal, and in 1889 26,921,000 bushels; and, further, by the railroad in 1881 there was carried some 7,000,000 bushels of coal, and last year 27,000,000; so that the coal product the Great Kanawha sent in last year was 52,000,000 bushels.

Now, it is estimated that both river and railroad freights have been reduced one-half—one-half on 52,000,000 bushels of coal, and reduced only because Congress had the courage to create a river, notwithstanding the newspapers charged them with folly in doing so. That sum of saving alone in one year is equal to the entire cost of this improvement, and that sum is saved annually.

Mr. President, that is only one illustration. I have not the right to take the time of the Senate to go further in these illustrations. I ask that the few I have here may be printed, and I ask the pardon of the Senate for occupying the time that I have.

The statements referred to by Mr. FRYE are as follows:

ASHTABULA HARBOR, OHIO.

In 1867, 151 vessels, having a tonnage of 13,283 tons, entered and cleared from the port of Ashtabula.

During eleven months of 1889, 2,228 vessels entered and cleared, whose cargoes were valued at \$8,965,534.

Total expenditures at this point to June 30, 1889, \$427,401.

SANDUSKY HARBOR, OHIO.

Year.	Vessels entered.	Vessels cleared.	Tonnage entered.	Tonnage cleared.
1870.....	1,200	1,293	240,254	236,101
1874.....	1,846	1,818	287,266	279,415
1878.....	1,685	1,662	282,447	280,458
1883 (11 months).....	778	772	179,352	183,209
1887.....	2,619	2,611	407,087	407,849
1889 (11 months).....	3,367	3,398	478,513	485,000

Present project adopted in 1880. Expenditures since that year, \$271,989.87.

AHNAPER HARBOR, WISCONSIN.

[For calendar year 1871, when improvements were commenced.]

Vessels.	Arrived.		Cleared.	
	No.	Tons.	No.	Tons.
Steam-vessels.....	107	27,100	107	27,100
Sailing vessels.....	203	53,900	201	53,785
Total.....	300	81,000	308	80,885

Year.	Vessels entered.	Vessels cleared.	Tonnage entered.	Tonnage cleared.
1887.....	610	607	109,010	168,890
1888.....	559	555	133,931	131,063

Expenditures to June 30, 1889, amount to \$154,189.94.

MILWAUKEE HARBOR, WISCONSIN.

[For 1852, year when improvements were begun.]

Arrivals of vessels.....	1,599
Departures of vessels.....	1,600
Total receipts of lumber, laths, and shingles for same period.....feet.....	20,034,423

As an indication of the growth of the lumber industry alone in this section since 1852, the receipts of lumber and shingles during 1886 amounted to 313,475,000 feet.

Arrivals and departures of vessels.

Year.	Arrivals.	Departures.	Tonnage entered.	Tonnage cleared.
1886.....	5,108	5,117	2,353,841	2,351,187
1887.....	5,197	5,023	2,360,793	2,384,808
1888.....	5,283	5,324	2,459,440	2,518,696

As showing the beneficial effects of the improvement on rates of insurance upon first-class vessels, the following table is given, compiled from the annual reports of the National Board of Lake Underwriters:

Year.	Class.	Rate.	Year.	Class.	Rate.
		<i>Per cent.</i>			<i>Per cent.</i>
1855	Sail-vessels	8	1873	Sail	6.5
1855	Steamers	9	1873	Steam	6.5
1860	Sail	7.4	1874	Sail	6.5
1860	Steam	9	1874	Steam	6.5
1865	Sail	8.83	1885	Sail	6.46
1865	Steam	10	1885	Steam	5.6

The increase of shipments by water has caused a corresponding, if not greater, reduction in the rates of freight and transportation. In 1853 the rate per barrel for flour from Milwaukee to Buffalo was 75 cents. The average of freight on flour to the seaboard in 1886 was 32 cents per barrel from Milwaukee.

The saving in transportation upon this one article alone in one year is more than three times as much as the total expenditure made by the United States Government in the improvement of Milwaukee Harbor.

Total amount expended for improvements by the United States to June 30, 1889, \$294,103.87.

SMYRNA RIVER (DUCK CREEK), DELAWARE.

Amount appropriated, \$20,000. Freight on material used in manufacture of phosphates reduced from \$3.90 to \$1.11, and from \$2 to 50 cents per ton on shipments from New York and Philadelphia since vessels of large draught can pass up river.

GREAT KANAWHA RIVER, WEST VIRGINIA.

Before improvements were commenced this river was navigable only during high water, and its navigation was unsatisfactory and intermittent. Since that time the development of the river commerce has been enormous, as is evidenced by the following statement, showing the number of bushels of coal transported annually:

Twelve months ending—	Shipments by river.
June 30, 1881	9,628,696
June 1, 1883	15,370,458
June 1, 1884	18,421,094
June 1, 1885	17,812,123
June 1, 1886	17,861,613
June 1, 1887	23,233,374
June 1, 1888	20,100,625
June 1, 1889	26,921,788

It is estimated that both river and railroad freight rates have been reduced fully one-half, and that a sum equal to the entire cost of this improvement is annually saved the consumers of the various commodities shipped.

PASCAGOULA RIVER, MISSISSIPPI.

Amount expended to June 30, 1889, \$23,600. Annual commerce has increased in value from \$229,748 in 1880 to \$1,640,994 in 1889, and freight rates have been reduced from 25 to 33 per cent. Therefore each dollar expended by the United States has resulted in the development of \$69.79 worth of commerce.

RED RIVER, LOUISIANA.

Amount appropriated to date, \$857,000. Before improvements were commenced in 1872, navigation above Shreveport was practically impossible on account of the obstruction offered by an enormous mass of logs, called the "Great Raft." This has been destroyed and its reformation prevented, thus opening up to navigation and cultivation a rich and fertile section of country. The river's annual commerce is now valued at \$5,370,000.

BAYOU LA FOURCHE, LOUISIANA.

Total amount appropriated, \$60,000. Before work of improvement was begun in 1880 the only boats for which navigation of the river was possible were luggers drawing not over 2 feet. In year ending May 31, 1889, seven steamers made 244 trips on the river and carried freight valued at over \$5,000,000.

TENSAS RIVER AND BAYOU MAÇON, LOUISIANA.

Amount appropriated to date, \$16,000. Work was commenced in 1881. Improvements have shortened the steamboat run from Bayou Maçon to Floyd over twelve hours. During 1889 eight steamers, drawing from 2 to 6 feet and of from 40 to 350 tons burden, made nearly a hundred trips on these streams and carried over \$1,250,000 worth of freight.

HARBOR AT SUPERIOR BAY AND ST. LOUIS BAY, WISCONSIN.

Comparative statement of arrivals and clearances of vessels for six years.

Year.	Vessels.	Tonnage.	Year.	Vessels.	Tonnage.
1888	812	901,139	1885	200	189,768
1887	462	410,838	1884	194	115,872
1886	316	271,190	1883	20	15,468

Comparative statement of receipts and shipments for five years.

Year.	Value.	Year.	Value.
1888	\$9,099,655	1885	\$934,805
1887	4,725,514	1884	484,395
1886	3,253,248		

Present project adopted in 1881. Expenditures under its provisions to June 30, 1889, \$128,371. Development of annual commerce since 1884 for each dollar expended by the United States Government since adoption of present project in 1881, \$67.11.

PLYMOUTH HARBOR, MASSACHUSETTS.

In 1868 the tonnage entering and clearing from this port amounted to 4,554 tons, and the customs receipts to \$37,435. During 1889 the total tonnage was 37,029 tons, and the amount of revenue collected \$100,562.58.

WAPPINGER'S CREEK, NEW YORK.

The commerce which annually passes through this creek amounts, approximately, to 70,000 tons and has an estimated value of \$6,500,000.

MATTAWAN CREEK, NEW JERSEY.

It is estimated to have an annual commerce of 130,000 tons, valued at over \$2,000,000.

ALLOWAY CREEK, NEW JERSEY.

The country adjacent has no railroad facilities and is dependent upon its navigation for transportation of produce and manufactures. Its commerce annually amounts to over \$1,000,000.

KENTUCKY RIVER, KENTUCKY.

An increase of over 100 per cent. in amount of annual commerce within the past six years is directly attributable to improvements in navigation made by the United States, as a decrease is noticeable in railroad shipments during same period. By competition railroad rates have been reduced from 45 to 65 per cent., and the cost of the farm and mining products consequently lessened to the consumer.

Value of Kentucky River commerce for six years past.

1884	\$5,013,142.36
1885	5,385,446.15
1886	5,524,002.47
1887	9,405,128.00
1888	10,769,838.35
1889	10,368,708.22

NOXUBEE RIVER, MISSISSIPPI.

Amount appropriated to date, \$50,000. Before improvements were begun in 1880 navigation, except by small flat-boats, was practically impossible. At the present time a completely improved and navigable channel exists to Maçon, 91 miles from the mouth of the river, and, in addition to other produce, nearly 500 bales of cotton are transported annually.

The reduction of railroad freight rates on cotton and other commodities due to improved river navigation is estimated to amount to \$20,000 yearly.

BIG SUNFLOWER RIVER, MISSISSIPPI.

Amount appropriated to date, \$52,000. Improvements were commenced in 1879. At that time twelve and often fifteen days were required to make a trip from the mouth of the river to the head of navigation, a distance of nearly 200 miles, while now seldom more than six days are necessary. Freight rates have been reduced from 40 to 50 per cent., and the commerce of the river increased to over \$1,600,000 in value annually.

CHOCTAWHATCHEE RIVER, FLORIDA AND ALABAMA.

Amount expended to June 30, 1889, \$88,486. Prior to the beginning of improvements in 1872 the river traffic was carried by one small steamer of 100 tons burden. There are now four steamers, carrying a large amount of cotton, farm produce, and general merchandise, with an aggregate tonnage of 499 tons.

BAYOU BARTHOLEMEW, LOUISIANA AND ARKANSAS.

Amount appropriated to date, \$28,000. Improvements, begun in 1880, have doubled the length of navigation season, and boats make their trips in about one-third less time. Freight rates have been reduced fully 33 per cent. The river now has an annual commerce of over \$2,000,000.

PEARL RIVER, MISSISSIPPI, BELOW JACKSON.

The amount appropriated to date is \$108,000. Before improvement navigation was impossible at low water and difficult at high water. Light-draught boats can now navigate with comparative safety, all the year round, from the mouth at Rigolet's to Pool's Bluff, a distance of 76 miles; from Pool's Bluff to Columbia, 81 miles, on a 6-foot rise, and from Columbia to Jackson, 153 miles, only on a 7-foot rise.

The work has not only rendered navigation safer, thus reducing insurance rates, but it has effected very material reductions in freight rates. Before improvement a large proportion of the cotton was hauled from Columbus to the nearest railroad station and shipped by rail to New Orleans, at a cost of \$4.80 a bale. The river freight is now \$1 a bale.

The tonnage employed on the river below Jackson has increased from 617 in 1885 to 27,700 in 1889, and the value of the annual commerce has increased in the same short time from \$632,000 to \$1,516,774.

Mr. SHERMAN. I wish simply to add to the statement made by the Senator from Maine the amount of tonnage at the ports of Lake Erie. The sum appropriated in this bill for those ports I can not state, but from one to two hundred thousand dollars. I find that the tonnage at Ashtabula is 1,955,530 tons of iron ore alone; at Cleveland, 1,390,283, and at Fairport, which was spoken of a few moments ago, where we appropriated \$21,000, the tonnage was 829,121 tons. This list, which I will ask the Reporter to insert, is very brief, and will give the tonnage of the Lake Erie ports.

Number of vessels, and their tonnage, entering and clearing at the several Lake Erie ports for the season of 1889.

	Entries.	Tonnage.	Clearances.	Tonnage.
Buffalo	4,517	3,461,089	4,504	3,445,160
Cleveland	3,189	2,021,310	3,089	1,916,417
Sandusky	2,463	323,177	2,442	319,860
Toledo	1,586	567,565	2,700	576,618
Ashtabula	1,208	1,600,250	1,329	1,343,532
Erie	1,242	1,177,961	1,246	1,173,534
Fairport	544	570,680	469	500,398

Receipts of iron ore at Lake Erie ports, 1889.

Ashtabula	1,655,530
Cleveland	1,890,283
Fairport	829,121
Buffalo	298,000
Erie	291,455
Lorain	280,000
Sandusky	186,082
Toledo	82,951
Huron	680

Shipments of bituminous coal from Lake Erie ports, 1889.

Cleveland	654,674
Toledo	533,649
Ashtabula	525,954
Lorain	249,810
Sandusky	243,203
Erie	115,700
Huron	105,737
Fairport	74,908

Mr. EDMUNDS. Mr. President, my lungs are not so strong as those of my friend from Maine, and very likely my reasons are not so good as his; but the population of the United States has increased, I believe, many millions within a good many less years than the time he has referred to in commerce. I do not know but that the river and harbor bills have been the cause of this increased population; but I considerably doubt it, in some instances at least. I do not think it follows at all that because Ashtabula or Burlington, Vt., which I know something about, has increased in the operations of its commerce very largely, it has been in consequence of the public money that has been spent there. Undoubtedly where the money has been wisely spent the facilities of commerce have been increased and greater commerce would flow from it, but to impute to these appropriations that we have made the increase in the commerce of tons of coal and in the tonnage, etc., at places where we spent the money, as a consequence, I think is hardly sustainable as a matter of reason, and I suppose everybody knows it.

But I did not rise to say anything about that. I only rose to say, in regard to what is said to be the recommendation of the Chief of Engineers and the Secretary of War, that I do not read the report of the local engineers, the report of the Chief of Engineers, the report of the Secretary of War at all with the sense that my friend from Maine has imputed to it. They say in a great number of these instances, I think, in a very large majority of them, that, for the purpose that Congress has indicated in a previous bill or in a previous inquiry that it has ordered, we can in a given twelve months spend profitably so much money, that is, without overcrowding our workmen or hurrying things, with economy, etc.

Now, you get all those reports of the local engineers and the Chief of Engineers together and I have no doubt my friend from Maine is right in saying that instead of being \$26,000,000 which this bill contains it would be \$40,000,000 in round numbers; but that is quite another question from what it is wise for Congress to do in respect of an appropriation at a particular time or for a particular period of time. Instead of being the recommendation of money that we need for this given year as a necessity for the purpose of commerce, it is a statement of the amount of money which they can spend under their administration for the objects named, in an economical way. That is one thing. Whether the people of the United States have got the money to expend, or whether it is wise to spend it in that year in view of all other expenditures, is quite another question. That is all I have to say.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Tennessee [Mr. BATE].

The amendment was agreed to.

Mr. CARLISLE. Mr. President, yesterday I presented and had read for the information of the Senate an amendment to section 4, which I desire now to offer. I ask that it be read.

The PRESIDENT *pro tempore*. The Secretary will read the amendment proposed by the Senator from Kentucky.

The SECRETARY. Amend section 4, on page 75, by striking out the first five lines of said page and inserting:

If at the end of such time the alteration has not been made, the Secretary of War shall forthwith notify the United States district attorney for the district in which such bridge is situated, who shall immediately apply to the circuit court for the said circuit for a rule requiring the party to whom the notice aforesaid shall have been given to show cause why the changes specified in said notice shall not be made. Such motion shall be docketed and heard as other motions submitted to said court, and the respondent shall be permitted to introduce testimony and be heard in person or by counsel. The court upon such hearing shall enter such order as in the premises it may deem just and proper and shall have power to modify the terms of said notice. If, however, the court shall be of opinion that the alteration should be made, then it shall by its order direct the respondent to make the same, and if such changes shall not be made within the time prescribed by the court, the court shall enter an order imposing the penalties prescribed in the next succeeding section.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Kentucky [Mr. CARLISLE].

Mr. CARLISLE. Mr. President, I will occupy only a few moments of the time of the Senate in stating the effect of this amendment and the reason why it is offered.

As the bill now stands, since the Senate has adopted the amendment proposed yesterday by the Senator from Vermont [Mr. EDMUNDS], there are two distinct provisions in relation to obstructions to the naviga-

tion of these streams. The first provision is that which is reported from the Committee on Commerce authorizing the Secretary of War, when he has good reason to believe that any bridge constitutes an obstruction to the navigation of a stream, to give the person or corporation owning the bridge a notice requiring its removal or alteration, and providing that in case the removal or alteration is not made within the time prescribed by the Secretary of War the person or corporation upon conviction shall be liable to a fine of \$5,000 for each and every month the bridge is maintained.

Under this provision as it stands in the bill there can be no judicial inquiry whatever as to whether or not the bridge is an obstruction to the navigation of the stream. Whenever the Secretary of War has good reason to believe that it constitutes an obstruction it becomes his duty to notify the parties and require them to make the alteration or removal within a specified time. If it is not done within that time, then it is only necessary for the court to find the fact that the Secretary of War has given the notice, specifying the character of obstruction, and that his notice and order had not been complied with, and it must then impose a fine not exceeding \$5,000.

Under the amendment offered by the Senator from Vermont yesterday and adopted by the Senate the whole proceeding in relation to obstruction will take place in the courts, and that provision applies not only to bridges which are supposed to obstruct the navigation on these streams, but to all obstructions of every kind whatsoever. The person after having been convicted of maintaining an obstruction under that provision can be fined \$1,000 only.

So we have, as I have said, two distinct propositions upon this subject. Under the one the military department of the Government in a summary and peremptory proceeding requires the person or corporation owning the bridge to remove it or alter it, and a failure to comply with that order will subject the party at once to a fine of \$5,000, whereas under the other provision incorporated in the amendment offered by the Senator from Vermont, even after a court of justice has ascertained that there is an unlawful obstruction, the party is to be fined \$1,000.

Of course if these two provisions remain in the bill, in a large majority of cases at least, and perhaps in all, there will be no resort to the judicial tribunals of the country; the persons who complain will simply go to the Secretary of War and get his order to remove the bridge or so change it as to prevent it from constituting any longer an obstruction to the navigation of the stream.

It is agreed by us all, I believe, that until Congress has taken jurisdiction of the subject the several States in which these navigable streams are located have a right to authorize the construction of bridges over them, and in a great number of cases this has been done and many of the very bridges which the Secretary of War will be authorized, under this bill, to have altered or torn down in this summary way were constructed under statutes passed by the States in the exercise of their undoubted constitutional authority.

What my amendment proposes, then, is to make these two provisions harmonize to some extent, at least, by providing that when the Secretary of War has notified the owners of the bridge that it is an obstruction to navigation and has specified a time within which it shall be removed or changed and the owners fail to comply, he shall then notify the district attorney of the United States, who shall apply to the circuit court and have a rule issued against the owners so that they may be heard in a judicial tribunal, and it may be ascertained after a full and fair presentation of both sides whether or not there is an actual obstruction, and if the court finds that there is an obstruction it may make an order prescribing the time within which it shall be removed, and in case of failure to comply with that order, the penalty prescribed by this bill shall be imposed upon the parties.

Now, I can not see the justice or the necessity in a time of profound peace of authorizing the military department of the Government to proceed in this harsh way against the individuals and corporations owning these bridges. The courts of justice are all open, and if the Senate intends to allow the court to determine this question in one class of cases, why not allow it in all? In fact the amendment offered by the Senator from Vermont does apply to all cases if the party sees proper to apply to the court; but as I said, in a large majority of cases the parties complaining will prefer to resort to this more summary method of obtaining relief, and will make their applications to the Secretary of War.

It was stated by some Senator yesterday, perhaps the Senator from Missouri, that the court could not make this inquiry. Why, Mr. President, the court will have access to every particle of evidence the Secretary of War can have access to. The court, upon the trial of the application for the rule, will have the benefit of all the testimony that can be furnished by the War Department and its Corps of Engineers. All the plans, all the information in the possession of that Department will be as accessible to the court as to the Secretary himself, and there is no reason, it seems to me, why the court should not settle this question of private right in these cases as well as in cases affecting the property rights of citizens generally. Surely we ought not to maintain the two distinct, separate, and altogether different provisions now contained in this bill.

If the Senate intends to retain the amendment offered by the Senator from Vermont and adopted as in Committee of the Whole yesterday, then either adopt the amendment offered by me, so as to make the provisions conform to each other in a measure, or strike out all that has been reported by the Committee on Commerce and send everybody to the court, and not allow some to go to the court, where a fine of only \$1,000 can be imposed after conviction, and others to go to the Secretary of War, where a fine not exceeding \$5,000 must be imposed for a mere failure to comply with his order, without any trial as to whether that order was right or wrong.

I shall not consume the time of the Senate further, Mr. President.

Mr. FRYE. Mr. President, owing to the time, I do not wish to discuss this amendment, but I do not like it.

Mr. VEST. Mr. President, I do not think that I said yesterday that the judge of a civil tribunal could not determine this question.

Mr. CARLISLE. I think it was the Senator from Delaware [Mr. GRAY] perhaps. I was not present in the Chamber and only saw it in the RECORD.

Mr. VEST. I did say this, and I repeat it to-day deliberately, that in my judgment by far the fairest tribunal and the most appropriate tribunal to determine a question between the Government and one of these corporations that has constructed a bridge is the Secretary of War. Of course the Bureau of Engineers would determine the question practically. The argument of the Senator from Kentucky against the use of the War Department as to these public improvements goes to the entire system as adopted by the Government.

We have placed the control of these bridges under the War Department, which acts through the Bureau of Engineers. They are experts upon this question. All the navigable waters of the United States have been divided into districts, and each one of them is under the control or supervision of a subordinate engineer, an officer of the Bureau of Engineers, who reports to his chief, and who in turn reports to the Secretary of War.

Mr. CARLISLE. Will the Senator allow me a moment?

Mr. VEST. Certainly.

Mr. CARLISLE. The Senator misapprehends the tendency of my remark entirely, it seems to me. I have said there is nothing contained in the amendment offered by me inconsistent with the policy that has heretofore been adopted and which we are still pursuing, of authorizing the Secretary of War through the Corps of Engineers to superintend the construction of these bridges across navigable streams. But this bill goes far beyond that, and proposes to authorize the Secretary of War to cause the removal or alteration of bridges heretofore lawfully constructed under statutes passed by the State Legislatures, which they had a right to pass.

Mr. VEST. Mr. President, there has not been a bridge bill passed since I have served in the Senate that did not contain the provision that the Secretary of War might cause any bridge, either in process of construction or after it had been finished, to be changed as to any of its parts, if the War Department saw proper to demand it, and the provision is usually found in these bills that if, after notice, the corporation refuses to make the changes, then the Department can go on and have the changes made and recover by action the amount of the expenses from the corporation, and that is identically the principle upon which we propose to proceed now. It is true that we do proceed against these parties criminally, and we have the right to do it. They are permitted to erect these bridges, but as a matter of course their interest is subsidiary entirely to that of the entire people of the United States in regard to commerce among the States.

Mr. President, I have a single remark further to make. I have had considerable correspondence with the attorneys of these railroads in regard to this clause of the bill. It seems to have excited great opposition from them. Their contention hitherto has always been that they objected specifically to this provision, which did not require the Secretary of War to specify the changes that were demanded by the Government. We have rectified that by an amendment. Another thing to which they objected was that they could not be heard by the Secretary of War unless he saw proper to hear them. We have inserted a provision here making it mandatory upon the Secretary of War to hear the representatives of these corporations in regard to their rights and interests.

Mr. PUGH. Mr. President, will the Senator from Missouri allow me to make an inquiry in the line of his judgment in reference to this matter?

Mr. VEST. Certainly.

Mr. PUGH. Is not the question of obstruction of navigation more a question to be settled by the engineers than it is a judicial question to be settled by the courts?

Mr. VEST. It is, unquestionably.

Mr. PUGH. It seems to strike me that it is a question to be decided by the engineers, and not by a judicial adjudication.

Mr. VEST. That is unquestionable.

Mr. SHERMAN. If the Senator from Missouri will allow me, I will give him a case that has been decided by the Supreme Court where a bill was framed here requiring a bridge at Cincinnati to be raised, at a cost of \$600,000. The suit was commenced by the Pennsylvania

Railroad Company, the owners of the bridge, for damages and for reimbursement of the expenses of making the improvement, and the Supreme Court decided that the question of what interfered with the navigation of the Ohio River was a question to be decided by the executive authority. In a learned opinion rendering judgment the court said that, that matter having been determined by the engineers, the Pennsylvania Railroad Company had no right of action, and dismissed the case. It was a case that involved this large sum of money between parties who were perfectly able to contest, and that was the decision of the Supreme Court, that the question of what was an obstruction was an engineering question, to be left to the executive officers, and not to a judicial forum.

Mr. VEST. Certainly. As I said before, we put these questions under the control of the War Department, which acts through the Bureau of Engineers.

As I said yesterday, all the feeling that I could possibly have in regard to this question, all the teachings of my life, are in behalf of the doctrine that every citizen, corporation, or private person should have their day in court; but we are driven by absolute exigencies to this sort of legislation. It is mockery to talk about a suit between these corporations and the Government of the United States, and in the mean time the citizen stands by and sees the navigation of a great river obstructed by a bridge that ought never to have been put there. What is to become of the navigation of the country whilst this litigation is protracted from one tribunal to another, from one term of court to another? This is the only remedy; and I sincerely hope that the amendment of the Senator from Kentucky will be voted down.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Kentucky [Mr. CARLISLE]. The amendment was rejected.

Mr. CARLISLE. I offer an amendment to come in on page 84, in the clause relating to departmental surveys.

The PRESIDENT *pro tempore*. The amendment will be reported. The SECRETARY. Add to line 6 on page 84:

Green River, Kentucky, above the mouth of the Big Barren River, completing survey with a view of extending slack-water navigation on Green River.

The amendment was agreed to.

Mr. CARLISLE. I offer another amendment which I send to the desk.

The PRESIDENT *pro tempore*. It will be reported.

The SECRETARY. Insert after the amendment just adopted:

Big Barren River, Kentucky, above Bowling Green, with a view of extending slack-water navigation by additional locks and dams.

The amendment was agreed to.

Mr. PASCO. I have one or two amendments to offer to the bill that will not increase the amount of the appropriation which I desire to offer now. On page 81, after line 22, I move to insert:

St. John's River, from Jacksonville to Sanford, to obtain an estimate of the cost of deepening the channel so as to secure navigation for ocean steamers and to report separately the cost of opening the channel of the river in the vicinity of Orange Mills.

That amendment was agreed to be made in the other House, but was omitted by a clerical mistake.

The amendment was agreed to.

Mr. PASCO. I offer an amendment to further complete the survey.

The PRESIDENT *pro tempore*. The amendment will be reported.

The SECRETARY. On page 81, after the amendment just agreed to, insert:

The upper part of St. John's River from Lake Monroe southward or in a southerly direction through the river and connecting lakes to the head of steam-boat navigation.

The amendment was agreed to.

Mr. PASCO. On page 43, line 19, after the word "works," I move to insert:

Including Lee's Slough.

This will not increase the amount of the appropriation and only changes the mode of expenditure.

Mr. DOLPH. I ask the Senator if there is any estimate for that work.

Mr. PASCO. There has been an estimate.

Mr. DOLPH. Has the work been approved by the Secretary of War?

Mr. PASCO. It was approved.

Mr. FRYE. It was all right; I looked it up.

Mr. PASCO. On page 176 of the report I think the estimate will be found.

Mr. FRYE. It is all right.

The amendment was agreed to.

Mr. PASCO. I have one other amendment which does increase the appropriation. On page 13, in lines 8 and 9, I move to strike out the words "one hundred and twelve thousand five hundred" and insert in lieu thereof the words "one hundred and fifty thousand." Will the Senator from Maine agree to that also?

The PRESIDENT *pro tempore*. The clause will be read as proposed to be amended.

The Secretary read as follows:

Improving Cumberland Sound, Georgia and Florida: Continuing improvement, \$150,000.

Mr. DOLPH. That increases the appropriation \$37,500.

Mr. FRYE. The estimate of the Chief of Engineers was \$500,000 for that river.

Mr. EDMUNDS. For this year?

Mr. FRYE. Yes, sir.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Senator from Florida.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. If there be no objection, the question upon concurring in amendments made as in Committee of the Whole will be taken in gross in the Senate.

Mr. DANIEL. I should like to have reserved the amendment on page 37, as to the Nansemond River, Virginia, and have the vote on concurring in that taken separately.

The PRESIDENT *pro tempore*. The Clerk will note the reservation. Are there other reservations? If there are none, shall the amendments, with the exception noted, be concurred in in the Senate?

The amendments were concurred in.

The PRESIDENT *pro tempore*. The Secretary will report the amendment reserved by the Senator from Virginia.

The SECRETARY. On page 37, line 10, the Senate, as in Committee of the Whole, struck out "\$10,000" and inserted "\$7,500;" so as to read:

For improving Nansemond River, Virginia: Continuing improvement, \$7,500.

Mr. DANIEL. Mr. President, I have just a few words to say in opposition to striking out the sum of \$10,000. It seems to me it would be a poor piece of economy, as in the report which we have before us on rivers and harbors it is said the sum of \$15,000 might be profitably expended in the fiscal year in this improvement. It is one very much desired by the people of that section. There is a considerable lumber trade on this river; it is a very active community; there is a railroad building, and great development. The improvement being a very desirable one and the appropriation of \$10,000 falling already below what it is said might be profitably expended there, I hope that the Senate will not insist on the amendment.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was non-concurred in.

The PRESIDENT *pro tempore*. The bill is open to amendment in the Senate. If there be no further amendments, shall the amendments be engrossed and the bill be read a third time?

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDENT *pro tempore*. Having been read three times, shall the bill pass?

Mr. CULLOM. Mr. President, I had expected to make something of an address or speech upon this bill showing the importance of it to the country, somewhat by items, and to supply many statistics upon the subject. I am impressed myself with the fact that there is no measure this Congress will enact that will be of more value to the country than the river and harbor bill which I trust is now about to pass. But in view of the fact that the members of the Senate have been here from 10 o'clock in the morning until 6 in the evening every day this week, and last week also, I believe, and the great desire that I know exists on the part of every member to get out of the Senate after this bill passes, for the rest of the week, I shall forego the privilege for the purpose of securing the passage of the bill and allow the Senate to adjourn, so that Senators may get out and get a little air.

I think that this bill has been more carefully considered and involves more interest to the public than any appropriation bill that has been before this Congress. It is not like an ordinary appropriation bill, the money from which is consumed in the ordinary administration of affairs. It is a bill which carries with it benefits to the public, to the great masses of the people all over the country; and I hope the bill will pass without any vote against it.

Mr. FRYE. I offered an amendment authorizing the Baltimore and Potomac Railroad Company to build a new wagon-road at the entrance of Long Bridge. A point of order was made by the Senator from Vermont and it would have been ruled out under the point of order. I asked that it might be delayed so that the Senator from Vermont might have time to investigate the matter, and I simply desire to ask him now whether, if the amendment is repeated, he still feels that it is necessary for him to raise the point of order.

Mr. EDMUNDS. The bill has passed the stage of amendment, Mr. President.

The PRESIDENT *pro tempore*. The bill having been ordered to a third reading, and read the third time, can be amended only by unanimous consent.

Mr. FRYE. I should like to have the Senator suggest the reason why he will not allow the amendment to be made.

Mr. EDMUNDS. I will state to the Senator that the amendment as it was prepared and given to him is, in my opinion, for the public interest in this town totally inadmissible. That something ought to be done there is undoubtedly true, but upon the report of the engineer, Mr. Hains, it is something that has got to be done comprehensively, or, if done locally and for the time being, under the most careful safeguard as regards its not being a permanent grant, etc.

To have an amendment, therefore, would require a careful and restricted preparation of the thing, but, as it now stands, if the railroad were allowed to do that thing the wagon-road would be just as near their tracks as it was before, only we should have given them land enough to make it a permanent road alongside of the track. So, with all my good wishes to that road, and it is a very valuable road, I should not be willing to pass the amendment in any such form as is stated on an original bill or anywhere else.

Mr. FRYE. I am aware, Mr. President, that the amendment is subject to a point of order.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. VEST. Mr. President, I have no disposition to delay the final determination of this bill. I supposed the Senator from Illinois intended to address the Senate in regard to a particular feature of it upon which I have a very distinct and emphatic opinion. I refer to the appropriation here for what is known as the Hennepin Canal. I want the Senate to understand the effect of their action, if this bill is passed, in regard to that improvement. It involves the expenditure of \$8,524,052.61 and commits the Government to that enterprise according to the estimate of the engineers, which I have before me. I have resisted that appropriation in every river and harbor bill, if I may be permitted to say so, in committee and in the Senate. I am aware of the fact that my opposition will be entirely unavailing, and I will content myself with stating here publicly that I am as much opposed now to this enterprise and to this appropriation as I was when it first came before us and my attention was first called to it.

Mr. CULLOM. Mr. President, I do not care to take up the time of the Senate in response to the Senator. I only desire to say that no amendment has been offered to the bill, and I have supposed that there would not be, upon the subject or paragraph referred to by the Senator. I think if it were necessary I could show very conclusively the importance of this great work. I regard it as one of the most important provisions of the bill. I regard it as entirely within the purview of the Constitution. I regard it as one of the great enterprises in which this Government should embark in opening up a water way from the far Northwest to the Atlantic Ocean, which this little link between the Mississippi River and the Lake would do.

As I said, I had expected to address the Senate somewhat at length upon that subject, as well as upon the general importance of the great works that the bill proposes the Government shall embark in, but I shall not do it because I think the Senate is now anxious to vote upon the final passage of the measure.

The PRESIDENT *pro tempore*. Having been read three times, shall the bill pass?

The bill was passed.

Mr. FRYE. I move that the Senate insist upon its amendments to the bill and request a conference with the House of Representatives thereon.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Mr. FRYE, Mr. DOLPH, and Mr. RANSOM were appointed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. 1502) granting a pension to Mary Ellen Fitzgerald, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6454) to establish a national military park at the battle-field of Chickamauga.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 5107) for the relief of David L. Trux; and it was thereupon signed by the President *pro tempore*.

FORT DOUGLAS MILITARY RESERVATION.

Mr. HAWLEY. I wish to correct an error. I wish to take from the Calendar the bill (S. 4300) granting a right of way on Fort Douglas military reservation in Territory of Utah, and I will explain the reason why. There were two bills before the Senate Military Committee upon the subject of a street railroad through the Fort Douglas reservation in Utah. I was not aware that there were two, and I knew only of one, and I reported that when I should have reported the other. I ask leave to change Senate bill 4300 for Senate bill 4229, a slightly different title, granting a right of way through certain lands of the United States in the Territory of Utah.

The PRESIDENT *pro tempore*. Does the Senator desire that the bill on the Calendar shall be indefinitely postponed?

Mr. HAWLEY. I will withdraw the report if I may be allowed to do that. I withdraw the report.

The PRESIDENT *pro tempore*. That will be done by unanimous consent and the bill will be recommitted to the Committee on Military Affairs, if there be no objection. It is so ordered.

Mr. HAWLEY. I now report with an amendment from the Committee on Military Affairs the bill (S. 4229) granting a right of way through certain lands of the United States in the Territory of Utah.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

ORDER OF BUSINESS.

Mr. BLACKBURN. I move that the Senate proceed to the consideration of the bill (H. R. 6944) to transfer the revenue-cutter service from the Treasury Department to the naval establishment.

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

Mr. TELLER. I appeal to the Senator—

The PRESIDENT *pro tempore*. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

The question being put, there were on a division—ayes 8, noes 28; no quorum voting.

The PRESIDENT *pro tempore*. The Secretary will call the roll of the Senate.

Mr. SHERMAN. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The roll will be called to ascertain the presence of a quorum.

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

Aldrich,	Davis,	Ingalls,	Reagan,
Allen,	Dixon,	Jones of Arkansas,	Sanders,
Allison,	Dolph,	Jones of Nevada,	Sawyer,
Bate,	Edmunds,	Manderson,	Sherman,
Berry,	Eustis,	Mitchell,	Spooner,
Blackburn,	Evarts,	Moody,	Stockbridge,
Carlisle,	Frye,	Morgan,	Teller,
Casey,	Gibson,	Pasco,	Vest,
Cockrell,	Gorman,	Platt,	Walthall,
Coke,	Hampton,	Power,	Washburn,
Colquitt,	Hawley,	Pugh,	Wilson of Iowa.
Cullom,	Hearst,	Quay,	
Daniel,	Hoar,	Ransom,	

The PRESIDENT *pro tempore*. Fifty Senators have answered to their names. A quorum is present.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 15th instant approved and signed the following acts:

An act (S. 1741) granting an increase of pension to James H. Showalter; and

An act (S. 2285) granting a pension to Hannah Leo.

HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair lays before the Senate bills from the House of Representatives; which will be twice read, and referred to the Committee on Military Affairs.

The following bills were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. 2968) for the relief of Thomas W. Houts;

A bill (H. R. 3229) for the relief of Samuel Burrell;

A bill (H. R. 5472) to remove the charge of desertion from T. J. Nichleson;

A bill (H. R. 6179) to remove the charge of desertion from record of James Blythe;

A bill (H. R. 9030) to remove the charge of desertion from the record of James M. Thompson;

A bill (H. R. 9212) to relieve John J. Murphy from the charge of desertion;

A bill (H. R. 2526) authorizing the President of the United States to grant an honorable discharge to William L. Lenau;

A bill (H. R. 5065) for the relief of John R. Brown;

A bill (H. R. 5860) for the relief of Andrew J. Blackstone;

A bill (H. R. 5861) for the relief of George Farwalt;

A bill (H. R. 6129) to relieve Luther Green from the charge of desertion;

A bill (H. R. 6170) directing the issuance of an honorable discharge to David L. Lockerby, late of Company A, Ninety-sixth New York Volunteers;

A bill (H. R. 7252) for the relief of Thomas A. McLaughlin;

A bill (H. R. 8570) for the relief of Maj. John M. Laing;

A bill (H. R. 9252) for the relief of Frank Schader; and

A bill (H. R. 10526) to remove the charge of desertion from the record of Ezra Abbott, late of Company I, Twenty-first Michigan Volunteer Infantry.

The PRESIDENT *pro tempore*. The following private pension bills from the House of Representatives will be referred to the Committee on Pensions. The bills will be announced by number only, if there be no objection.

Mr. COCKRELL. Is that a usual way of proceeding?

The PRESIDENT *pro tempore*. It has been done.

Mr. COCKRELL. I do not recall an instance.

The PRESIDENT *pro tempore*. Many times, by the order of the present occupant of the chair, with the consent of the Senate.

Mr. EDMUNDS. Read the titles, then, to save any question.

The PRESIDENT *pro tempore*. The titles will be read, if there be no objection.

The Chief Clerk proceeded to read the bills by title, and was interrupted by—

Mr. HAWLEY. I appeal to Senators who objected to let these bills be read by numbers. There is an opportunity now to do a little useful business before adjourning. It is the first time we have had a spare hour for a long time.

The PRESIDENT *pro tempore*. Any Senator has a right to demand that the first reading of a bill shall be at length.

Mr. HAWLEY. I was aware of that, but the Chair suggested waiving the reading of the titles.

The PRESIDENT *pro tempore*. An objection was made, and the Senator from Vermont asked that the titles might be read.

Mr. EDMUNDS. Because the Senator from Missouri thought they ought to be read, and I think he is right about it.

Mr. HAWLEY. I did not hear the Senator from Missouri insisting upon it.

Mr. COCKRELL. I do now. And as the Senator is so particular about it, I ask that the titles be read and let all the time necessary to read them be taken.

Mr. HAWLEY. I was never milder and more supplicatory in my life.

The Chief Clerk resumed the reading of the bills by title.

Mr. HOAR. I suggest that the Clerk omit the numbers and anything but the names. They are all pension bills.

The PRESIDENT *pro tempore*. The numbers must be read in order to enable the clerks to identify them on the Journal, as they are entered on the Journal by numbers.

Mr. CULLOM. If we let the Clerk go on I think we shall have the whole thing disposed of in a very little while.

Mr. HOAR. I have no further suggestions to make.

The bills were read twice by their titles, and referred to the Committee on Pensions, as follows:

A bill (H. R. 1186) granting a pension to John O. Mathis;

A bill (H. R. 1284) granting a pension to Theodora M. Piatt;

A bill (H. R. 1338) granting a pension to Mary A. Green;

A bill (H. R. 1433) granting a pension to Caroline Hayes;

A bill (H. R. 1568) granting a pension to Mrs. Delphina P. Walker;

A bill (H. R. 1738) granting a pension to Philip H. Emmert;

A bill (H. R. 2420) granting a pension to Julia W. Freeman;

A bill (H. R. 2518) granting a pension to Ozro Harrington;

A bill (H. R. 2550) granting a pension to William C. Ebert;

A bill (H. R. 3070) granting a pension to Clara Fowler;

A bill (H. R. 3143) increasing the pension of Mrs. Rochie Brien Buell

A bill (H. R. 3503) for the relief of Delila Roe;

A bill (H. R. 3528) to grant a pension to James Knetsar;

A bill (H. R. 3587) to pension Stacey Keener, widow of Tillman B. Keener, who served in the Indian war;

A bill (H. R. 3611) for the relief of John F. Mabler;

A bill (H. R. 3796) granting a pension to Abraham Zimmerman;

A bill (H. R. 3952) for the relief of Henry A. King;

A bill (H. R. 4013) granting an increase of pension to Alfred A. Jerome;

A bill (H. R. 4369) to increase the pension of Milton Barnes;

A bill (H. R. 4825) granting a pension to Arthur Connery;

A bill (H. R. 4888) granting a pension to N. E. Palmer;

A bill (H. R. 5106) granting an increase of pension to Squire West;

A bill (H. R. 5265) granting a pension to Emma Chapman;

A bill (H. R. 5654) to pension Elizabeth R. Lockett;

A bill (H. R. 5712) granting a pension to J. G. Fetherstone;

A bill (H. R. 6070) granting an increase of pension to Agnes M. Bradley;

A bill (H. R. 6084) for the relief of Thomas Nelson;

A bill (H. R. 6148) granting a pension to Mrs. Mary J. Sanders, the widow of Thomas A. Sanders, who was a scout in the service of the United States Army in the war of the rebellion;

A bill (H. R. 6195) granting a pension to Clarrissa Barker;

A bill (H. R. 6338) granting a pension to Eben Muse;

A bill (H. R. 6676) granting a pension to John J. Tully;

A bill (H. R. 7375) granting a pension to Mrs. Susan A. Dean;

A bill (H. R. 7676) for the relief of Alexander Sturgeon;

A bill (H. R. 7718) granting a pension to Thomas Egan;

A bill (H. R. 7917) granting an increase of pension to Eliza Efner, a pensioner of the war of 1812;

A bill (H. R. 7937) granting an increase of pension to Mrs. Harriet E. Martin;

A bill (H. R. 8016) increasing the pension of John B. Reed, late lieutenant-colonel of the One hundred and thirtieth Regiment Illinois Volunteers;

A bill (H. R. 8059) granting a pension to Mrs. Emma A. Stafford;
 A bill (H. R. 8234) granting a pension to Catharine S. Lawrence;
 A bill (H. R. 8561) granting a pension to Martha Torrence;
 A bill (H. R. 8700) granting a pension to Mira Baldwin;
 A bill (H. R. 8890) granting an increase of pension to Lewis Solomon, a private in Company A, First Indiana Infantry, Mexican war service;

A bill (H. R. 8923) increasing the pension of James M. Monroe;
 A bill (H. R. 9054) granting a pension to Sarah McCormick;
 A bill (H. R. 9138) granting a pension to Elizabeth Gushwa;
 A bill (H. R. 9163) granting a pension to Mrs. Mary Hogan;
 A bill (H. R. 9371) for the relief of Fanny A. Putney;
 A bill (H. R. 9582) to grant an increase of pension to Simon J. Fought;
 A bill (H. R. 9590) granting a pension to Matilda Evans;
 A bill (H. R. 9666) granting an increase of pension to Ransom E. Braun;

A bill (H. R. 9692) granting a pension to John A. Johnson;
 A bill (H. R. 9763) granting a pension to Tunis S. Danford;
 A bill (H. R. 9897) granting an increase of pension to William B. McCreery;

A bill (H. R. 10083) for the relief of George Murray;
 A bill (H. R. 10101) granting a pension to Elizabeth Phillips, widow of Reuben Phillips, who was killed in engagement while member of Arkansas State Militia;

A bill (H. R. 10127) granting a pension to Celia Eichele;
 A bill (H. R. 10154) to increase the pension of John N. Harris;
 A bill (H. R. 10202) granting a pension to O. E. Hukill;
 A bill (H. R. 10208) granting an increase of pension to Moses Graham;

A bill (H. R. 10224) granting a pension to William A. Osborn;
 A bill (H. R. 10234) restoring Rebecca Young to the pension-rolls;
 A bill (H. R. 10246) granting a pension to Thomas Thompson;
 A bill (H. R. 10263) granting a pension to Robert A. England;
 A bill (H. R. 10320) granting increase of pension to Nancy Cato;
 A bill (H. R. 10334) granting a pension to Wiatt Parish;
 A bill (H. R. 10427) granting a pension to Ruth Collier, of Tennessee;

A bill (H. R. 10465) granting a pension to Margaret Durand, hospital nurse;
 A bill (H. R. 10491) granting a pension to Halem L. Cook, of Franklin, Ky.;

A bill (H. R. 10602) granting a pension to Charles T. Sloat;
 A bill (H. R. 10651) granting a pension to J. W. Robertson;
 A bill (H. R. 10679) granting a pension to Clara Reed;
 A bill (H. R. 10682) granting a pension to Jerusha P. Harding;
 A bill (H. R. 10710) granting an increase of pension to James H. Vosburgh;

A bill (H. R. 10810) granting a pension to Samuel S. Humphreys;
 A bill (H. R. 10811) granting a pension to Asa Joiner;
 A bill (H. R. 10951) granting a pension to Lucinda Rawlingson;
 A bill (H. R. 11547) granting a pension to Lucinda Chapin;
 A bill (H. R. 1466) granting a pension to Mrs. Mary Ewald;
 A bill (H. R. 2279) granting a pension to Abraham W. Jackson;
 A bill (H. R. 2414) increasing the pension of Nelson Rich;
 A bill (H. R. 2415) granting a pension to Nancy Carey;
 A bill (H. R. 2427) granting a pension to Fletcher Galloway;
 A bill (H. R. 3734) granting a pension to John Mann;
 A bill (H. R. 4396) granting a pension to John Grant;
 A bill (H. R. 4688) granting a pension to Rev. Thomas James;
 A bill (H. R. 5239) granting a pension to Mrs. Mary Hyde;
 A bill (H. R. 5736) granting a pension to John L. Lindel;
 A bill (H. R. 6686) for the relief of Coplin McKelvey;
 A bill (H. R. 6853) for the relief of Allen Morris;
 A bill (H. R. 7124) granting a pension to Mrs. Adelia Near, widow of Sylvester Near, of Company H, One hundred and twentieth Regiment New York Volunteers;

A bill (H. R. 8210) granting an increase of pension to Maria L. Caraher;
 A bill (H. R. 8997) granting a pension to Charlotte B. Nutting;
 A bill (H. R. 9084) granting a pension to David Stockwell;
 A bill (H. R. 9270) granting an increase of pension to Charles E. Osborn;

A bill (H. R. 9316) granting an increase of pension to Thomas G. Boss;

A bill (H. R. 9504) granting a pension to Gottlieb Hunziker;
 A bill (H. R. 9529) granting a pension to Emma G. Clark;
 A bill (H. R. 10033) granting a pension to Isaac Riseden;
 A bill (H. R. 10231) to increase the pension of Sanford Kirkpatrick;
 A bill (H. R. 10245) to place the name of Hettie McConnell on the pension-roll;

A bill (H. R. 10350) granting a pension to Elizabeth Patten;
 A bill (H. R. 10557) for the relief of W. G. Trice;
 A bill (H. R. 11122) granting a pension to Sarah Anderson;

A bill (H. R. 11169) granting a pension to Isadora Ritter, formerly Isadora De Wolf Dimmick;

A bill (H. R. 11309) granting a pension to Maria Hassendeubel and Apollonia Hassendeubel;

A bill (H. R. 11345) to increase the pension of Thomas Beaumont;
 A bill (H. R. 11417) to increase the pension of Cecilia I. Woods;
 A bill (H. R. 11530) granting a pension to Thomas J. Wilkins; and
 A bill (H. R. 11543) granting a pension to James H. Means, doctor of medicine.

CLAIM OF NAVAL OFFICERS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Acting Secretary of the Treasury, transmitting, in response to a resolution of the Senate of the 13th instant, a list of the claims of naval officers which were allowed and certified by the accounting officers in accordance with the decisions of the Supreme Court, but were refused payment under the provisions of the deficiency appropriation act of March 3, 1889.

The resolution to which this communication is a response was offered by the Senator from Indiana [Mr. TURPIE] for his colleague, who is now present [Mr. VOORHEES]. What disposition shall be made of the communication?

Mr. COCKRELL. Let the report be read, so that we can see what it is.

The PRESIDENT *pro tempore*. The letter of the Acting Secretary of the Treasury will be read.

The Chief Clerk read the letter of transmittal.

Mr. VOORHEES. I was temporarily absent on account of ill-health, and my colleague offered the resolution for me. I ask that the communication may lie over until Tuesday and be printed.

Mr. ALLISON. Would it not be better to have it referred to the Committee on Appropriations?

Mr. VOORHEES. Let it be referred to the Committee on Appropriations and printed, if that be the proper direction. I am much obliged to the Senator from Iowa.

The PRESIDENT *pro tempore*. The communication, with the accompanying papers, will be referred to the Committee on Appropriations, and ordered printed.

Mr. VOORHEES. That is right.

CHICKAMAUGA BATTLE-FIELD PARK.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Vermont [Mr. EDMUNDS] on which no quorum voted when before submitted, that the Senate proceed to the consideration of executive business.

Mr. HAWLEY. There is a conference report on the table that I should be very glad to call up.

Mr. EDMUNDS. I will withdraw my motion for that purpose.

Mr. HAWLEY. I call up the conference report on House bill 6454. There are but few amendments. The committee is entirely unanimous.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the report of the committee of conference; which will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 6454) to establish a national military park at the battle-field of Chickamauga, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreements to the amendments of the Senate and agree to the same with amendments as follows:

Page 3, line 41, strike out "road" and insert "roads."
 Page 3, line 43, strike out "Summerville" and insert "Summertown."
 Page 3, line 44, after the word "mountain," insert "and thence by the route of General Joseph Hooker's troops to Rossville, Ga."
 Page 4, line 20, after "Mills," insert "thence along the south side of the last-named road to Lee and Gordon's Mill."
 Page 5, section 5, line 5, strike out "any" and insert "one."
 Page 6, line 15, strike out "any" and insert "one."
 Page 7, line 7, strike out "line" and insert "lines."
 Page 7, line 10, omit [brackets].
 Page 9, line 4, after "roads," insert "maps and surveys."

JOS. R. HAWLEY,

F. M. COCKRELL,

E. C. WALTHALL,

Managers on the part of the Senate.

C. H. GROSVENOR,

SAM. G. SNIDER,

JOS. WHEELER,

Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

The report was concurred in.

EDWARD HEALY.

Mr. TELLER. Mr. President—

Mr. EDMUNDS. I withdraw my motion for an executive session. My friend from Colorado—and it is the only instance I think in which I can possibly yield—appeals to me.

The PRESIDENT *pro tempore*. The Chair supposes the Senator withdraws the motion, he having withdrawn it.

Mr. EDMUNDS. I certainly do, and having withdrawn it, I may explain, with the permission of the Chair, that I withdraw it in order that my friend from Colorado may call up a pension bill which he assures me there is great urgency to pass.

The PRESIDENT *pro tempore*. The Chair did not suppose the Senator from Vermont to withdraw the motion for any purpose except to withdraw it.

Mr. EDMUNDS. That is exactly what the Senator from Vermont has done, but he has addressed the Senate upon the subject.

Mr. TELLER. I ask permission to call up House bill 8584. It is a pension case, and I am informed by those who know the man to whom the pension is proposed to be granted that he is in a very precarious condition financially and physically.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 8584) to increase the pension of Edward Healy. It proposes to pay Edward Healy, late of the Sixth United States Infantry, a pension of \$72 per month, in lieu of the pension he is now receiving.

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

BUSINESS OF THE SESSION.

Mr. BLACKBURN. Mr. President—

Mr. QUAY. Will the Senator yield to me for one moment?

Mr. BLACKBURN. Certainly.

Mr. QUAY. I desire to give notice of my intention to present certain amendments to the standing rules and orders of the Senate, and I send it to the desk to be read.

Mr. HOAR. Is that in order now?

The PRESIDENT *pro tempore*. The Chair would be glad to hear from the Senator from Massachusetts why it is not in order.

Mr. HOAR. If this notice makes the motion to amend in order next Monday, I desire to object, for I desire to speak to the order, and I do not know that I shall be ready at the opening on Monday.

Mr. QUAY. I will say in reply to the Senator from Massachusetts that it is not my purpose to call the resolution up for discussion until Tuesday. The resolution is now offered formally.

The PRESIDENT *pro tempore*. The notice will be read at the desk. The Chief Clerk read as follows:

Notice is hereby given, pursuant to Rule XL, that the foregoing orders will be offered for adoption in the Senate.

It is proposed to modify, for the foregoing-stated purpose, the following rules, namely: VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL.

Mr. QUAY. If there is no objection, I will at the present time also offer the resolutions with the understanding that they are to be taken up on Tuesday.

Mr. EDMUNDS. They can be offered on Monday as well.

Mr. GORMAN. Read the orders and let us see what they are.

Mr. EDMUNDS. They were read awhile ago. They are the same?

Mr. QUAY. They are the same.

The PRESIDENT *pro tempore*. Shall they be again read?

Mr. SPOONER. Let them be read again.

Mr. COCKRELL. Let them be printed if they have already been read.

Mr. HAWLEY. Read them, if there is no objection.

Mr. SPOONER. I did not hear them read before.

Mr. VOORHEES. I ask that they may be again reported.

The PRESIDENT *pro tempore*. The resolutions will be again read.

The Chief Clerk read as follows:

Ordered, 1, That during the present session of Congress the Senate will not take up for consideration any legislative business other than the pending bill (H. R. 9416); conference reports; general appropriation bills; pension bills; bills relating to the public lands, to the United States courts, to the postal service, to agriculture and forestry, to public buildings; and Senate or concurrent resolutions.

Ordered, 2, That the consideration of all bills other than such as are mentioned in the foregoing order is hereby postponed until the session of Congress to be held on the first Monday of December, 1890.

Ordered, 3, That a vote shall be taken on the bill (H. R. 9416) now under consideration in the Senate, and upon amendments then pending, without further debate on the 30th day of August, 1890, the voting to commence at 2 o'clock p. m. on said day and to continue on that and subsequent days to the exclusion of all other business until the bill and pending amendments are finally disposed of.

The PRESIDENT *pro tempore*. If there be no objection, the notice given by the Senator from Pennsylvania and the proposed orders that have just been read will be printed.

Mr. EDMUNDS. It is all as a notice, I suppose, for I object to the offering of the orders as orders at this time.

The PRESIDENT *pro tempore*. The Chair understands that the orders will be printed as part of the notice.

THE REVENUE BILL.

Mr. BLACKBURN. Mr. President, I am admonished by the lateness of the hour that it will be impossible for us to take up and dispose to-day of the bill to transfer the revenue marine from the Treasury to the Navy Department, and I ask permission to withdraw my motion to proceed to the consideration of that bill.

The PRESIDENT *pro tempore*. The Chair hears no objection.

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

Mr. ALDRICH. I ask the Senator to yield to me to have the unfinished business laid before the Senate.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the unfinished business.

The SECRETARY. A bill (H. R. 9416) to reduce the revenue and equalize duties on imports, and for other purposes.

The PRESIDENT *pro tempore*. The Senate resumes the consideration of the bill as in Committee of the Whole. The Senator from Vermont moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were opened, and (at 4 o'clock and 53 minutes p. m.) the Senate adjourned until Monday, August 18, 1890, at 10 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate the 16th day of August, 1890.

ASSISTANT ATTORNEY-GENERAL.

Abraham X. Parker, of New York, to be Assistant Attorney-General, as provided for by act approved July 11, 1890.

UNITED STATES DISTRICT JUDGE.

John A. Williams, of Arkansas, to be United States district judge for the eastern district of Arkansas, *vice* Henry C. Caldwell, resigned.

UNITED STATES MARSHAL.

William Grimes, of Oklahoma, to be marshal of the United States for the Territory of Oklahoma, *vice* Warren S. Lurty, resigned.

POSTMASTERS.

Andrew Stranahan, to be postmaster at Sigourney, in the county of Keokuk and State of Iowa, in the place of James Frey, removed.

C. Elliott Moore, to be postmaster at Cherry Vale, in the county of Montgomery and State of Kansas, in the place of Ephraim W. Lyon, removed.

Enoch S. Eastman, to be postmaster at Swampscott, in the county of Essex and State of Massachusetts, the appointment of a postmaster for the said office having, by law, become vested in the President on and after July 1, 1890.

Samuel M. Allebaugh, to be postmaster at White Sulphur Springs, in the county of Meagher and State of Montana, the appointment of a postmaster for the said office having, by law, become vested in the President on and after October 1, 1888; Jeremiah J. Hennessy, appointed by the President November 9, 1888, but not having been confirmed by the Senate, his term has expired by limitation of the law.

John L. Kent, to be postmaster at Circleville, in the county of Pickaway and State of Ohio, in the place of Harry E. Lutz, resigned.

George L. Siebrecht, to be postmaster at La Grange, in the county of Fayette and State of Texas, in the place of W. S. Robson, resigned.

Michael H. Haas, to be postmaster at Fortress Monroe, in the county of Elizabeth City and State of Virginia, in the place of George Booker, removed.

UNITED STATES CONSUL.

Niels P. A. Bornholdt, of Denmark, now consular agent at Riga, to be consul of the United States at that place.

CONSUL-GENERAL.

John F. Gowey, of Washington, to be consul-general of the United States at Kanagawa, *vice* Clarence R. Greathouse, recalled.

PROMOTIONS IN THE ARMY.

Adjutant-General's Department.

Capt. John C. Gilmore, of the Twenty-fourth Infantry, to be assistant adjutant-general with the rank of major, August 14, 1890, *vice* Barber, promoted.

Quartermaster's Department.

First Lieut. George Ruhlen, of the Seventeenth Infantry, to be assistant quartermaster with the rank of captain, August 14, 1890, *vice* Atwood, promoted.

Subsistence Department.

First Lieut. Oscaloosa M. Smith, of the Twenty-second Infantry, to be commissary of subsistence with the rank of captain, August 14, 1890, *vice* Nash, promoted.

Medical Department.

Col. Jedediah H. Baxter, chief medical purveyor, to be Surgeon-General with the rank of brigadier-general, August 16, 1890, *vice* Moore, retired from active service.

ASSISTANT SURGEON MARINE-HOSPITAL SERVICE.

Milton J. Rosenau, of Pennsylvania, to be assistant surgeon in the Marine-Hospital Service of the United States, to succeed Arthur L. Benedict, declined.

CONFIRMATIONS.

Executive nomination confirmed by the Senate August 13, 1890.

UNITED STATES CONSUL.

John S. Bradford, of Philadelphia, Pa., to be consul of the United States at Antigua, West Indies.

Executive nomination confirmed by the Senate, August 16, 1890.

MINISTER RESIDENT AND CONSUL-GENERAL.

Alexander Clark, of Iowa, to be minister resident and consul-general of the United States to Liberia.

UNITED STATES CONSULS.

Samuel McNutt, of Iowa, to be consul of the United States at Maracaibo.

Adam Lieberknecht, of Illinois, to be consul of the United States at Tampico.

ASSAYER.

William D. Wheeler, of Montana, to be assayer in the United States assay office at Helena, in the State of Montana.

HOUSE OF REPRESENTATIVES.

SATURDAY, August 16, 1890.

The House met at 12 o'clock m. Prayer by Rev. J. H. CUTHBERT, D. D.

The Journal of the proceedings of yesterday was read.

The SPEAKER. Without objection, the Journal will be approved.

Mr. SPRINGER. I was about to ask for a division on the approval of the Journal, but I understand that the gentleman from Kansas [Mr. MORRILL] desires to bring up a proposition in relation to pensions, so I shall not ask for a division.

The Journal was approved.

ENROLLED BILL SIGNED.

Mr. TOWNSEND, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. 7058) to ratify and confirm an agreement entered into by commissioners on the part of the States of New York and Pennsylvania in relation to the boundary line between said States.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed acts and joint resolutions of the following titles:

An act (H. R. 3438) to increase the pension of John Taaffe;

An act (H. R. 7482) increasing the pension of John P. Davis;

An act (H. R. 8109) to pension George W. Scott, for service in the Florida war;

An act (H. R. 1452) for the relief of Christopher C. Andrews;

An act (H. R. 11690) amendatory of the act entitled "An act to provide for taking the eleventh and subsequent censuses;"

An act (H. R. 9523) authorizing the construction of a bridge over the Tennessee River at or near Guntersville or Deposit, Ala., and for other purposes;

An act (H. R. 19) to increase the pension of Edward P. Quinn;

An act (H. R. 1296) to increase the pension of Mrs. Henrietta O. Whitaker;

An act (H. R. 1992) to increase the pension of Cornelia R. Chandler;

An act (H. R. 1994) to increase the pension of Arnold Meyer;

An act (H. R. 2005) to increase the pension of Bennett S. Shang;

An act (H. R. 4935) to increase the pension of Elmore E. Ewing;

An act (H. R. 5810) to increase the pension of John B. Davis;

An act (H. R. 6164) to increase the pension of Thomas H. Isbell;

An act (H. R. 7263) to increase the pension of Henry L. Potter;

An act (H. R. 8061) to increase the pension of Jennie D. Hoskins;

An act (H. R. 8371) to increase the pension of Thomas H. Gohagan;

An act (H. R. 9424) to increase the pension of Eben E. Smith;

An act (H. R. 10445) to increase the pension of Evelyn W. Miles;

An act (H. R. 4415) for the relief of John S. Dill;

An act (H. R. 5099) for the relief of Mrs. Angeline Green;

An act (H. R. 5108) for the relief of George W. Hutchison;

An act (H. R. 6305) for the relief of Hayden Sorter;

An act (H. R. 7675) for the relief of Stephen A. Kennedy;

An act (H. R. 8262) for the relief of Parker Adams;

An act (H. R. 8611) for the relief of Hugh S. McCormick;

An act (H. R. 1104) to relieve Peter Moog from the charge of desertion;

An act (H. R. 1187) granting a pension to George Obergfell;

An act (H. R. 1598) granting a pension to Sarah A. Tryon;

An act (H. R. 1778) granting a pension to Gaston Winters;

An act (H. R. 2110) granting a pension to Braddock F. Stocking;

An act (H. R. 2128) granting a pension to Mrs. Zelinda Hill;

An act (H. R. 2430) granting a pension to Ruth A. Ball;

An act (H. R. 3067) granting a pension to Joseph La Preeze;

An act (H. R. 4686) granting a pension to Hannah Bedford;

An act (H. R. 4834) granting a pension to William S. Graw;

An act (H. R. 4930) granting a pension to Joseph Fisher;

An act (H. R. 5031) granting a pension to George W. White;

An act (H. R. 5868) granting a pension to Francis Pearce;

An act (H. R. 6071) granting a pension to O. Herrick Le Fevre;

An act (H. R. 6519) granting a pension to William M. Nourse, of Knoxville, Tenn;

An act (H. R. 6755) granting a pension to A. B. Reeves;

An act (H. R. 7285) granting a pension to Norman B. Pratt;

An act (H. R. 7514) granting a pension to Johanna Sheld;

An act (H. R. 7658) granting a pension to Isaac Kelley;

An act (H. R. 7734) granting a pension to Mrs. M. M. Boyle;

An act (H. R. 7881) granting a pension to Mrs. Martha E. Grant;

An act (H. R. 8221) granting a pension to William White;

An act (H. R. 8532) granting a pension to Mary Webster;

An act (H. R. 8861) granting a pension to Jane N. Terry;

An act (H. R. 9232) granting a pension to George E. Taylor;

An act (H. R. 9353) granting a pension to Dwight Parker;

An act (H. R. 9580) granting a pension to Rebecca Tussey;

An act (H. R. 9783) granting a pension to Mary Ferguson;

An act (H. R. 9961) granting a pension to Oran M. Collinsworth;

An act (H. R. 10074) granting a pension to Wilhelm Griese;

An act (H. R. 1824) granting a pension to Mrs. Christiana Frederika Zeutmeyer, of Fairfield, Minn.;

An act (H. R. 3958) granting a pension to Sarah L. Patterson and Jane W. Patterson;

An act (H. R. 10122) granting a pension to Mary L. Radford, widow of William Radford, late rear-admiral, United States Navy;

An act (H. R. 6592) to grant a pension to Rachel Levy;

An act (H. R. 10902) to grant a pension to Martin Brachall;

An act (H. R. 8822) increasing the pension of Samuel D. Pitcher;

An act (H. R. 3970) granting an increase of pension to William A. Thomas;

A joint resolution (H. Res. 198) to permit Capt. George W. Davis, United States Army, to accept a position in the Nicaragua Canal Construction Company; and

A joint resolution (H. Res. 211) to continue the provisions of existing laws providing temporarily for the expenditures of the Government.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCook, its Secretary, announced that the Senate had passed without amendment the bill (H. R. 5107) for the relief of David L. Truex.

The message also announced that the Senate disagreed to the amendments of the House to the joint resolution (S. R. 120) appropriating money to the Territory of Oklahoma to relieve destitution therein, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PLUMB, Mr. HALE, and Mr. COCKRELL conferees on the part of the Senate.

The message further announced that the Senate had passed a bill (S. 3477) for the relief of Niel Nielsson, in which the concurrence of the House was requested.

NATIONAL PARK AT CHICKAMAUGA.

Mr. SNIDER. Mr. Speaker, I desire to present a privileged report, being the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill to establish a national park at the battle-field of Chickamauga.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6454) to establish a national military park at the battle-field of Chickamauga, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate and agree to the same with amendments as follows:

Page 3, line 4, strike out "road" and insert "roads."

Page 3, line 4, strike out "Summerville" and insert "Summertown."

Page 3, line 4, after the word "mountain," insert "and thence by the route of General Joseph Hooker's troops to Rossville, Ga."

Page 4, line 20, after "mills," insert "thence along the south side of the last-named road to Lee and Gordon's mill."

Page 5, section 5, line 5, strike out "any" and insert "one."

Page 6, line 15, strike out "any" and insert "one."

Page 7, line 7, strike out "line" and insert "lines."

Page 7, line 10, omit [brackets].

Page 9, line 4, after "roads," insert "maps and surveys."

SAM. G. SNIDER,

JOS. WHEELER,

Managers on the part of the House,

JOS. R. HAWLEY,

F. M. COCKRELL,

E. C. WALTHALL,

Managers on the part of the Senate,

Mr. SNIDER. Mr. Speaker, I move the adoption of the report. The conference report was adopted.

FRAUDS ON THE POST-OFFICE.

Mr. BINGHAM, from the Committee on the Post-Office and Post-Roads, submitted the following report:

Whereas it is charged in the columns of the New York Sun and other responsible journals that gross frauds have been practiced on the Post-Office Department by one Alexander J. Wedderburn in connection with the transmission through the mails of a large number of circulars, in the form of a newspaper entitled "The National Farm and Fireside," at one-eighth of the rates established by law; and

Whereas it is stated that said circulars, printed in Alexandria, Va., were mailed at a post-office near that city, at a place called Grange Camp, where a post-office was established at the request of the said Wedderburn, one of his employes being appointed postmaster; and

Whereas it is stated that an investigation of these facts was made by the proper officers of the Post-Office Department, with the result of discontinuing said post-office after the Government had been defrauded out of a large sum of money by the said Wedderburn in the manner stated; and

Whereas it is asserted that criminal proceedings were not instituted against the said Wedderburn, as required by law, the Department of Agriculture having interposed in behalf of said Wedderburn; Therefore,

Be it resolved, That the Postmaster-General be, and he is, required to transmit to the House at the earliest practicable moment all the facts in the possession of the Post-Office Department in the matter, including the reports of the special agents or inspectors of the said Department therein, together with any correspondence had with the Department of Agriculture in respect to said matter.

The committee recommend the adoption of the resolution with an amendment, in line 30, striking out the word "required" and inserting in lieu thereof the word "requested."

Mr. MORGAN. That is the word that was intended to be used, and I hope the amendment will be made.

The amendment was agreed to.

The resolution as amended was adopted.

PENSIONS.

Mr. CANNON. Mr. Speaker, I am directed by the Committee on Appropriations to submit the report which I send to the desk, and to ask unanimous consent that the House non-concur in the Senate amendments and ask for a conference.

The report was read, as follows:

The Committee on Appropriations, to whom was referred House bill 11380, making appropriations for additional clerical force and other expenses to carry into effect the act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents from July 20, 1890, for the balance of the fiscal year 1891, together with the amendments of the Senate thereto, having considered the same beg leave to report as follows: They recommend non-concurrence in the amendments of the Senate numbered from 1 to 17, inclusive.

Mr. DOCKERY. Mr. Speaker, I hope there will be no objection to the request of the gentleman from Illinois [Mr. CANNON].

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent that the amendments of the Senate be non-concurred in. Is there objection?

Mr. KERR, of Iowa. I shall object until I can hear a statement of the reasons why the gentleman finds it necessary to ask unanimous consent. I understand this to be a privileged report.

Mr. CANNON. For the reason that the House is already operating under an order for a yea-and-nay vote.

Mr. BRECKINRIDGE, of Kentucky. I desire to reserve the right to object until the amendments have been read.

The SPEAKER. The Chair thinks that is proper. The amendments will be read.

The Clerk read the amendments of the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. CANNON] that the amendments of the Senate be non-concurred in and a conference with the Senate asked? The Chair hears no objection, and it is so ordered.

The SPEAKER announced the appointment of Mr. CANNON, Mr. BUTTERWORTH, and Mr. FORNEY as conferees on the part of the House.

LAW-BOOKS FOR HOWARD UNIVERSITY.

Mr. O'NEILL, of Pennsylvania. I ask unanimous consent to take from the Calendar of the Committee of the Whole on the state of the Union and put upon its passage a joint resolution relative to the library of the Howard University. It involves no appropriation. It has been passed by the Senate and favorably reported by the House Committee on the Library. I think its consideration will not occupy a moment. As the new session of the university will commence in about two weeks, it is important that the resolution should be acted on now.

The joint resolution was read, as follows:

Joint resolution (S. R. 71) directing the Librarian of Congress, the librarian of the Senate, the librarian of the House of Representatives, and the librarian of the Department of Justice, respectively, to deliver extra or duplicate copies of law-books to the law department of the Howard University.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress, the librarian of the Senate, the librarian of the House of Representatives, and the librarian of the Department of Justice be, and they are hereby, authorized and directed to deliver to the dean of the law department of Howard University, as a gift to the said law department of Howard University, for its use and behoof, one copy of such law books as are now in the above-mentioned libraries which are extra or duplicate copies thereof that may be spared without injury to the public service.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the joint resolution; which was ordered to a third reading, and read the third time.

Mr. McMILLIN. I wish to inquire of the gentleman from Pennsylvania [Mr. O'NEILL] whether it is not necessary that in the different libraries mentioned, especially the law department of the Congressional Library, there should be kept more than one copy of different books for the use of Congress?

Mr. O'NEILL, of Pennsylvania. Oh, yes; in many instances there are many more copies than one; in almost all cases there are several copies of each volume.

Mr. McMILLIN. Does the joint resolution provide that volumes shall not be taken in this way from these libraries except where there are more than two copies of any particular volume, or is it provided that even where there are only two copies one shall be given away in this manner?

Mr. O'NEILL, of Pennsylvania. The idea, of course, is that these libraries shall not be stripped of duplicates. The resolution was approved, after careful consideration, by the Joint Committee on the Library, composed of the Senate and House committees, it being thought very proper that the surplus volumes should be disposed of in this way.

Mr. McMILLIN. I am entirely willing that any extra copies not needed in actual use shall be disposed of where they will do good in educational institutions of this kind within the District. But it is the experience of all of us that more than one copy of each volume should be retained in these libraries; otherwise we are liable to be found without copies for the use for which they were originally intended.

Mr. O'NEILL, of Pennsylvania. If the gentleman desires to amend the resolution in that respect, I will not object.

Mr. SPRINGER. The resolution is already sufficiently guarded to obviate the objection of the gentleman from Tennessee [Mr. McMILLIN].

The SPEAKER. The resolution in its closing language provides only for the disposal of "extra or duplicate copies that may be spared without injury to the public service."

Mr. McMILLIN. I will ask the Clerk to read, with the indulgence of the House, the preceding provision.

The joint resolution was again read.

Mr. McMILLIN. Now, I think there ought to be a proviso that in no instance shall the number of copies retained be reduced below two of each volume, because in the Congressional Library there are some books of which there are half a dozen copies, and yet we sometimes are unable to obtain any.

Mr. O'NEILL, of Pennsylvania. I have no objection to such an amendment.

Mr. McMILLIN. I move to amend by adding—

Provided, That there shall not be left in either of said libraries less than two copies of any one volume.

Mr. O'NEILL, of Pennsylvania. That is satisfactory.

The SPEAKER. This amendment requires unanimous consent, as the question is now upon the passage of the joint resolution.

Mr. McMILLIN. I suppose there will be no objection.

The SPEAKER. In the absence of objection, the amendment will be regarded as adopted. The Chair hears no objection.

Mr. McMILLIN. I call attention to another thing that may result from the operation of this joint resolution. There are four different sources from which these books are to be obtained, so that the library to which the extra volumes are to be distributed may get duplicate copies of the same book.

Mr. O'NEILL, of Pennsylvania. The intention is so apparent, I think, from the wording of the resolution, that that can not happen.

The joint resolution as amended was passed.

BUSINESS OF COMMITTEE ON LIBRARY.

Mr. O'NEILL, of Pennsylvania. I wish to say, with the permission of the House, that the Library Committee of the House has by its action determined that it will not ask for the passage during this session of any bills reported from that committee which involve appropriations, but will come in and ask the House to fix an early day in the month of December next for the consideration of various very patriotic propositions that come by report of that committee to the House.

Mr. McCLAMMY. I am very sorry to hear the gentleman has come to that conclusion, because there are bills before that committee, involving an appropriation, that are very patriotic.

Mr. O'NEILL, of Pennsylvania. It has been the habit of the committee to so inform people for very many weeks past.

NATHANIEL M'KAY ET AL.

Mr. HOPKINS. I demand the regular order.

The SPEAKER. The regular order is the question on the passage of the bill (S. 846) for the relief of Nathaniel McKay and the executors of Donald McKay; and the Clerk will call the roll.

The question was taken; and there were—yeas 83, nays 65, not voting 179; as follows:

YEAS—83.

Allen, Mich.	Belknap,	Butterworth,	Covett,
Anderson, Kans.	Bingham,	Caldwell,	Culbertson, Pa.
Atkinson, W. Va.	Boothman,	Cannon,	Cummings,
Baker,	Brower,	Carter,	Cutcheon,
Bartine,	Burrows,	Conger,	Dingley,
Bayne,	Burton,	Connell,	Dolliver,

Dunnell,	Hill,	O'Neill, Pa.	Smith, Ill.
Farquhar,	Kennedy,	Osborne,	Smyser,
Funston,	Ketcham,	Owens, Ohio	Stone, Ky.
Gear,	Kinsey,	Payne,	Sweeney,
Gest,	Lacey,	Pugsley,	Taylor, Tenn.
Greenhalge,	Laidlaw,	Quackenbush,	Taylor, E. B.
Grosvenor,	Lansing,	Quinn,	Thomas,
Hall,	Lee,	Ray,	Turner, Kans.
Hansbrough,	McCord,	Reed, Iowa	Vandever,
Harmer,	Moffitt,	Rowell,	Walker,
Haugen,	Moore, N. H.	Russell,	Wiley,
Hayes,	Morey,	Sawyer,	Williams, Ohio
Henderson, Ill.	Morrow,	Sculi,	Wilson, Wash.
Henderson, Iowa	Mudd,	Sherman,	Yardley.
Hermann,	O'Donnell,	Simonds,	

NAYS—65.

Bankhead,	Edmunds,	McClammy,	Snider,
Barwig,	Fithian,	McClellan,	Springer,
Bliss,	Flick,	McMillin,	Stewart, Tex.
Blount,	Forman,	McRae,	Stone, Mo.
Breckinridge, Ky.	Forney,	Montgomery,	Struble,
Brickner,	Goodnight,	Morgan,	Tarsney,
Brookshire,	Haynes,	Mutschler,	Tillman,
Brown, J. B.	Henderson, N. C.	Norton,	Turner, Ga.
Buckalew,	Hitt,	Paynter,	Wheeler, Ala.
Bynum,	Holman,	Pennington,	Whithorne,
Cheadle,	Hopkins,	Pickler,	Wilkinson,
Chipman,	Kerr, Iowa	Robertson,	Willcox,
Comstock,	La Follette,	Rogers,	Williams, Ill.
Cooper, Ind.	Lane,	Rowland,	Wilson, W. Va.
Crisp,	Lanham,	Sayers,	
Culberson, Tex.	Lester, Ga.	Shively,	
Dibble,	Lewis,	Skinner,	

NOT VOTING—179.

Abbott,	Cooper, Ohio	Lehlbach,	Reyburn,
Adams,	Cothran,	Lester, Va.	Richardson,
Alderson,	Cowles,	Lind,	Rife,
Allen, Miss.	Craig,	Lodge,	Rockwell,
Anderson, Miss.	Crain,	Magner,	Rusk,
Andrew,	Dalzell,	Maish,	Sanford,
Arnold,	Dargan,	Mansur,	Seranton,
Atkinson, Pa.	Darlington,	Martin, Ind.	Seney,
Banks,	Davidson,	Martin, Tex.	Smith, W. Va.
Barnes,	De Haven,	Mason,	Spinola,
Beckwith,	De Lano,	McAdoo,	Spooner,
Belden,	Dickerson,	McCarthy,	Stahnecker,
Bergen,	Dockery,	McComas,	Stephenson,
Biggs,	Dorsey,	McCormick,	Stewart, Ga.
Blanchard,	Dunphy,	McCreary,	Stewart, Vt.
Bland,	Elliott,	McDuffie,	Stivers,
Boatner,	Ellis,	McKenna,	Stockbridge,
Boutelle,	Enloe,	McKinley,	Stockdale,
Bowden,	Evans,	Miles,	Stump,
Breckinridge, Ark.	Ewart,	Milliken,	Taylor, Ill.
Brewer,	Featherston,	Mills,	Taylor, J. D.
Brosius,	Finley,	Moore, Tex.	Thompson,
Browne, T. M.	Fitch,	Morrill,	Townsend, Colo.
Browne, Va.	Flood,	Morse,	Townsend, Pa.
Brunner,	Flower,	Niedringhaus,	Tracey,
Buchanan, N. J.	Fowler,	Nute,	Tucker,
Buchanan, Va.	Frank,	Oates,	Turner, N. Y.
Bullock,	Geissenhainer,	O'Ferrall,	Van Schaick,
Bunn,	Gibson,	O'Neill, Ind.	Vaux,
Campbell,	Gifford,	O'Neil, Mass.	Venable,
Candler, Ga.	Grimes,	Outhwaite,	Waddill,
Candler, Mass.	Grout,	Owen, Ind.	Wade,
Carlton,	Hare,	Parrett,	Wallace, Mass.
Caruth,	Hatch,	Payson,	Wallace, N. Y.
Caswell,	Heard,	Peel,	Washington,
Catchings,	Hemphill,	Perkins,	Watson,
Cheatham,	Herbert,	Perry,	Wheeler, Mich.
Clancy,	Hooker,	Peters,	Whiting,
Clark, Wis.	Houk,	Phelan,	Wickham,
Clarke, Ala.	Kelley,	Pierce,	Wike,
Clements,	Kerr, Pa.	Post,	Wilson, Ky.
Clunie,	Kilgore,	Price,	Wilson, Mo.
Cobb,	Knapp,	Raines,	Wright,
Cogswell,	Lawler,	Randall,	Yoder.
Coleman,	Laws,	Reilly,	

The following pairs were announced until further notice:

Mr. BROWNE, of Virginia, with Mr. LESTER, of Virginia.
 Mr. DALZELL with Mr. CLANCY.
 Mr. SMITH, of West Virginia, with Mr. ALDERSON.
 Mr. WRIGHT with Mr. GEISSENHAINER.
 Mr. JOSEPH D. TAYLOR with Mr. OUTHWAITE.
 Mr. MORSE with Mr. ELLIS.
 Mr. FINLEY with Mr. CANDLER, of Georgia.
 Mr. SMYSER with Mr. SENEY.
 Mr. PERKINS with Mr. KILGORE.
 Mr. STEWART, of Vermont, with Mr. BLANCHARD.
 Mr. NUTE with Mr. BARNES.
 Mr. LIND with Mr. PIERCE.
 Mr. STEPHENSON with Mr. DAVIDSON.
 Mr. SANFORD with Mr. RUSK.
 Mr. DE LANO with Mr. DUNPHY.
 Mr. FRANK with Mr. DICKERSON.
 Mr. BELDEN with Mr. FLOWER.
 Mr. TAYLOR, of Tennessee, with Mr. O'NEALL, of Indiana.
 Mr. CLARK, of Wisconsin, with Mr. WIKE.
 Mr. MCKENNA with Mr. CLUNIE.
 Mr. BANKS with Mr. BUCHANAN, of Virginia.
 Mr. WHEELER, of Michigan, with Mr. BLAND.
 Mr. WILSON, of Kentucky, with Mr. PERRY.
 Mr. SPOONER with Mr. DARGAN.

Mr. WADDILL with Mr. HEMPHILL.
 Mr. MCKINLEY with Mr. MILLS.
 Mr. DORSEY with Mr. FOWLER.
 Mr. CANDLER, of Massachusetts, with Mr. STEWART, of Georgia.
 Mr. THOMPSON with Mr. OATES.
 Mr. WALLACE, of New York, with Mr. MCCARTHY.
 Mr. BAKER with Mr. ELLIOTT.
 Mr. RIFE with Mr. ANDERSON, of Mississippi.
 Mr. THOMAS M. BROWNE with Mr. WASHINGTON.
 Mr. RANDALL with Mr. SPINOLA.
 Mr. COGSWELL with Mr. O'NEIL, of Massachusetts.
 Mr. BOUTELLE with Mr. HEBBERT.
 Mr. COOPER, of Ohio, with Mr. MAISH.
 Mr. GROUT with Mr. FITCH.
 Mr. HOUK with Mr. RICHARDSON.
 Mr. PETERS with Mr. MANSUR.
 Mr. SCRANTON with Mr. STAHLNECKER.
 Mr. LODGE with Mr. ANDREW.
 Mr. ARNOLD with Mr. MAGNER.
 Mr. LEHLBACH with Mr. COTHRAN.
 Mr. TOWNSEND, of Colorado, with Mr. ENLOE.
 Mr. RAINES with Mr. BUNN.
 Mr. VAN SCHAICK with Mr. PARRETT.
 Mr. EWART with Mr. STUMP.
 Mr. TUCKER with Mr. GREENHALGE.
 Mr. WATSON with Mr. REILLY.
 Mr. GIFFORD with Mr. HARE.
 Mr. BERGEN with Mr. VENABLE.
 Mr. ADAMS with Mr. MARTIN, of Texas.
 Mr. BROSIUS with Mr. CAMPBELL.
 Mr. DE HAVEN with Mr. BIGGS, on all questions except bankruptcy and national-bank legislation.
 Mr. POST with Mr. MCCREARY, on this vote.
 Mr. BREWER with Mr. VAUX, on this vote.
 Mr. ATKINSON, of Pennsylvania, with Mr. WILSON, of Missouri, on this vote.
 Mr. MCCOMAS with Mr. GIBSON, for August 16.
 Mr. CASWELL with Mr. BRUNNER, on this vote.
 Mr. STOCKBRIDGE with Mr. MCADOO, for this day.
 Mr. WICKHAM with Mr. COWLES, for this day.
 Mr. MCCORMICK with Mr. KERR, of Pennsylvania, for this day.
 Mr. McDUFFIE with Mr. CLARKE, of Alabama, for this day.
 Mr. BUCHANAN, of New Jersey, with Mr. COBB, for this day.
 Mr. STIVERS with Mr. COVERT, until Friday next.
 Mr. TOWNSEND, of Pennsylvania, with Mr. MARTIN, of Indiana, except on the Atkinson railroad bill.
 Mr. WILSON, of West Virginia, with Mr. GROSVENOR, until August 17.
 Mr. MASON with Mr. HATCH, until August 19.
 Mr. REYBURN with Mr. TRACEY, until Tuesday next.
 Mr. MILLIKEN with Mr. ABBOTT, for ten days, from August 12, Mr. MILLIKEN reserving the right to vote to make a quorum and the right to vote on original-package bill.
 Mr. BAKER. I am paired on political questions only.
 Mr. HARE. I desire to withdraw my vote, being paired.
 Mr. GROSVENOR. I have been paired with the gentleman from West Virginia [Mr. WILSON], but that pair having expired I voted.
 Mr. WILSON, of West Virginia. I was paired with the gentleman from Ohio [Mr. GROSVENOR], but as he has returned and voted I desire also to have my vote recorded.

The SPEAKER. The clerk will first announce the members present and not voting, after which the gentleman can have his name recorded if he desires.

The Clerk read as follows:

Mr. ALLEN of Mississippi, Mr. BELDEN, Mr. BRUNNER, Mr. BYNUM, Mr. CANDLER of Georgia, Mr. CARUTH, Mr. CASWELL, Mr. CRAIG, Mr. CRAIN, Mr. GIBSON, Mr. GOODNIGHT, Mr. HARE, Mr. HAYES, Mr. HERMANN, Mr. LAWLER, Mr. McDUFFIE, Mr. MCKENNA, Mr. MORROW, Mr. OWEN of Indiana, Mr. PERKINS, Mr. POST, Mr. PRICE, Mr. TOWNSEND of Pennsylvania, Mr. WILSON of Missouri, Mr. WILSON of West Virginia, and the SPEAKER.

Mr. TAYLOR, of Tennessee. I am announced as being paired with the gentleman from Indiana. That pair relates to political questions only. Not regarding this as a political question I have voted.

The following members announced as present and not voting recorded their names as above, under the rule:

Mr. BYNUM, Mr. GOODNIGHT, Mr. HAYES, Mr. HERMANN, Mr. MOREY, and Mr. WILSON of West Virginia.

Mr. McMILLIN. My colleague, Mr. RICHARDSON, is detained from the House on account of sickness.

Mr. SPRINGER. The vote, I believe, has not been recapitulated.

The SPEAKER. It has not. Does the gentleman desire it?

Mr. SPRINGER. Oh, yes; of course.

The Clerk recapitulated the names of those voting.

The SPEAKER. On this question the yeas recorded are 83, the nays 65, and, with the members announced as present and not voting, a quorum being present, the bill is passed.

Mr. THOMAS. I move to reconsider the vote by which the bill was passed, and also move to lay that motion on the table.

Mr. SPRINGER. I ask for a division on the latter motion.

Mr. THOMAS. Then I will withdraw it.

ORDER OF BUSINESS.

Mr. CANNON. Mr. Speaker, I rise to present a privileged report. The Clerk read as follows:

The Committee on Rules, to whom was referred the House resolution of August 5, relating to the consideration of House bill 11569 (the lottery bill), have considered the same, and beg leave to report the following substitute:

Resolved, That after the passage of this resolution the House proceed to consider House bill 11569, to amend certain sections of the Revised Statutes relating to lotteries and for other purposes, and at 4 o'clock and 40 minutes the previous question on the bill and pending amendments shall be considered as ordered.

The SPEAKER. The question is on agreeing to the resolution.

Mr. SPRINGER, Mr. BLOUNT, and Mr. BRECKINRIDGE, of Kentucky, addressed the Chair.

Mr. BLOUNT. Will the gentleman from Illinois [Mr. CANNON] yield to me for a moment?

Mr. CANNON. Yes.

Mr. BLOUNT. My object is simply to make a statement in relation to the order. While I am anxious for the consideration of this bill, I do not like the terms of the order which fixes the time for the previous question. I think the House is much more competent to do that for itself than is the Committee on Rules. For that reason I do not wish to assent to that portion of the order. With this statement I do not care to add anything further.

The SPEAKER. The question is on the adoption of the resolution.

Mr. BRECKINRIDGE, of Kentucky. Mr. Speaker, I rise for the purpose of making a parliamentary inquiry, as to whether the rule is not divisible, so that we can take a separate vote upon so much of it as orders the previous question at 4 o'clock and 40 minutes.

Mr. BUCKALEW. You can move to amend it.

The SPEAKER. A division of it would not leave a substantive proposition.

Mr. McMILLIN. We might take a separate vote upon so much of the resolution as orders the present consideration of the bill.

The SPEAKER. But that would not leave the latter part of the resolution as a substantive proposition.

Mr. BRECKINRIDGE, of Kentucky. Then I would like to move to amend so much of it as to strike out the order for the previous question.

Mr. CANNON. I can not accept the gentleman's amendment. We want to pass this bill.

Mr. BRECKINRIDGE, of Kentucky. I would like to move that amendment.

Mr. CANNON. Is there any opposition to the bill?

Mr. BRECKINRIDGE, of Kentucky. I do not know whether there is or not. I myself am in favor of the bill, but I am opposed to such an order, no matter what is the end to be obtained. I shall, as far as possible to do it, consistently oppose this mode of calling the previous question before the consideration of a bill has been entered upon, before there is any opportunity to amend it, before there is any knowledge on the part of the House as to what technical defects there may be in a bill. Therefore, while I am in favor of the bill—I possibly would like to see some amendments as to foreign newspapers and probably some other matters—I am opposed to ordering, at the beginning of the consideration, before the House has entered upon it, at a fixed hour, the previous question.

Of course if the gentleman does not yield for the purpose of allowing me to offer this amendment, I can not offer it; but I can at least put on record my opposition to this sort of special rules, which I think are vicious, which can not but result in improper and ill-considered legislation, which tie the hands of the House and prevent proper amendments. As this bill is wholly non-partisan and non-political and as it is the purpose of the House to get a proper bill, as it goes to the very essence of the proper protection of the mail matter of the country, it seems to me that in view of the general desire to do the proper thing there is no reason why the House may not be trusted to take this matter up and close it at the proper time; for this order simply means that there shall be no amendment to the bill.

Mr. ROGERS. Will the gentleman from Illinois [Mr. CANNON] yield to me for one moment before he closes?

Mr. CANNON. Certainly.

Mr. ROGERS. Some gentleman on the opposite side—I do not now remember who—brought me this bill to look at. It is perhaps remembered that in a former Congress I offered some opposition to legislation of a kindred character. I have glanced over this bill. I do not know that it can command my vote; but there is a field for legislation upon this subject, about the constitutionality of which there is no sort of doubt, and that is with reference to foreign lotteries. This bill makes no provision for them at all, and yet in this country more than one foreign lottery is operating. It does seem to me that we ought not to consider a question of this kind, of so far-reaching importance as this is, without the right to offer an amendment covering that field, so that if you finally pass this bill, which is of doubtful con-

stitutionality, you shall at least carry with it a provision that shall crush out, as we ought to have done long since, everything in the shape of foreign lotteries.

There is no question about the constitutionality of that, I take it. Yet this order cuts off that right absolutely, and this bill does not deal with that subject. There is a German lottery now operating in New York. I believe there is one in Havana operating all over this country. These things ought to be crushed out, and if we have the constitutional power we ought to crush out the one that is now corrupting the State of Louisiana.

Mr. CALDWELL. The most powerful one of all is at Hamburg.

Mr. ROGERS. I take it there is no opposition on this floor to going just as far as you may constitutionally go in the passage of a bill dealing with this subject, and it does seem to me that we certainly ought to have the right to cover the whole field.

Mr. CANNON. Now, Mr. Speaker, I want to say a word in reply. This proposed rule does not cut off amendments. All amendments in order under this rule are in order upon this matter, namely, an amendment, an amendment to an amendment, a substitute, and an amendment to that.

It is perfectly competent for the House from time to time, while this order operates, to consider the amendments and dispose of them and make other amendments afterwards.

Mr. BRECKINRIDGE, of Kentucky. But does not the gentleman from Illinois know that, while that is technically so, practically in the experience of the House it is perfectly illusory under an order of this kind to have an opportunity to make amendments, and that the bill has passed as it came from the committee or as the gentleman in charge of the bill has pleased?

Mr. CANNON. In reply, the gentleman from Illinois does not know that. On the contrary, if there is a bona fide intention to perfect this bill up to the time that the previous question operates, it can be perfected; amendments can be proposed and disposed of before the previous question operates. Again, it is perfectly obvious that at this time of the session, if this legislation is to pass, it must pass under substantially a similar order to this. On this side we want it passed, and we want it passed before the sun goes down. If the gentleman has an amendment to offer touching foreign lotteries, it will be in order, and the gentleman who sits beside me [Mr. CALDWELL], in charge of the bill, intimates that if gentlemen desire to offer an amendment of that kind they shall have an opportunity to do so.

Mr. BLOUNT. If the gentleman will allow me, I would make this suggestion: I have no doubt that the time will be equitably divided upon either side of the House, and I understand that any gentleman getting the floor to discuss this bill in opposition to it as it stands may offer his amendment and such amendments as have been indicated with reference to foreign lotteries.

Mr. CANNON. Yes, sir; and the amendment may then be disposed of.

Mr. BLOUNT. The previous question may then be demanded?

Mr. CANNON. Certainly; on that amendment.

The SPEAKER. The question is on agreeing to the report.

Mr. BRECKINRIDGE, of Kentucky. Mr. Speaker, I believe no motion has been made for the previous question on the adoption of the report.

Mr. CANNON. Well, I will move it, if the gentleman is going to antagonize it.

Mr. BRECKINRIDGE, of Kentucky. I will do so, because I think we should vote down such an order.

The question was taken on ordering the previous question; and the Speaker announced that the ayes seemed to have it.

Mr. BRECKINRIDGE, of Kentucky. Division.

The House divided; and there were—ayes 74, noes 34.

So the previous question was ordered.

The SPEAKER. The question recurs on the adoption of the resolution.

Mr. SPRINGER. Is there not twenty minutes allowed for debate now?

The SPEAKER. Does the gentleman ask that question?

Mr. SPRINGER. I am making a parliamentary inquiry.

The SPEAKER. Does the gentleman ask that question?

Mr. SPRINGER. I do; certainly.

The SPEAKER. It would not be allowed. The question is on the adoption of the resolution.

Mr. SPRINGER. Does the Chair state that debate would not be allowed?

The SPEAKER. The Chair only reiterated what the gentleman must know.

Mr. SPRINGER. I did not hear the Chair. I ask as a parliamentary inquiry whether twenty minutes' debate would be allowed on the adoption of the report.

The SPEAKER. It would not.

Mr. SPRINGER. It would not?

The SPEAKER. It would not.

Mr. SPRINGER. For what reason? The previous question has been ordered.

The SPEAKER. Because debate has already taken place.
 Mr. SPRINGER. Does the Speaker call these inquiries in regard to the previous question, etc., debate?
 The SPEAKER. It seems to the Chair that it is the nature of debate. The question is on the adoption of the report.
 The question was put, and the report was adopted.

LOTTERIES.

The SPEAKER. The Clerk will read the bill.
 The bill was read, as follows:

Be it enacted, etc., That section 3894 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"Sec. 3894. No letter, postal card, or circular concerning any lottery, so-called gift concert, or other similar enterprise offering prizes dependent upon lot or chance, or concerning schemes devised for the purpose of obtaining money or property under false pretenses, and no list of the drawings at any lottery or similar scheme, and no lottery ticket or part thereof, and no check, draft, bill, money, postal note, or money-order for the purchase of any ticket, tickets, or part thereof, or of any share of any chance in any such lottery or gift enterprise, shall be carried in the mail or delivered at or through any post-office or branch thereof, or by any letter-carrier; nor shall any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery or gift enterprise of any kind offering prizes dependent upon lot or chance, or containing any list of prizes awarded at the drawings of any such lottery or gift enterprise, whether said list is of any part or of all the drawing, be carried in the mail or delivered by any postmaster or letter-carrier. Any person who shall knowingly deposit or cause to be deposited, or who shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of this section, or who shall knowingly cause to be delivered by mail anything herein forbidden to be carried by mail, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both such fine and imprisonment for each offense. Any person violating any of the provisions of this section may be proceeded against by information or indictment, and tried and punished either in the district at which the unlawful publication was mailed or to which it is carried by mail for delivery according to the direction thereon, or at which it is caused to be delivered by mail to the person to whom it is addressed."

SEC. 2. That section 3929 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"Sec. 3929. The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post-office at which registered letters arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank, corporation, or association of any kind, to return all such registered letters to the postmaster at the office at which they were originally mailed, with the word 'Fraudulent' plainly written or stamped upon the outside thereof; and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster-General may prescribe. But nothing contained in this section shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself. The public advertisement by such person or company so conducting such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by registered letters to any other person, firm, bank, corporation, or association named therein shall be held to be an acknowledgment of the existence of said agency by all the parties named therein."

SEC. 3. That section 4041 of the Revised Statutes be, and the same is hereby, amended to read as follows:

"Sec. 4041. The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, forbid the payment by any postmaster to said person or company of any postal money-orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation, or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money-orders. But this shall not authorize any person to open any letter not addressed to himself. The public advertisement by such person or company so conducting any such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by means of postal money-orders to any other person, firm, bank, corporation, or association named therein shall be held to be an acknowledgment of the existence of said agency by all the parties named therein."

Mr. HOPKINS. I would like to make some arrangement with the gentlemen opposed to this bill about the disposition of time.

Mr. BLOUNT. I do not know of anybody on this side opposed to it. [Cries of "Vote!"]

The SPEAKER. Are any amendments to be offered?

Mr. HOPKINS. I have an amendment I wish to offer.

Mr. WILKINSON. I have an amendment to offer, but I will do so at a later period.

Mr. BLOUNT. I wish to call the attention of the gentleman from Kentucky [Mr. BRECKINRIDGE], who was out of his seat when the gentleman from Illinois [Mr. HOPKINS] desired to know whether there was a desire to discuss this bill on the Democratic side of the House, in order to ascertain whether he wishes to take the floor in opposition to the bill or to discuss the bill.

Mr. BRECKINRIDGE, of Kentucky. I do not.

Mr. CRAIN. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

On page 4 strike out all after the word "himself," in line 25, down to the end of the section.

Mr. BLOUNT. If my friend will allow me, I would suggest that this amendment be now considered as pending, and perhaps if we are to have a discussion we had better have some order about it.

Mr. CRAIN. Mr. Speaker, I desire to offer some other amendments. What is the desire of the gentleman from Georgia?

Mr. BLOUNT. So far as I am concerned, it might be well for the gentleman to offer all the amendments he has. I have not charge of the bill.

Mr. CALDWELL. The gentleman can offer his amendments now.
 Mr. CRAIN. There is another one I desire to offer, but I have not yet prepared it.

The SPEAKER. The question will first be taken on the first amendment.

Mr. CRAIN. Mr. Speaker, the object of that amendment is to strike out the following words in section 2:

The public advertisement by such person or company so conducting such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by registered letters to any other person, firm, bank, corporation, or association named therein shall be held to be an acknowledgment of the existence of said agency by all the parties named therein.

It seems to me, Mr. Speaker, that whatever may be the object intended to be accomplished by this bill, whether the Louisiana lottery or any other scheme of a similar character, wherever conducted, be immoral or not, these schemes ought to be suppressed, if they are deserving of suppression, in a legal and constitutional manner; and I call upon the gentleman who has charge of this bill to tell me of any case that has ever come within his knowledge in which the mere announcement of the fact by one individual that another is his agent is sufficient to constitute that other his agent without knowledge or acquiescence on his part.

What authority has any man or any corporation to constitute me his agent or representative unless I acquiesce in that agency? This bill simply says that, if the Louisiana Lottery Company or any kindred scheme or enterprise publishes in any newspaper of this country the announcement that I am its agent, that publication *ipso facto* constitutes me its agent and makes me responsible in that capacity. What is the effect of that? It deprives me of the right to receive my money-orders through the post-office; it deprives me of the right to receive my registered packages and letters; because this bill provides that, wherever an advertisement is published by any of these enterprises stating that I am its agent or representative in a particular locality, that advertisement, no matter whether I have knowledge of it or not, constitutes me the agent and representative of the enterprise and I am thereafter debarred from the right which, as an American citizen, I to-day enjoy, to receive through the post-office my money-orders and registered letters, no matter for what purpose or by whom they may be sent.

I say that the bill is radically defective in this particular. Either that portion of this section should be stricken out—and the same remarks are applicable to the next section, which contains exactly the same language—or there should be an amendment inserting a proviso that the agent or representative, advertised as such by the lottery company or other enterprise, shall be shown to have knowledge, either by actual notice served upon him or by evidence that he has seen the publication and has not protested against it. Otherwise this law might interfere with the business of any man, or any bank, or any firm, or any corporation. An enemy of mine, being himself engaged in an unlawful scheme for the purpose of obtaining money under false pretenses, may publish to the world a statement that I am his agent, and as soon as he does that I am deprived, under this bill, of the right of receiving through the mails any money-orders or registered letters.

Mr. HOPKINS. Mr. Speaker, just a word in reply to the gentleman from Texas and his proposed amendment. It is the experience of the Post-Office Department with this lottery company in New Orleans that has given rise to this part of the section and caused it to be embodied in this bill. As is well known to members of the House and to the country generally, the Department has been endeavoring for many years, so far as was in its power, to prevent the transmission through the mails of letters, papers, and documents to this enormous gambling concern which is located in the State of Louisiana. One means that was adopted by previous legislation for the purpose of suppressing the business was to restrain the Post-Office Department from transmitting any letters, checks, or remittances of any kind to the lottery company itself. That worked for a time, but they evaded it by designating a national bank in the city of New Orleans to whom all their letters, papers, and money-orders were to be addressed. That bank was made, in fact, the agent of the lottery company, and by that means the company transacted its business with as much openness as it did when the letters were transmitted directly to it through the mails.

Mr. CRAIN. The gentleman is making a statement of facts which nobody controverts; but I want to know whether it is proper in his judgment to authorize any lottery company or other corporation to make me its agent without notice to me.

Mr. HOPKINS. If the gentleman will wait I will come to that proposition. Now, I say the experience of the Post-Office Department is as I have stated. This national bank in New Orleans neither affirmed nor denied, until there was litigation on the subject, that it was the agent of the lottery company, but it received the letters and papers and transmitted them to the company. The gentleman from Texas says that the provisions of the bill which he criticises deprives

the citizen of his inherent rights, because it provides that any person or corporation to whom these letters are directed to be addressed is made the agent of the lottery company by the very fact of receiving them. My answer to that is that this lottery company is financially responsible. This section of the proposed legislation is not penal. It does not punish any one by fine or imprisonment for receiving these letters. It simply authorizes the Postmaster-General to stop the delivery of this mail matter to that agent until the question is determined.

That is all there is to it. Suppose, if you please, that this corporation which is engaged in this gambling enterprise does designate a national bank or an individual as its agent to receive these letters and money-orders when in fact and in truth that bank or that individual is not its agent, and suppose that, in pursuance of the provisions of this bill, some of these letters and money-orders are stopped, if any damage accrues to the corporation or individual to whom the letters are addressed this lottery concern is financially responsible. But the history and experience of mankind teach us that they will not dare to designate any national bank or any individual or any corporation to receive their letters, money-orders, or other mail matter unless there is an agreement or understanding between that bank, corporation, or individual and the lottery company; and we believe that the provision as it stands in the bill is the only effective means of checking the use of the mails for these illegal and criminal purposes.

Mr. BLOUNT. Suppose the amendment of the gentleman from Texas [Mr. CRAIN] were adopted by the House, would that alter at all the power given to the Postmaster-General in relation to this matter? This section of the bill provides that "the Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery," etc., do such and such things. It seems to me that that gives him ample power, and that he may adopt either the rule provided for in the bill or some other rule, as he may prefer.

Mr. HOPKINS. I disagree with the gentleman upon that.

Mr. BLOUNT. Well, the gentleman has had better opportunity of examining the question carefully than I have had, but that is how it strikes me.

Mr. HOPKINS. I think the striking out of this provision would very greatly impair the efficiency of the bill.

Mr. BLOUNT. If the Postmaster-General is not to be controlled in this matter by any rules of evidence, but may act, as provided in this section, upon "evidence satisfactory to him," why does not that include, if he sees fit to use it, the power to act upon the very kind of evidence that the amendment of the gentleman from Texas proposes to strike from the bill? You leave the whole power to the Postmaster-General.

Mr. HOPKINS. Well, if he can do that indirectly, why not leave the express authority in the bill itself?

Mr. BLOUNT. I do not say that he can do it indirectly; it occurs to me that he may do it directly under the language of this section. From the very nature of his office the Postmaster-General has quasi-judicial functions which he exercises here and all along the line of the administration of his office. However, I am content myself with the provision as it stands in the bill.

Mr. HOPKINS. I think that even with the construction for which the gentleman from Georgia contends there is no possible harm in leaving this provision in the bill.

If the Postmaster-General has this authority without the express declaration here, certainly no injury will be done by restating it so that no mistake can be made on this point.

The emergency spoken of by the gentleman from Texas will never arise, never. It is not within the bounds of probability, neither is it within the bounds of possibility, that this corporation, which everybody acknowledges to be financially responsible, will designate any individual in the State of Louisiana or any other State to receive its money-orders or any of its papers unless the company has express authority to so advertise that person. Gentlemen will observe that it is only when any individual or corporation is publicly advertised by this lottery company as its agent that the Postmaster-General is authorized to withhold the mail matter of such person or corporation.

Mr. BLOUNT. Is not my friend going too far in the statement he has just made? May not the Postmaster-General ascertain the fact in other ways?

Mr. HOPKINS. He may according to the gentleman's construction of the general provisions of the bill. But this provision sought to be eliminated by the amendment of the gentleman from Texas says that when by public advertisement any person is designated as the agent of the lottery company the Postmaster-General may take cognizance of that fact, may treat the person as the authorized agent of the company and subject him to the same regulations and orders of the Department to which the company itself is subjected.

Mr. KERR, of Iowa. Would the gentleman have any objection to striking out the word "acknowledgment," in the twenty-ninth and thirtieth lines of section 2 and inserting "*prima facie* evidence?"

Mr. HOPKINS. The objection to that is that it would be liable to lead to litigation. The experience of the Department with this com-

pany has been that whenever a bill to restrain this business has been passed by Congress the company has immediately taken the Department into the courts, causing delay and expense. There is no danger from the incorporation in the bill of the language now under consideration, because, as I have already stated, this company will not dare to designate a person as agent to receive its money unless that person agrees to the agency before the public announcement of the fact. Practically no danger can arise, and by a provision of this sort the Postmaster-General will be greatly aided in suppressing the passage of this lottery matter through the mails.

Mr. CONGER. Can the gentleman conceive any possible inducement for the lottery company to advertise anybody as its agent if he is not its agent?

Mr. HOPKINS. None whatever. The company will not designate a person to receive money transmitted to it unless that person is one in whom the company has confidence and with whom it has a prior agreement, so that it may rely on receiving the money.

The gentleman from Texas [Mr. CRAIN] says that an enemy of the company might be designated as its agent; but it must be remembered that the case under consideration is where money is transmitted to this agent to be retransmitted to the company; and this is the reason why the company would not designate as its agent a man who would not be financially responsible to it.

Mr. Speaker, I call for a vote on the amendment.

Mr. BUCKALEW. I desire to offer an amendment to the amendment.

The SPEAKER. The gentleman will state it.

Mr. BUCKALEW. I move to strike out the words "an acknowledgment" in the twenty-ninth and thirtieth lines of section 2 and insert "*prima facie* evidence."

Mr. Speaker, it is best wherever possible to use words of a known legal meaning for the guidance of public officers. Now, if a person is advertised as an agent in the connection which this bill supposes, it is manifestly an impropriety to say that that shall be held an acknowledgment by him of the existence of such agency. The word "acknowledgment" so used may be construed in various ways; it may be held to be a conclusive acknowledgment by him. Why is it not sufficient if we say that it may be regarded by the postmaster or the Postmaster-General as *prima facie* evidence of the facts?

If the person can controvert or overturn this *prima facie* evidence, there ought to be prompt relief; he ought to be permitted to receive his mail. We ought to give to these officers, the Postmaster-General and his deputies, a rule which they can follow, that such an advertisement shall be *prima facie* evidence of the fact of agency, and upon such evidence mail matter may be withheld. But the party ought to be permitted to come forward and show to the postmaster or the Postmaster-General that the agency does not exist. For instance, by opening a letter on the spot it might be shown in a moment that it does not relate to lottery business.

Mr. BUTTERWORTH. Will the gentleman from Pennsylvania allow a suggestion?

Mr. BUCKALEW. Certainly.

Mr. BUTTERWORTH. I understood the gentleman from Illinois [Mr. HOPKINS] to say that one of the troubles which would arise if such an amendment as that suggested by the gentleman from Pennsylvania should be adopted would be that it would involve litigation in each case, and that this litigation might run on almost as long as the case of *Jarndyce vs. Jarndyce*; and in the mean time the lottery company would go on with its business. Would that be so?

Mr. BUCKALEW. No such consequence need follow. The withholding of the letters and the transmission of the case to the Postmaster-General are provided for in the bill—

Mr. BUTTERWORTH. But would the withholding be authorized if we should use the language suggested by my friend from Pennsylvania?

Mr. BUCKALEW. Certainly. The bill says so.

Mr. BUTTERWORTH. I do not understand that such would be the case if this clause be stricken out. The first question is as to whether the party is the agent of the lottery company. Now it is proposed by the gentleman that the advertisement of a person as agent shall be only *prima facie* evidence of his agency pending the determination of the question whether he is or is not such agent. Does my friend say that during the pendency of that question the mail matter of the party could be or should be withheld?

Mr. BUCKALEW. My amendment would not arrest the action of the postmaster at the point of delivery. That is already provided for in the bill.

Mr. BUTTERWORTH. I understood my friend from Illinois [Mr. HOPKINS] to argue that the amendment would paralyze the action of the Post-Office Department.

Mr. BUCKALEW. He is entirely mistaken.

Mr. HOPKINS. I think it would. I believe that the Postmaster-General, pending an investigation of that kind, would refrain from stopping the mail matter of the supposed agent. With due respect to the judgment of the gentleman from Pennsylvania [Mr. BUCKALEW] I hold that his amendment would be a fruitful source of litigation. The law-

yers of the country might be benefited by it, but I can not see how the public, who are interested in suppressing the lottery business, are going to receive any advantage from such a proposition.

Mr. BLOUNT. Mr. Speaker, I ask my friend from Illinois to yield to me for a moment.

Mr. HOPKINS. Certainly.

Mr. BLOUNT. I think an examination of the situation of the law at this time, and the condition of the postal service with regard to the discretion now vested in the Postmaster-General in regard to such matters, will satisfy my friend from Illinois and others that this provision is not at all needed, nor the amendment of my distinguished friend from Pennsylvania.

I ask the attention of the House, and especially of the gentleman in charge of the bill, to an extract from the report itself. What is the present condition of the law in regard to the matter?

Sections 3929, Revised Statutes, relating to registered letters, and 4041, Revised Statutes, relating to money-orders, authorize the Postmaster-General, "upon evidence satisfactory to him that any person is engaged in conducting any fraudulent lottery, gift enterprise," etc., to instruct postmasters at any post-office at which registered letters or money-orders may arrive addressed to and intended for persons so engaged as aforesaid to withhold the delivery of the one and the payment of the other. It will be observed in these cases that the law does not require the Postmaster-General to know anything of the contents of the registered letters, nor to be advised as to the purpose to be served by the postal money-orders, but gives him the power, whenever he is satisfied that the one is addressed and the other made payable to a person engaged in conducting schemes to obtain money by false means or false and fraudulent pretenses, to enforce its provisions as stated above.

It is not necessary, therefore, that he should break a seal, or cause a seal to be broken, or to do any other act of a questionable or prohibited kind; but simply permits him to cut off the delivery of said registered letters because they are presumed to contain money, and the payment of money-orders because they are presumed to have been sent for the purchase of lottery tickets.

Acting under the authority contained in these two sections, a former Postmaster-General issued an order, which operated particularly upon the postmaster at New Orleans, prohibiting the delivery of registered letters and the payment of money-orders to lottery companies, and especially to M. A. Dauphin in his several capacities as a manager of the Louisiana State Lottery. That order has been strictly enforced since the date of its issuance, and is now enforced in all the post-offices of the country, but it does not accomplish the objects that Congress evidently had in view.

Now—

The Louisiana State Lottery Company met the order of the Postmaster-General by announcing that thereafter registered letters and money-orders could be sent to the New Orleans National Bank, and thereupon the Postmaster-General issued a subsequent order prohibiting the delivery of registered letters and the payment of money-orders to said bank. The bank sought an injunction of the court to restrain the postmaster at New Orleans from enforcing this order, which was granted, and from that time until the present such deliveries and payments have been made to that bank without let or hindrance, for the reason that it was believed that the authority of the Postmaster-General, under the existing provisions of law, was not sufficient to justify him in declaring that a delivery to the bank was a delivery to the lottery company and such a delivery as was prohibited by law.

The substitute bill proposes to cure these defects by including within its provisions any agent or representative of the lottery company acting as an individual, or as a firm, bank, corporation, or association of any kind, and declaring that the published advertisement by a lottery concern that remittances for it may be made to "any other person, firm, bank, corporation, or association" shall be held to be an acknowledgment of the existence of said agency by all the parties named therein.

Now, you have cured it all before you reach the provision which my friend from Texas proposes to strike out. You have accomplished all you wanted to accomplish before reaching that provision; hence there is no necessity for it. The proviso to which the gentleman from Texas refers, if stricken out, does not retrench the power of the Postmaster-General at all, and should not. This report has already indicated what you want to reach. You can not reach the agent now; but you have done that by this bill. You have been able to reach the agent through the instrumentality of the legislation proposed here, and cut him off from receiving registered matter for this lottery company. How do you do it? Why, "upon evidence satisfactory to him," that is to say, the Postmaster-General. You have accomplished the whole purpose you had in view. But having done that here follows a provision:

The public advertisement by such person or company so conducting such lottery, gift enterprise, scheme, or device that remittances for the same may be made by registered letters to any other person, firm, bank, corporation, or association named therein shall be held to be an acknowledgment of the existence of said agency by all the parties named therein.

Now, that provision is utterly needless, and it rather indicates, if it indicates anything at all, that the Postmaster-General's discretion is restricted by it, the large discretion which he has now, if it is part of the bill. I think his sound judgment ought to be left to him unimpaired, without restriction. He should have the full power granted in the preceding part of the section, and omit altogether this provision to which I have just referred.

Then, in addition to that, my friend from Pennsylvania [Mr. BUCKALEW] comes forward with a suggestion that it should be considered only as *prima facie* evidence of the existence of such agency. I think it ought to be left with the Postmaster-General to determine for himself whether the presumption as to the existence of said agency may be rebutted by evidence or whether it is satisfactory or not, and then to exercise the authority given to him by the law as his discretion may dictate.

The Postmaster-General and the heads of the various other Departments of this Government have power just as much as any other branch of the public service. There are necessarily accorded to them certain dis-

cretionary rights and powers in their control of their various branches of the public service. They have quasi-judicial functions under the Constitution, and they are being continually exercised by virtue of the Constitution itself.

There is nothing relating to the mails where the Postmaster-General is not exercising his discretion in reference to classification of mail matter and all other matters connected with the transmission of the mails; he is continually doing it, and he is not controverted in his functions or obstructed in their exercise by the courts. I do not think, therefore, that he ought to be in this instance. He ought to be left free to say, on information had, whether or not in his judgment the evidence is sufficient to authorize him to cut off these notes, or money orders, as provided by this bill, from any particular agent.

Mr. CRAIN. Will the gentleman allow me to interrupt him in the line of his own suggestions? On page 3, in line 13, section 2 of this bill, the gentleman from Georgia is fortified by the language employed, namely:

May instruct postmasters at any post-office at which registered letters arrive directed to any such person or company, or to the agent, etc.

Mr. BLOUNT. I am very much obliged to my friend. That is what I was regarding as already in the bill. I have not read it myself carefully. But the discretion is already in the bill, giving the Postmaster-General the power, upon information satisfactory to himself—an executive officer at the head of this great Department of the Government—to exercise certain authority conferred upon him by the law. He is charged with the enforcement of the law in that regard, and the proviso my friend is criticising is in restraint of this discretionary power of the Postmaster-General.

I do not believe in restraining him. I believe in giving him the ample power declared in the beginning of the measure. What we need in regard to this lottery is legislation which shall exclude from the mails the circulars and literature of this company for its criminal purposes, and the language of the bill is not too broad in this section or anywhere else which confers on the Postmaster-General the discretion under which he shall exclude this or that agent from sending or receiving money-orders.

Mr. BUTTERWORTH. I wish to submit to my honored friend that if the clause to which he objects does restrict the power of the Postmaster-General it is a very proper restriction.

But it is not so. It is not uncommon in a statute to provide what shall be taken as being conclusive of a fact to be established.

Mr. BLOUNT. That is upon the court.

Mr. BUTTERWORTH. I understand that, but it occasionally happens that we provide that when a certain fact is shown, guilt shall be presumed; but in this case what is the object of this clause? First, it provides that the Postmaster-General may direct, in a certain contingency, that certain letters addressed to or for the use of a lottery carried on by a company or person shall be returned to the writer stamped "fraudulent." This clause of which complaint is made provides what? Simply that where any such person, any such lottery company, or any such individual, conducting a lottery, advertises A, B, or C to be his agent for receiving remittances to, for, or on account of such lottery, such notice shall be taken as evidence of such agency and be conclusive upon the parties thereto. Now, in the first place, does it work any hardship on anybody? My honored friend from Texas [Mr. CRAIN] says it is not proper that I should be held to be estopped from asserting that I am not the agent of the Louisiana Lottery Company if they assert that I am. That is very true—

Mr. HAYES. Will the gentleman pardon an interruption?

Mr. BUTTERWORTH. Certainly; but let me conclude this sentence. In the first place, the presumption is utterly violent that the Louisiana Lottery Company or any other lottery company will advertise A, B, or C to be its agent to receive remittances on its account unless the agency exists. Now, what class of matter, I ask my friend, will be so sent? That which is transmitted to me, not as an individual—this does not cover that case—but that which is transmitted to me as the agent of the lottery company. Then, if it is transmitted to me as their agent and I am not their agent, I have no concern about the matter; and if I am not the agent and it is transmitted to me as such agent, it may well be turned over to the authorities or returned to the writer, for I certainly ought to have no concern about it.

Mr. CRAIN. There is nothing in this bill that discriminates between you as an individual and you as an agent.

Mr. BUTTERWORTH. My friend is in error.

Mr. CRAIN. How is the Postmaster-General or any postmaster to know whether a registered package or letter which is addressed to you as an individual comes to you as an individual or an agent?

Mr. BUTTERWORTH. My friend is in error about that. The law itself provides that this matter shall be transmitted to me as such agent, and unless upon the outside of the letter itself that it disclosed, the Postmaster-General has no power to do anything with these letters.

Mr. HAYES. Then the provision would be utterly futile, as no company or concern would be foolish enough to advertise the fact that gave the Postmaster-General such power, upon the outside of the letter itself.

Mr. BUTTERWORTH. The section itself provides—

But nothing contained in this section shall be construed as authorizing a postmaster or other person to open any letter not addressed to himself.

Mr. CRAIN. Yes, that is it.

Mr. BUTTERWORTH. Very well.

Mr. CRAIN. I knew you were mistaken about that.

Mr. BUTTERWORTH. No, I am not mistaken. Let me see. The provision of the law is that he shall be the agent and that it shall be transmitted to him as such.

Mr. CRAIN. But it does not say that the envelope must be addressed to him as agent; and the postmaster can not possibly tell whether the remittance is intended for you as agent or you as an individual.

Mr. HOPKINS. There is no new principle involved in that.

Mr. BUTTERWORTH. That does not involve any new principle, as suggested by my friend from Illinois. But if you strike out this clause very serious questions will arise, in my judgment.

Mr. HAYES. I would like to ask the gentleman if, to carry out the true theory which he desires, it would not be better to change the word "acknowledgment" and make it "create a presumption;" for it might be very well held that an acknowledgment was conclusive. If I acknowledge a thing as against myself that is conclusive. The word ought to be "presumption."

Mr. KERR, of Iowa. I would like to ask the gentleman from Ohio if the company should advertise that a certain individual was its agent, when in fact he was not its agent, would that be true?

Mr. BUTTERWORTH. Of course it would not be true.

Mr. KERR, of Iowa. Of course it would not.

Mr. BUTTERWORTH. It requires me to disavow it, of course. Now, the apprehension is that these companies will immediately begin to advertise eminent christian gentlemen as their agents, a thing so utterly improbable that we need not feel apprehensive of any danger upon that point; while, on the other hand, if we strike out this clause, instead of preventing a mischief that is not proximate or remote, we may accomplish the defeat of some important provision of this bill.

Mr. KERR, of Iowa. Should we by law declare a thing to be an "acknowledgment" which, as a matter of fact, we know is not an acknowledgment?

Mr. HOPKINS. That is avoided in this way, because the bill itself says there must be a public advertisement that such person or such bank is the agent of the lottery company. If such bank is not the agent, it is within the province of that bank or that person to so state publicly and inform the Postmaster-General. This clause here in the bill is to aid the Postmaster-General in stopping the transmission of this matter through the mails, and if the Postmaster-General is satisfied that the company is working a fraud upon some person, then, under the general scope of the bill, it is a matter that he can regulate.

Mr. ROGERS. Will the gentleman from Illinois yield to me for a minute?

Mr. HOPKINS. It is not likely that this company will ever advertise any person as an agent without authority.

Mr. ROGERS. Will the gentleman allow me a moment?

Mr. HOPKINS. Yes.

Mr. ROGERS. By the terms of this bill you make the publication of a man as agent an acknowledgment that that man is its agent. That is the law. Now, you say the way to overturn the law is a disavowal, and you propose to say that the Postmaster-General shall, on the mere disavowal of this man, overturn what you yourselves have made when you say that if he were published as an agent that operates as an acknowledgment that he is an agent. Why, does not my friend see at once that all that a person has to do is to contradict the acknowledgment, when that bill says that the publication of a man's name as the agent shall be affirmative evidence that he is an agent, and that it is *prima facie* evidence sufficient for a postmaster to act upon? But when you make the mere disavowal of it operate as an overthrow of that, why then you have overturned the law you have made.

Mr. HOPKINS. The gentleman then wants simply to establish a new rule of evidence for the guidance of the Postmaster-General.

Mr. ROGERS. I did not catch that.

Mr. HOPKINS. I say it is to establish a rule of evidence to aid the Postmaster-General. Now, if he should get *prima facie* evidence—

Mr. ROGERS. That is the very trouble. You make a thing true which may be false. You say that this company will never do this. I do not think it is probable they will do it myself; but suppose, as a matter of retaliation against those persons who have fought the Louisiana lottery in Louisiana, they should select the names of a thousand prominent business men in Louisiana and publish them. Then you have got a thousand men advertised as agents.

Mr. CRAIN. Published in the New York or New Orleans papers.

Mr. ROGERS. Published anywhere. The mail of these gentlemen in Louisiana by the law that you would make in this bill can be stopped. From the fact that they are published as the agents of the lottery, by the terms of the bill, you can go to the Postmaster-General and lay that information before him, and it is made his duty to stop their mail. Now, gentlemen all know what a serious matter it would

be to simply stop the mails for one day of large business concerns in the city of New Orleans and elsewhere improperly. I do not think it is probable that they will do it, but suppose they should do it. You have thus a man who has never had anything to do with that company made an acknowledged agent of the Louisiana Lottery Company by the law, and you expect to overturn that acknowledgment and that law by the simple disavowal to the Postmaster-General that he is an agent.

Mr. BLOUNT. If the gentleman will allow me—

Mr. HOPKINS. The case supposed by the gentleman from Arkansas is not within the range of probabilities or within the range of possibilities. But suppose that it should occur. We must take it for granted that a person who is able to preside over the Post-Office Department is a gentleman of intelligence and of common sense, and if a thousand persons, or five persons, or any number of persons should be named in New Orleans as the agents of this lottery company, that would have to be determined before any action could be taken by the Postmaster-General.

Mr. CRAIN. But suppose these persons lived in New Orleans and were advertised in New York.

Mr. HOPKINS. Still the principle is the same. It has got to be published—

Mr. CRAIN. Where?

Mr. HOPKINS. And that it has to be brought to the knowledge of the postmaster.

Mr. CRAIN. Where?

Mr. HOPKINS. Anywhere.

Mr. CRAIN. Suppose it is published in New Orleans and a man in New York is made the agent, and he does not know it?

Mr. HOPKINS. Suppose it is.

Mr. CRAIN. Is that right?

Mr. HOPKINS. The matter is brought to the attention of the Postmaster-General, and if he has any doubt he can investigate before he puts in force the machinery of this bill; but I am simply assuming as possible a fact that can not exist.

Mr. ROGERS. It can exist.

Mr. HOPKINS. Does the gentleman suppose that this company, which is financially responsible, will put itself in a position where it can be mulcted in damages?

Mr. ROGERS. It is possible, but I have said that it is not probable. But suppose five days before a national election takes place you happen to have a Democratic Postmaster-General, and some irresponsible vagabond in New Orleans should publish that MATT QUAY was the agent of a lottery company, you could go to work and stop the whole of his mail, and thereby stop the working of the executive committee.

Mr. HOPKINS. That is presuming something that is not possible.

Mr. ROGERS. I say that it is not probable, but other things of a like nature have been done during a political campaign.

Mr. HOPKINS. But this has got to be a public and official act of this company.

Mr. CHEADLE. I desire to call the attention of the gentleman—

Mr. CRAIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. CRAIN. I would like to know who controls the time on this side of the House.

The SPEAKER *pro tempore*. The Chair does not know whether any understanding has been reached.

Mr. CRAIN. It seems from appearances that the gentleman from Illinois controls the time.

The SPEAKER *pro tempore*. The Chair is informed that no understanding has been arrived at.

Mr. HAYES. I desire to make a suggestion in that regard.

The SPEAKER *pro tempore*. The Chair will hear the gentleman from Iowa.

Mr. HAYES. Mr. Speaker, I desire to say that as a member of the Committee on the Post-Office and Post-Roads I opposed this bill in committee on account of its dangerous and vicious provisions and as not needed to reach the evil, even if that would justify them, and offered a number of amendments, one of which is the same as that offered by the gentleman from Texas. I have to-day filed a minority report (not having it fully prepared before), but I am free to say that in view of the sentiment which I found existing against lotteries, and in which I concur, and in view of the sentiment which I find to exist in favor of this bill, even among some persons who consider that its provisions are even dangerous, I expected to content myself with putting upon record my objections to this legislation. They were, first, that it was unconstitutional; second, that we had already a sufficiency of legislation upon this subject; and, third, that the provisions of the bill were dangerous in that they gave too great a power to the Postmaster-General. I have no present intention of making any factious opposition to the passage of this bill, although I consider it a worse evil, if possible, than the one aimed at. I simply want to see it perfected, so far as it can be, by amendments, including such amendments as have been offered and some others that will be offered hereafter by myself or by others, and then to leave it there, providing it can be changed enough to relieve it

from some of its worst provisions. I thought it, however, but fair to say to the House that I had filed to-day a minority report, and I will put it in the RECORD here as a part of my remarks, as it has not been printed.

CERTAIN SECTIONS OF THE REVISED STATUTES RELATING TO LOTTERIES.

Mr. HAYES, from the Committee on the Post-Office and Post-Roads, submitted the following minority report (to accompany H. R. 11569):

The undersigned, dissenting from the views and recommendations of the majority of the committee, begs leave to present the following minority report:

It is quite common in legislative proceedings, from overzealousness in opposition to an actual or supposed evil, or for designing persons desiring to cripple some interest not liked by them or that stands in the way of their interests, or through which they hope to gain popular approval, to seek to accomplish their ends through legislation that is ill advised, not warranted by the exigencies of the case, that is outside of proper legislative action, or that is even unconstitutional.

I am opposed to all such legislation, and am a believer in the theory that the tendency of all legislative bodies is toward too much legislation, and that no law should be passed on any subject not absolutely needed, and that we suffer more from legislation than from the lack of it. In the matter under consideration I doubt the constitutionality of the proposed law; think it ill advised in its provisions, which are contrary and inimical to the theories and foundations of a free government and absolutely dangerous in their tendencies; and so I am constrained to dissent from the report of the majority of the committee, although fully agreeing with them in their abhorrence of the evil aimed at and knowing and fully recognizing that they have conscientiously arrived at their conclusions in view of this evil and for its abatement; but still, as great as is this evil, it is in my judgment infinitesimal as compared with the evil of this bill or of legislation not within the Constitution.

The objections in my mind to this proposed bill and legislation are:

First. It is unconstitutional.

Second. There is no necessity for any such legislation, from the fact that we already have a sufficiency of law upon the subject, and we had better enforce it than make a new one.

Third. The provisions of the bill are bad and even absolutely dangerous in that its tendency is towards centralization and interference with the proper functions and powers of the States; it abridges the freedom of the press; it gives a power of espionage to public officials as against the citizen; it provides for condemnation without hearing, and makes the whim, caprice, or opinion of the Postmaster-General, good, bad, or indifferent as it may be, the final judgment upon which the rights of citizens may depend; makes him, in fact, judge, jury, and executioner without a pretense of hearing or necessity for legal evidence, and actually extends this dangerous and vicious power with all its machinery for enforcement to any other "scheme or device" that, "upon evidence satisfactory to him," may not suit his exalted ideas of propriety.

It actually makes the advertisement, statement, of one person as to the agency of another an "acknowledgment of the existence of said agency" by such other person, not even stopping at creating a presumption, but casting upon such person, however innocent, the necessity of impeaching himself to clear his skirts even if it does not make the fact conclusive, and as a penalty puts it in the power of the Postmaster-General to have the Department mark his mail "fraudulent," not deliver it, but return it to the sender "under such regulations as the Postmaster-General may prescribe," and thus deprives the person to whom this communication may be sent of his property, the letter and its contents, without due process of law; and to cap the climax provides that offenders against the provisions as to advertising, etc., may be tried, condemned, fined, and imprisoned either at the mailing point or destination of the publication.

In determining the constitutional power in Congress to enact such legislation there are three grounds to be considered: the power to establish post-offices and post-roads, which is given to Congress in the Constitution, the provision therein that "Congress shall make no law abridging * * * the freedom of speech or of the press," and the equipoise or distribution of power and duty between the States and the General Government in their respective spheres, and the relations and powers of the one to the other therein.

It has been decided by the Supreme Court of the United States (*Ex parte Jackson*, 95 United States, 732) that Congress having the power to designate what shall be carried in the mails it necessarily involves the right to determine what shall not be carried, and that letters and circulars concerning lotteries could by law be excluded. All lawyers well understand that any language in the opinion of a court is to be taken and applied with reference to the case as before the court and not necessarily extended to every other state of facts, and the court in this case not only did not decide that newspapers, the press, could be so excluded, but gave a very strong intimation to the contrary on the freedom of the press theory, and most assuredly did not hold that this would or could be done as to a paper containing a lottery notice or advertisement in a jurisdiction where lotteries were legal and such advertisements legitimate business. The court said upon the question:

"The difficulty attending the subject arises not from the want of power in Congress to prescribe regulations as to what shall constitute mail-matter, but from the necessity of enforcing them consistently with the rights reserved to the people of * * * far greater importance than the transportation of mail. In this enforcement a distinction has to be made between different kinds of mail-matter. * * * Nor can any regulation be enforced against the transportation of printed matter in the mail, which is open to examination, so as to interfere in any manner with the freedom of the press. Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without the circulation the publication would be of little value. If, therefore, printed matter be excluded from the mails, its transportation in any other way can not be forbidden by Congress."

Liberty of the press, as meant in the Constitution, is not merely liberty to the proprietor or editor, but extends to all who may desire to use it as a means of communication or advertisement, and the test of the legality of this communication or advertisement is the law of the State where it is printed and Congress has no power over it, and having no such power can not interfere with it or its circulation, which would be an abridgment of the freedom of the press as against both those interested in the paper and those interested in the contents. "Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without the circulation the publication would be of little value."—*United States Supreme Court*.

And having no such power it can not indirectly discriminate against it by withdrawing from it a privilege or legal protection necessary to its existence or usefulness, and especially under a delegated power in the Constitution held in trust, as it were. It will be a sorry day when Congress, outside of any question of absolute constitutional authority, undertakes to discriminate as between matters in the States, where one has one policy and another a different one in regard to matters at least not *malum in se*.

The Supreme Court in *McCulloch vs. Maryland* (4 Wheaton, 426), in denying the power of the State of Maryland to tax a bank created by Congress, said: "The States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted

by Congress to carry into execution the powers vested in the General Government."

This is and was not only good doctrine, but is a principle absolutely essential to the maintenance and existence of the General Government, and the converse is equally as true and as necessary to the existence and maintenance of the States, and if Congress, in its supremacy, can indirectly undermine, discriminate against, and in effect destroy the legislation of the States in matters exclusively reserved to the States, our system is destroyed, the rights of the States under their reserved powers practically ended, and the Government is centralized, with the States mere figure-heads. To apply it: If a State, for purposes of revenue or from policy, desires to establish, tolerate, or legalize lotteries, which it has an undenied and undoubted authority to do, and which is a matter over which Congress has no earthly concern, and then Congress can, by indirection, through the exercise of another power, practically nullify and invalidate this action and make criminals of those within that State that do the customary and essential acts to its existence and prosperity according to its design and the law of the State, then the States might as well go out of business and cease to exist.

The claim and exercise of power always increases and never decreases. I am opposed to the continual encroachment by Congress upon the field of State domain, under one excuse and another, and the tendency to accomplish desired ends over matters that we have no constitutional power over or in relation to by indirection and through the exercise of some other power, and, upon the other hand, am equally jealous of the powers of Congress, which should, however, not be extended beyond the letter and spirit of the Constitution, but which should be zealously maintained within that scope, exercised fearlessly and independently by Congress and neither be surrendered nor, what is worse, delegated.

I do not deem it necessary in the limit of a report to discuss each of the propositions stated as infirmities in this bill. Their statement brings them to notice both for consideration and discussion.

Probably the most vicious provision of this bill is that one providing that for depositing or sending by mail, or so causing to be done, anything in violation of the act, which would include newspapers containing an advertisement for a lottery, a list of drawings, or the result even of a drawing at a church fair, or the same matters in a letter or postal card, a fine and imprisonment shall be imposed, and allowing the indictment, trial, and punishment either in the district where the mailing was done or delivery made. Every honest man should repel any such provision, and the press of the United States should bring its great power to bear in condemnation of it. It is freighted with tyranny and oppression, and will be the engine of gross outrages. The complaint against the King of Great Britain in the Declaration of Independence, that he had transported our people "beyond seas to be tried for pretended offenses," will need new enunciation, and never existed as a fact to an extent invited by this provision.

It is supported, I understand, in analogy to the law of libel which it is claimed so permits prosecutions, but there are a variety of reasons why this analogy affords no justification. Even if the common law so permits in one case, and the cases are analogous, is no reason why we should by express enactment enlarge a wrong principle. However, there is no analogy, and if made analogous I should not object. A libel is a publication founded in malice, and no lawyer would claim that a publication entirely innocent and harmless where made could be made the subject of a prosecution in another jurisdiction where it might happen to be otherwise and when it was sent there with no malice. But this act proposes to do just this absurd thing and make the publisher of a newspaper containing a notice or advertisement of a lawful, legitimate business where printed liable to criminal prosecution and penalties in every jurisdiction to which his paper may be sent to a subscriber.

In the benighted State of Iowa in case of a tie vote for public office the prize is determined by lot and chance, and I see no reason why the publisher of every paper who announces the drawing and the winner of the prize is not subject to prosecution under this bill for every copy of his paper that he sends to any part of the United States. It will be found that the same absurd results follow in many instances.

The provision giving the Postmaster-General autocratic powers "upon evidence satisfactory to him" in relation to matters affecting lotteries is bad enough and entirely out of keeping with the principles of free government based on the rights, among others, of every man to demand that he shall not be deprived of life, liberty, or property without due process of law, and to demand the constitutional guaranty that he shall be secure in his papers and effects against unreasonable searches and seizures. But this is a small matter, both in principle and probable practical results, compared with the provision giving such power where this official may think or assume to think that a person "is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises."

In view of the character of this proposed legislation, I recommend that the bill be not passed, and, in view of the fact that we already have a sufficiency of legislation upon the subject, see no necessity for even attempting to improve it by amendment. If the present laws need any amendments to perfect them or their workings, I submit that it should be done by itself, and have, what this bill has not had, first consideration in the proper committee.

WALTER I. HAYES.

THE SPEAKER pro tempore. If the gentleman from Iowa [Mr. HAYES] and the gentleman from Illinois [Mr. HOPKINS] can agree upon the time that they desire for general debate, the Chair will be glad to carry out their arrangement and to recognize the gentleman from Iowa [Mr. HAYES] to control the time upon the one side and the gentleman from Illinois [Mr. HOPKINS] to control the time upon the other.

Mr. HAYES. Will the gentleman from Texas [Mr. CRAIN] state how much time he wants upon this pending amendment?

Mr. CRAIN. I suppose about fifteen minutes.

A MEMBER. How much time has been already consumed?

THE SPEAKER pro tempore. The Chair understands that there has been about an equal amount of time occupied by those in favor and by those who are opposed to the bill.

Mr. HAYES. How much time remains?

THE SPEAKER pro tempore. There has been no limit fixed.

Mr. HAYES. Is fifteen minutes on each side sufficient time on this particular amendment?

Mr. CRAIN. Yes.

Mr. BLOUNT. I understood, Mr. Speaker, that the gentleman from Indiana [Mr. CHEADLE] had the floor. What was the announcement of the Chair with regard to the time?

THE SPEAKER pro tempore. The gentleman from Indiana [Mr. CHEADLE] has the floor, but he suspended a moment to see if an arrangement could be agreed upon as to the time to be occupied in gen-

eral debate. There are two hours and fifteen minutes remaining for general debate, and the Chair will recognize gentlemen alternately on each side if no other arrangement is agreed upon. The gentleman from Indiana [Mr. CHEADLE] has the floor.

Mr. BUTTERWORTH. Mr. Speaker, before my friend from Indiana proceeds, I would like to hear the amendment read which was proposed by the gentleman from Pennsylvania [Mr. BUCKALEW].

The Clerk again read the amendment.

Mr. HAYES. Mr. Speaker, has any arrangement been come to as to the time?

The SPEAKER *pro tempore*. Under the rule adopted the Chair understands that the previous question must be considered as ordered at forty minutes past 4 o'clock.

Mr. HAYES. I ask unanimous consent that fifteen minutes be given to the consideration of the amendment of the gentleman from Texas [Mr. CRAIN] and the amendment to that offered by the gentleman from Pennsylvania [Mr. BUCKALEW].

Mr. HOPKINS. If the gentleman from Iowa [Mr. HAYES] will give me his attention, I think we can agree upon this amendment, because we upon this side are willing to accept the amendment offered by the gentleman from Pennsylvania [Mr. BUCKALEW] to the amendment of the gentleman from Texas [Mr. CRAIN].

Mr. BLOUNT. I hope the gentleman will not do that. The gentleman will see that by such a course he is attempting to do that with the Department which never has been done before, to restrict its action by rules of evidence. I do not think that is good policy. I think it is better to leave the Department without any such rules.

The SPEAKER *pro tempore*. The gentleman from Iowa [Mr. HAYES] asks unanimous consent that fifteen minutes upon each side be allowed for the discussion of the amendment of the gentleman from Texas and the amendment to that amendment offered by the gentleman from Pennsylvania [Mr. BUCKALEW].

There was no objection, and it was so ordered.

Mr. CHEADLE. Mr. Speaker, I wish to call the attention of the House, and especially of my colleague on the committee, the gentleman from Georgia [Mr. BLOUNT], to the language of the report in reference to this particular provision of section 2, which I think makes perfectly plain the intention of the law. He is aware, and so are other members of the committee who have heard the evidence, of the difficulty with which the Department has heretofore been confronted in dealing with this problem. When the existing law was enacted it reached the firm of M. A. Dauphin & Co., the principals of this lottery scheme, and it has been enforced faithfully against that firm; but, notwithstanding the existence of the statute and its rigid enforcement, it has failed to meet the case and suppress the evil, and why? Because the firm of M. A. Dauphin & Co. appointed four national banks in the city of New Orleans as their agents, and these remittances of registered letters, money-orders, and postal notes were made to those banks, and they are going there by thousands and scores of thousands every week. The Department has full knowledge of that fact, but under the existing law it can not correct the evil, and the provision of this bill which the gentleman from Texas [Mr. CRAIN] proposes to strike out is the very life of the section, because it fixes the acknowledgment of the agency, so that the Department can make no mistake in acting upon it.

Now, what does this bill provide shall constitute an acknowledgment of agency? Why, sir, an agency may be acknowledged in various ways; and this bill provides that when any person, firm, bank, or corporation is publicly advertised in the great newspapers of the country as acting as the agent of this lottery company, the permission of such advertisement of such person, firm, bank, or corporation shall be taken by the Government as an acknowledgment of their agency; and when that occurs it is proposed the Government of the United States shall do what? Return to the sender all registered letters and all money-orders issued and mailed to such person, firm, bank, or corporation thus advertised as the agent of a lottery company. It does seem to me, Mr. Speaker, that this is the very life and soul of the law, and necessary if we shall suppress this evil. The report, after setting out the defects of the existing law, to which I have alluded, states:

The substitute bill proposes to cure these defects by including within its provisions any agent or representative of the lottery company acting as an individual, or as a firm, bank, corporation, or association of any kind, and declaring that the published advertisement by a lottery concern that remittances for it may be made to "any other person, firm, bank, corporation or association" shall be held to be an acknowledgment of the existence of said agency by all the parties named therein." If enacted—

Says the report, and it contains all that need be said to the House on this question—

If enacted it would permit the Postmaster-General to deny to any person, bank, or other concern that acts as an agent of the lottery company, the benefits of the registry and money-order systems, and would result in compelling the lottery company to obtain remittances through express companies or other similar channel.

Mr. CUMMINGS. The gentleman says it is proposed to return the letters to the writers thereof?

Mr. CHEADLE. Yes, sir.

Mr. CUMMINGS. Under this bill how are you to ascertain the writers of the letters? The bill expressly states that no postmaster or other person shall be authorized to open any letter not addressed to himself.

Mr. CHEADLE. This section of the law, I will say to the gentleman, deals only with registered letters and money-orders, and in all such cases the sender is known.

Mr. HAYES. I yield five minutes to the gentleman from Texas [Mr. CRAIN].

Mr. CRAIN. Mr. Speaker, the gentleman from Illinois [Mr. HOPKINS] and the gentleman from Ohio [Mr. BUTTERWORTH] have asserted that the Louisiana Lottery Company is a gigantic corporation possessed of abundant means and that it will be financially responsible to any individual whom it may advertise as its agent, if such advertisement should work detriment to him. I do not understand that the question of financial responsibility is involved in this measure. My understanding is that the bill is aimed, not at any particular corporation, not at any individual scheme in this country or out of it, but at all of these enterprises which have for their object the acquisition of money by false pretenses, as stated in the report of the committee.

Such being the case, the question for us to consider is the principle that underlies the proposition involved in the portion of the bill which I propose to strike out. It is immaterial to me whether a lottery company or a company engaged in any other scheme which may advertise me as its agent is financially responsible or not. The attempt to enforce redress from the company would involve litigation that would put me to expense. The real question is this: Am I to be deprived of my money-orders and my registered packages because some individual or corporation—not the Louisiana Lottery Company alone, but any corporation or individual in this broad land—that chooses to engage in an illegal enterprise, may advertise me as its agent *volens volens*?

The proposition involves no question of acquiescence, no question of knowledge; but I am condemned to be punished unheard. The mere fact that an individual who may be my enemy, or who, for some reason best known to himself, may desire to injure me, chooses to advertise me as his agent, he being engaged at the time in an illegal enterprise, subjects me to punishment. How? By depriving me not only of such mail as may be addressed to me in my capacity as agent, but of all my mail that is registered. That is the legitimate trend, scope, aim, and purpose of this proposition—

The gentleman from Ohio—inadvertently I know—stated that the bill would not operate in the manner I have indicated, because it carries a provision that only such registered packages as are addressed to the person as agent should be marked "fraudulent." Such is not the case—

Mr. BUTTERWORTH. I understood my friend to say the letters or packages might be opened.

Mr. CRAIN. Oh, no; I never said that, because I know that is the real reason why the Postmaster-General has not been able thus far to suppress these lotteries. A man's sealed letter the Supreme Court of the United States has decided to be as secure from violation, except upon warrant issued on oath or affirmation, as any of his private papers in his house; and this very bill states that there shall be no right vested in the Postmaster-General or anybody else to open any letter not addressed to himself. So that the question of agency raised by my friend from Ohio has nothing to do with the proposition embraced in this feature of the bill; and he himself admitted it when he read the bill and discovered there was no such provision as he had suggested.

Now, a word in reply to my friend from Indiana [Mr. CHEADLE]. He says there are various ways of appointing agents. I do not believe he is a lawyer—

Mr. CHEADLE. I said there are various ways of acknowledging an agency.

Mr. CRAIN. I do not believe he is a lawyer, or he would not maintain on the floor of this House that any man can be constituted an agent without his own acquiescence. Such a thing has never been known, legally or constitutionally, in the history of any civilized nation. The idea that you, living in Louisiana and conducting a lottery, shall have the right to constitute me your agent by publishing in the Louisiana papers the fact that I, living in New York or Texas, am your agent, is a perfect absurdity; and in saying this I mean no disrespect to my friend from Indiana, but am simply characterizing the position which he assumes.

You can not constitute or legally create any man your agent unless he acquiesces in the appointment and accepts such agency.

Now, one word more, Mr. Speaker. I suggest to the gentleman in charge of the bill—

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. CRAIN. Give me a minute longer. I ask unanimous consent for one minute longer. I hear no objection. [Laughter.]

As was suggested by my friend from Georgia, this proposition is entirely unnecessary, although, as all legislation is a compromise, I have told the gentleman in charge of the bill that I am willing to accept the amendment offered by the gentleman from Pennsylvania rather than have the proposition remain in the bill as it is. But if he will look at the beginning of section 2 he will find it provides that—

The Postmaster-General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, etc.

So that the Postmaster-General has ample authority under that provision. Now, the only evidence required in the original section is that it shall be satisfactory to him. Why then add a proviso as to the character of the evidence which shall control his action?

Mr. DINGLEY. But that expression refers to what constitutes the lottery, not the agent.

Mr. CRAIN. No; it says "agent or representative" in the body of the section.

Mr. DINGLEY. I think, if my friend will read it carefully, he will find he is mistaken.

Mr. HOPKINS. I yield three minutes to the gentleman from New Hampshire [Mr. MOORE].

Mr. MOORE, of New Hampshire. Mr. Speaker, the provision of the bill which the gentleman from Texas proposes to strike out is, in my judgment, the vital part of the bill, and if stricken from it the force of the measure is destroyed.

The trouble that has been found by the Post-Office authorities in suppressing the Louisiana lottery is because of the remittances by registered letter to the First National Bank of New Orleans in place of directly to the company, and the Department has found under existing law that it can not stop the transmission of the registered letters to that bank, and therefore the Louisiana lottery has turned over all of its registered letters, by public advertisement, to the First National Bank of New Orleans; and I hold one of these public advertisements in my hand which provides for addressing registered letters containing currency to the First National Bank of New Orleans, La.:

Address registered letters containing currency to New Orleans National Bank.

Now, this same bank appears upon the lottery tickets of the Louisiana Lottery Company as their guarantor for the payment of the prizes which may be drawn, and I hold that guaranty also in my hand. I repeat, therefore, that if you strike out or change this provision in the bill in any material respect, you take from the bill the vital part, which the Post-Office Department has prepared with great care, and which will give them power to stop registered letters sent to this First National Bank in New Orleans, and unless you pass this provision in the precise shape in which it is drawn, it will raise the question whether Congress intended to cover the entire enterprise or not.

No gentleman appears in opposition to the bill—we are told that all are in favor of it—and therefore it raises the violent presumption that the only opposition to it would come by some insidious and covert amendment; and I want gentlemen on this floor, if they mean to crush this hydra-headed monster, which is demoralizing the young, the poor, and the needy throughout the country, as no other institution in America has ever done, to beware of the insidious suggestions involved in the amendment of the gentleman from Texas.

The favor with which lotteries were regarded both by Congress and by some of the States for the first forty years of our history was largely due to the French code of morals, based on the toleration of vice rather than on its suppression.

One of the earliest records of this vice shows its relation to a corrupt era of the state.

The worst of the Roman tyrants were wont to excite and amuse their abject subjects by offering houses and slaves as prizes in lotteries. The fifteenth century saw their revival in Europe. They appeared almost simultaneously in Italy, France, Belgium, Denmark, Germany, and England. The device was usually employed to raise the revenue necessary for some public work or to aid in floating the bonds issued by the Government for war purposes, as was the case with France in the method employed to pay the cost of the Spanish succession war. They are still employed by Austria, Italy, Spain, and some of the second-rate German States as indirect aids to revenue.

This species of gambling, when once authorized and encouraged by the state, spreads with great rapidity.

In Europe, in the first quarter of this century, so corrupting to the morals of the people did it become that statesmen became alarmed. Lord Lytton in England and Turgot in France condemned it and urged its suppression. Under the influence of Lytton lotteries were suppressed by act of Parliament in 1826, and through the influence of Turgot and the Bishop of Autun the royal lottery in France, whose income rose to nearly a million dollars annually, was suppressed in 1836. Belgium had already prohibited lotteries in 1830.

The change of policy in Europe touching this species of gambling was simultaneous with a similar change in America.

One of the first States to become aroused to the enormity of this evil was New Hampshire. That State enacted a prohibitory statute in 1791, and again the subject was sharply brought to the attention of the Legislature as early as 1827 by Governor Pierce, father of the late President Pierce. A more stringent prohibitory statute was enacted which has remained on the statute-books of that State to this day.

Pennsylvania and Massachusetts passed similar statutes in 1826, New York enacted similar legislation in 1833, Connecticut in 1834, Maryland in 1836, and Virginia in 1837. Many of the new States have prohibited lotteries in their organic law. Even the constitution of Louisiana declares that "gambling is a vice and it shall be the duty of the Assembly to enact laws for its suppression."

The course of judicial decisions touching this evil has kept pace with the action of the States and has been signally progressive and effective.

The first notable decision was made more than forty years ago, Mr. Justice Grier delivering the opinion, in the course of which he said:

Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infest the whole community; it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; and it plunders the ignorant and simple. (*Phalen vs. Virginia*, 8 Howard, 163.)

The statutes of Virginia suppressing lotteries were fully sustained by this decision.

As early as 1826 Massachusetts prohibited the advertising of lotteries in newspapers, and the same year the publisher of the *Evening Gazette*, of Boston, was found guilty of violating the statute. This is the first case noted. (*Commonwealth vs. Clapp*, 5 Pick., 41.)

In *The People vs. Sturdevant*, the next leading case, which arose in New York, the defense was that the lottery company whose ticket was sold was authorized by the statute of Delaware.

The opinion in this case vigorously announced that Delaware—has no extra-judicial jurisdiction. Its laws are of no binding force in any other State. (*The People vs. Sturdevant*, *Wendell*, 23, 420.)

In *Commonwealth vs. Dana* (2 Metcalf, 329) the justice announcing the opinion declared that "the laws of Rhode Island, or any other State, have no force in this Commonwealth." In the same case it was held that the statute was constitutional which authorized a search and seizure of lottery tickets.

The People vs. Charles (1 New York, 1880) found the publisher of the *Wall Street Reporter* guilty of publishing a lottery advertisement. This case arose in 1875.

In 1883 the supreme court of New Hampshire (*State vs. Moore*, 63 New Hampshire, 9) unanimously sustained the statute prohibiting the advertising of lotteries, though the lottery company in question had been incorporated by the Legislature of a sovereign State.

But the most striking and far-reaching opinion yet delivered on this subject was rendered by the late Chief-Justice Waite, in *Stone vs. Mississippi*, *United States Reports*, 101, 818.

In that opinion the Chief-Justice lays down the doctrine that—

No Legislature can bargain away the public health or the public morals. The people themselves can not do it, much less their servants. The supervision of both these subjects of governmental power is continuing in its nature and they are to be dealt with as the special exigencies of the moment require. Government is organized for their preservation and can not divest itself of the power to provide for them. For this the largest legislative discretion is allowed, and the discretion can not be parted with, any more than the power itself.

Lotteries—

Continues the Chief-Justice—

are a species of gambling, and wrong in their influences. They disturb the checks and balances of a well ordered community. Society built on such a foundation would almost of necessity bring forth a population of speculators and gamblers, living on the expectation of what, by the casting of lots or by lot, chance, or otherwise, might be awarded to them from the accumulation of others. Certainly the right to suppress them is governmental, to be exercised at all times by those in power, at their discretion. (*Idem*, 820, 821.)

These are profound and significant words. They are the warning voice of all history, as well as the statement of the highest judicial truth, enforcing the lesson which is written in the ruins of empires and republics, cities and peoples, borne down and blotted out by their self-imposed partnership with vice and crime.

Under the steady legislation of the States and the uniform decisions of the courts, this most formidable species of gambling had been nearly extirpated in this country until the rise of the Louisiana lottery.

Gambling as a national vice had nearly died out in this country, and no people were more free from it than the people of the United States. The Louisiana Lottery Company was chartered by the Legislature of Louisiana in 1868, for twenty-five years from January 1, 1869. It has more than four years yet to run, its charter expiring December 31, 1894.

This is a private corporation and its affairs are veiled in the greatest secrecy. The number of its stockholders is not known, but they are believed to be less than twenty in number. Some five or six control the great majority of the stock.

All the proceedings and workings of the company are carefully concealed from the public. Four national banks in New Orleans (The Louisiana National Bank, The State National Bank, The New Orleans National Bank, and The Union National Bank) guaranty the prizes drawn.

The stock of the company embraces 12,000 shares at a par value of \$1,200,000. Owing to the large dividends paid by the company the shares are quoted at \$1,200, or an aggregate of \$12,000,000.

The dividends are believed to exceed, on the average, 100 per cent., and last year, I am informed, the dividends were 170 per cent.

This dividend, large as it is, represents only half of the profits of the company for a single year. The other profits go to certain preferred stockholders, very few in number.

The following has been furnished me as the actual financial exhibit of the company as now conducted:

LOUISIANA LOTTERY COMPANY.

Ten drawings per annum—two special drawings.

INCOME.	
Ten drawings, 1,000,000 tickets at \$20 each.....	\$20,000,000
Two drawings, 100,000 tickets at 40 each.....	8,000,000
	<hr/>
	28,000,000
EXPENSES.	
Prizes, ten drawings.....	10,548,000
Prizes, two semi-annual drawings.....	4,219,200
Commissions to agents.....	2,000,000
Advertising.....	2,000,000
All other expenses.....	1,000,000
Net profits.....	8,232,800
	<hr/>
	28,000,000

In this exhibit no account is made of the daily drawings, the exact figures of which are not obtainable, but they exceed \$2,000,000 annually, making the enormous annual income of \$30,000,000, or twice the sum that was paid Napoleon by Jefferson in 1801 for the entire Louisiana Purchase.

The remarkable thing about this lottery is the fact that 93 per cent. of the income is derived outside the State of Louisiana, from the other States of the Union and the Territories. There is not a city or considerable village in the country which does not contribute to the enormous revenues of this gigantic gambling concern. It was the boast of the champions of the company in the recent struggle before the Louisiana Legislature that it was "enriching the State by millions."

Were the Louisiana lottery to become extinct on the expiration of its charter in 1894, the country might consent to be plundered in the interim, but recent events of a startling character have rendered even such a consummation improbable if not impossible.

After one of the most furious and humiliating struggles that have ever occurred before a legislative body, both branches of the Louisiana Legislature, by a two-thirds vote of each house, decided to submit a constitutional amendment to the people, at an election in 1892, which proposes to "carry the charter of the Louisiana Lottery Company up to the year 1919."

It is true that Governor Nicholls, the honest and intrepid executive of Louisiana, vetoed the act, and it failed in one branch of the Legislature, by the sudden death of a member, to pass by the necessary two-thirds vote over the veto.

It is boldly claimed by the champions of the lottery company that the amendment is carried without the approval of the governor and that his veto is a nullity.

However this may be, the country is threatened with a long continuance of this monstrous corporation which exists only to plunder the weak and unwary, to corrupt the young and ignorant, and to spread broadcast the delusive and debauching doctrine that gambling is a surer road to livelihood than patient and honorable industry.

The States are powerless to extirpate the Louisiana lottery. They are powerless even to protect themselves from its insidious brigandage. They have exhausted their resources. The mails, the national banks, and the channels of interstate transportation are controlled by the national authority and by national authority alone. The national Congress and the national Executive are alone equal to the overthrow of this pestilent corporation, which has become the richest, the most audacious, and the most powerful gambling institution that the world has ever known.

Mr. BLOUNT. I regret very much that the gentleman who has just taken his seat could not rest himself upon a fair discussion of the question without throwing into it an intimation that there is an insidious purpose on the part of anybody in connection with the bill. So far as I am concerned, I fling it back as utterly false. I shall discuss any public measure according to the dictates of my own conscience and my understanding and intelligence, and with this end in view I propose now to examine the objections the gentleman has made to the amendment under discussion.

I have been advocating this class of legislation for four years. My criticism in relation to the section has been simply this: That the proviso which my friend proposes to strike out, if left in, is simply a restraint upon the power of the Postmaster-General. The opening section of the bill declares that the Postmaster-General "may, upon evidences satisfactory to him," do such and such things. That is to say, he may take the evidence in this proviso as a rule, or take any other rule he sees fit, to reach a conclusion by. Now, if that be true, then what next? Why, under existing law the difficulty rises in this way, as shown by the reports accompanying the bill:

The Louisiana State Lottery Company met the order of the Postmaster-General by announcing that thereafter registered letters and money-orders could be sent to the New Orleans National Bank, and thereupon the Postmaster-General issued a subsequent order prohibiting the delivery of registered letters and the payment of money-orders to said bank. The bank sought an injunction of the court to restrain the postmaster at New Orleans from enforcing this order, which was granted, and from that time until the present such deliveries and payments have been made to that bank without let or hindrance—

Why?—

for the reason that it was believed that the authority of the Postmaster-General, under the existing provisions of law, was not sufficient to justify him in declaring that a delivery to the bank was a delivery to the lottery company, and such a delivery as was prohibited by law.

But before you reach this provision, sir, you have this:

Sec. 2629. The Postmaster-General may, upon evidence satisfactory to him

that any person or company is engaged in conducting any lottery, gift enterprise, or scheme for the distribution of money, or of any real or personal property by lot, chance, or drawing of any kind, or that any person or company is conducting any other scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, instruct postmasters at any post-office at which registered letters arrive, directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an individual or as a firm, bank, corporation, or association of any kind, to return all such registered letters to the postmaster at the office at which they were originally mailed, with the word "Fraudulent" plainly written or stamped upon the outside thereof; and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster-General may prescribe.

You have not reached the part proposed to be stricken out, but you have reached the law authorizing him to cut off the bank. You have reached the provision which enables him to cut off the New Orleans First National Bank or any other institution of the same character. You have vested him with all the power that the situation you have depicted requires.

I will vote for this measure even if the House shall not concur with me in regard to this amendment, but my purpose is to preserve to the executive department of this Government that discretion, unrestrained by rules of courts, which enables them efficiently and wisely to administer the great departments of the Government. That is all I want.

Mr. DINGLEY. Now, as the gentleman has some time, I want to ask him a question. It is this: I understand the gentleman to say that under this section 2 the Postmaster-General may, upon evidence satisfactory to him, etc., determine as to the agency. Now, is that true? Does the bill say so?

Mr. BLOUNT. Yes.

Mr. DINGLEY. Now, as I understand, the "evidence satisfactory" to him refers to the determination that any person or enterprise is a lottery; but the agency must be determined by the rules of law.

Mr. BLOUNT. My friend will have to read the whole section to find out about that.

Mr. DINGLEY. Is not that so? Because that is the vital point this discussion turns upon.

Mr. BLOUNT. My friend and I do not understand it alike. The difficulty with the law as it now stands, as the report says and the Departments say, grows out of the fact that there is nothing in the statute applying this authority to national banks, and this section, in lines 16 and 17, expressly inserts it. Now, Mr. Speaker, I do not understand, if what the gentleman says be true, that it has any effect on this argument.

The proposition is to strike out a certain rule of evidence. It does not relate to the character of the agent, but to strike out a certain rule of evidence by which he is held responsible for the action of another. If gentlemen can not agree with me in relation to this matter, then I ask, in the interest of the Executive Department, that if the amendment of my friend from Pennsylvania is to be accepted by this House this shall be added to it:

But the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any way.

A MEMBER. In any legal way?

Mr. BLOUNT. In any legal way.

Mr. HOPKINS. I will say to my friend from Georgia that the suggestion I made—

The SPEAKER *pro tempore*. The time of the gentleman from Georgia has expired. The gentleman from Iowa yields three minutes to the gentleman from Pennsylvania [Mr. BUCKALEW].

Mr. BUCKALEW. Mr. Speaker, I have only a word to say. We must remember that this is a general law, not applicable specially to the Louisiana lottery, but to gift enterprises and to various matters that may arise hereafter in the history of the country. Now, it is abhorrent to reason and sound sense, to every legal principle which has obtained in this country and in all free countries, to render one man liable for the act of another, to bind him by the act of another; but upon the face of this bill I find that objectionable feature, and I move to strike it out. I propose that we shall amend the text of the bill by providing that a publication in a gazette, which presumptively reaches or may reach the whole community, will raise a presumption against the alleged agent mentioned. That is all.

Mr. CHIPMAN. A *prima facie* presumption.

Mr. BUCKALEW. A *prima facie* presumption. That will not impair the efficiency of this bill. It will not prevent the Postmaster-General or his subordinates from acting under this bill and executing it to the very letter; but it puts the bill in reasonable, decent, and proper form, and in that form I think this provision a reasonable one and necessary to the execution of the law. If it shall be so amended I shall not object to it. I am not in favor of striking it out.

Mr. HAYES. I yield the balance of my time to my colleague from Iowa [Mr. KERR].

Mr. KERR, of Iowa. Mr. Speaker, the insinuation that I am not in sympathy with this proposed legislation or that members have sinister motives in striking out this amendment I think is not warranted, certainly not against the gentleman from Georgia [Mr. BLOUNT], and it ought not to be against myself. I made the suggestion that this change ought to be made, and I will say that I am in full sympathy with the

strongest kind of legislation that ought to be adopted, in conformity with the rules of law, against these lotteries. But while it is sometimes considered admissible, in view of the difficulty of proving a case, to declare that certain things shall be presumptive evidence against certain individuals, I have never heard it claimed anywhere, or by any legislative body in my life before, that a certain thing should be declared conclusive evidence against anybody.

This law makes certain things absolutely conclusive in regard to certain points, and we ought not to pass any such law. Now, to declare that the advertisement by the Louisiana Lottery Company that a certain person is an agent shall be presumptive evidence of the agency, is perfectly proper, but to declare that such an advertisement shall be conclusive upon that person, is not proper.

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

Mr. KERR, of Iowa. If I had the time, I would. If it is only a short question, I will.

Mr. GROSVENOR. It is a very short question. Is it not conclusive evidence against the lottery that they themselves have indicated such a person as an agent?

Mr. KERR, of Iowa. Certainly.

Mr. GROSVENOR. Has anybody else any interest in that question except the lottery company?

Mr. KERR, of Iowa. Any person who receives mail is interested in it. Any person who receives mail has an interest in not giving the lottery company the power to declare beyond the hope of contradiction that he is doing an illegal business, and that, therefore, his mail shall be suppressed. Now, the only object of this section is to give the postmaster authority over the mail or over any person receiving mail which may be addressed to him by any one in the United States; and if he is to be estopped absolutely from denying anything, if he is to be estopped from showing that he is doing a legitimate business, if the action of some other person is to be held as an acknowledgment against him, it will be a great injustice to the citizen. But it is no great injustice to say that the advertisement of the company that he is an agent is presumptive evidence of his agency.

Mr. HILL. Right there, if the gentleman will permit me.

Mr. KERR, of Iowa. Certainly.

Mr. HILL. Is there any way of getting rid of that acknowledgment after it once obtains?

Mr. KERR, of Iowa. It is a matter that rests exclusively with the postmaster. [Cries of "Vote!" "Vote!"]

The SPEAKER *pro tempore*. The gentleman from Illinois has five minutes remaining.

The gentleman from Ohio [Mr. KENNEDY] desires to present a report from the Committee on Enrolled Bills.

DAVID L. TRUEX.

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the bill (H. R. 5107) for the relief of David L. Truex; when the Speaker signed the same.

LOTTERIES.

Mr. HOPKINS. Mr. Speaker, I am sure that the gentleman from New Hampshire [Mr. MOORE] in making the remark he did to the House had no intention to cast any reflection on the gentleman from Georgia [Mr. BLOUNT] or the gentleman from Iowa [Mr. HAYES] or any person who has spoken upon the opposite side. I know personally that the gentleman from Georgia has been as earnest and zealous a friend of this bill as any member of the Committee on the Post-Office and Post-Roads and I know that the gentleman from Iowa has always advocated such measures as would stop matter of this kind from being transmitted through the mails.

But I think what he desired to say, and what I desire to reiterate, is the fact that these arguments being urged in favor of the amendments which are now pending before the House were liable to have the same effect upon the bill that open and determined opposition might have. This bill has been carefully prepared by the Post-Office Department. It has passed the inspection of the Attorney-General. It has also been considered by the Post-Office Committee of the Senate, which is composed in part of some of the ablest lawyers in that body, and they all concur that this section which is proposed to be stricken out shall remain in the bill and become a part of the law.

Now, it is unnecessary for me to state to members of the House that this bill is drawn in view of the experience that this Department has had in dealing with this lottery company in Louisiana. It is directed against that and all other institutions of like character.

Mr. BLOUNT. Will the gentleman allow me a question?

Mr. HOPKINS. Yes, sir.

Mr. BLOUNT. Taking into consideration that you have in line 16 the words "as an individual, or as a firm, bank, corporation, or association of any other kind," what difficulty is there that the authority given in the first two lines to the Postmaster-General is not ample to restrain payments of money-orders to any bank or other agent?

Mr. HOPKINS. I think the gentleman from Maine has already answered the gentleman from Georgia on that question. The authority given to the Postmaster-General seems to relate to the corporation itself, but not to the extent of an agent. At least, the development of

the debate here shows that there is doubt upon that question, and that doubt will be taken advantage of by the corporation, who will drag the Department into litigation. Now, what we propose to do in this bill is to make it so clear and so conclusive as to the duties of the Postmaster-General that he who runs can read the power and authority here granted.

The objections raised by the gentleman from Texas are purely suppositions. In the very nature of things they can not and will not exist. He puts up a man of straw here, and then attempts to make an argument to knock him down in order to defeat the very purposes of this bill. In the litigation—

Mr. CRAIN. Now, Mr. Speaker, I desire to interrupt the gentleman right there.

Mr. HOPKINS. I yield to the gentleman.

Mr. CRAIN. I wish to dispute his last statement. I made no effort to strike out a part of the bill for the purpose of defeating the bill.

Mr. HOPKINS. I will modify my expression in that respect; but say that that would be the logical effect of his proposition.

Mr. CRAIN. That may be. I expect to vote for the bill; but I did not want even to vote for the suppression of immorality in an illegal way.

Mr. HOPKINS. Inasmuch as this bill has passed the inspection of the Attorney-General, of the Post-Office Department, and of the Committee on the Post-Office and Post-Roads of the House and the Senate, I think it is better for us to pass it as it is than to enter upon an unknown sea upon this question.

The SPEAKER *pro tempore*. The time of the gentleman has expired. Debate upon the pending amendments is exhausted, and the question recurs on the amendment of the gentleman from Pennsylvania.

Mr. ROGERS. I desire to inquire whether I am at liberty to offer an additional amendment at this time.

The SPEAKER *pro tempore*. There are two amendments pending. Mr. ROGERS. What are they, Mr. Speaker?

The SPEAKER *pro tempore*. The Clerk will report the amendment of the gentleman from Pennsylvania, upon which debate has been exhausted.

The Clerk read as follows:

In page 4, in lines 29 and 30, strike out the word "acknowledgment" and insert in lieu thereof the words "prima facie evidence."

The SPEAKER *pro tempore*. When these amendments are disposed of, further amendment will be in order.

Mr. ROGERS. I want to be heard, if I can, at this particular point, and I would like to have five minutes for further discussion.

The SPEAKER *pro tempore*. Debate, by order of the House, has been limited upon these two amendments.

Mr. ROGERS. I was present, but did not so understand.

Mr. HAYES. I ask unanimous consent that the gentleman from Arkansas be allowed five minutes.

Mr. ROGERS. I ask unanimous consent that I may occupy five minutes, as I have not occupied any time on this question.

The SPEAKER *pro tempore*. The gentleman from Arkansas asks unanimous consent that he be allowed to debate these amendments for five minutes. Is there objection?

Mr. HILL. I would suggest that it be made ten minutes. I would like to be heard on the same proposition.

The SPEAKER *pro tempore*. The gentleman from Illinois asks that it be made ten minutes, five minutes to be controlled by the gentleman from Arkansas [Mr. ROGERS] and five minutes by the gentleman from Illinois [Mr. HILL]. Is there objection to the request? The Chair hears none.

Mr. ROGERS. Mr. Speaker, I take the floor for a double purpose. First, I want to combat the suggestion of the gentleman from Illinois who last occupied the floor [Mr. HOPKINS], that because a bill has originated in a Department we ought to be concluded from changing it. I give it as the result of some seven years' experience here that legislation prepared in a Department is, as a rule, more imperfect in its verbiage than that which originates anywhere else. The reason is this: The responsibility for legislation rests with Congress, and when you send down to a Department for the preparation of a bill they undertake to put their ideas into it, but they give little or no attention to the language they use. Very frequently, indeed, the preparation of one of these bills in a Department is devolved upon some clerk who, perhaps, is not the equal in legal attainments of nine-tenths of the members on this floor.

It is said also that this bill has passed the scrutiny of the Attorney-General. I suppose it has passed his scrutiny upon the sole question of its constitutionality, but nobody is attacking its constitutionality here. The Attorney-General did not draught this bill, and he probably did not critically examine it with the view of perfecting or maturing its language. Therefore, I think these two points are matters that ought not to be dragged in here for the prevention of the maturing of this measure or any other.

In view of the remark of the gentleman from Connecticut a moment ago, I will preface what I have to say further by the statement that, so far as I am concerned, within the limits of constitutional power there is no more persistent or more uncompromising enemy of the

Louisiana lottery than I am. I will do all that I can within the Constitution for the suppression of it; but when the proposition is to travel beyond the Constitution, then, of course, I stop.

Now, having said this much by way of placing myself correctly before the House, I want to add that I concur fully in the remarks of the gentleman from Pennsylvania [Mr. BUCKALEW] with reference to the language of the bill. I venture the assertion now that no gentleman on this floor can rise in his place and point to any statute, State or Federal, in this Government where the act of a third party attributing some course of conduct to another is made an acknowledgment by that other of the commission of the act attributed to him. In other words, I deny that they can point to any statute by which I am bound by what somebody else has said about me to the extent that I am to be held to have acknowledged the truth of his allegations. No such statute and no such case can be found. But the courts over and over and over again have said, where the legislators have undertaken to prescribe what shall be conclusive evidence of a given matter of fact, that they will construe that language to mean that it shall be simply *prima facie* evidence, because to say that a thing is conclusive evidence is to deny to the opposite party his day in court.

Such decisions have been made again and again with reference to tax titles, where certain acts of the Legislature have been cited as conclusive in favor of the person claiming under the tax title, and the courts have said: "No; if the man paid his taxes he can show it, and you can not preclude him from showing that he paid them, and if he did pay them everything that took place after that was wrong and erroneous in law and can not be upheld." By this bill you enable one man to make another his agent by simply announcing that he is his agent; and you make that announcement an acknowledgment of the agency on the part of the man who is so designated; and then you go on to provide that he can overturn this established fact by disavowing it.

Now, that is not the right sort of language to use in a statute. When you provide in a statute that a thing is *prima facie* evidence for all legal purposes, that is conclusive evidence until it is overthrown; but we ought not to go further than to say that certain facts shall be presumptive or *prima facie* evidence, for that is sufficient evidence to authorize a judgment unless it is overturned. Whatever is *prima facie* evidence is conclusive evidence in the absence of proof to the contrary and will sustain a judgment.

Now, by striking out these words, "an acknowledgment," and substituting in lieu thereof the words "presumptive evidence," you put your bill in technical legal language. Then, to get rid of the restriction upon the Postmaster-General which the gentleman from Georgia [Mr. BLOUNT] complains of, you can add the other amendment and say, "But the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other way satisfactory to him." Thus you leave the whole field open for his investigation, and when he ascertains the fact, whether by the advertisement of the agency or by affidavit or by any other means that is satisfactory to his mind, he has the right to exercise all the powers that you confer by the terms of this bill.

Mr. HILL. Mr. Speaker, I am in favor of the strongest law that this House can frame for the suppression of lotteries, not only the Louisiana lottery, but any other lottery now in existence or that may be hereafter put in operation; but there are one or two of the provisions of this bill which I do not favor. One of them is that which we are now discussing. It places the reputation and the business of one man in the control and keeping of another, and there is a similar provision found at the end of section 4041, relating to remittances by postal money-orders.

Both these provisions are, in substance, that if the managers or operators of a lottery or of any similar confidence game or scheme in this country shall publish me, or you, or any other man as their agent, such publication shall be conclusive evidence of such agency; and the bill makes no provision for the alleged agent getting rid of that conclusive presumption. There is nothing in this bill which authorizes the man who is advertised as the agent of a lottery to go to the Post-Office Department and say and prove that he is not such agent and thus to be restored to his rights. According to this bill the old doctrine is reversed of "once a christian, always a christian." In other words, the mere fact of the publication raises a conclusive presumption against him, and I think that no such rule ought to obtain. I think this section ought to be amended, and that section 4041 ought to be amended so as to make the advertisement of a man as an agent simply *prima facie* evidence that he is the agent of the party who advertises him as such. That is going far enough. Even that for a time places the business and the reputation of a man in the hands of the lottery company, and I think we ought not to go further than that, even for the purpose of suppressing lotteries in the United States.

In suppressing this gigantic evil let us not, in our zeal, forever blast the business and reputation of the citizen. Even the greatest criminal is not condemned unheard and without opportunity for defense; yet this bill says, in substance, that that may be done. Think of it for a moment. A lottery company, the Louisiana lottery for example, advertises a national bank in Maine or in Illinois as its agent for the sale of its tickets or the forwarding of moneys in payment for lottery tickets.

This may certainly be done without either the knowledge or consent of the bank or of any of its authorized agents, and yet this bill makes such an advertisement, in some remote and unknown paper, an acknowledgment by the bank of such agency.

More than that, this so-called acknowledgment is made absolutely conclusive on the bank. No means are provided by this bill by which such supposed agency can be disproved or disaffirmed; on the contrary, acting upon the strength of such an advertisement alone, the Postmaster-General is authorized to withhold all registered letters and money-orders of the bank from delivery through the mails. This might prove absolutely ruinous, not only to such banks, but to private individuals as well. In the name of law and justice we are asked to perpetrate a great injustice. Even a thief should not be condemned unheard; yet here we are asked to condemn, not one man, but many perhaps, on the mere say so of another. This ought not to, and I sincerely hope will not, be done.

The objection is easily remedied. Make the advertisement *prima facie*, and not conclusive, and the objection is obviated. Then a really innocent party will be permitted to prove his innocence, that he is not the agent of the lottery company, and thus escape the penalties of the law. It will not do to say that this bill has been approved by the Post-Office Department and therefore must be right. We are the law-makers, and we can not and should not evade or shift the responsibility. Let us make the bill right as we see it, and then pass it.

Mr. HOPKINS. I renew the suggestion I made awhile ago. If it will be agreeable to the gentlemen who have offered these two amendments to withdraw the first amendment, we will accept that offered by the gentleman from Pennsylvania [Mr. BUCKALEW], to change the word "acknowledgment" to "*prima facie* evidence." I make this suggestion with the view of expediting action on the bill.

Several MEMBERS. Regular order.

The SPEAKER *pro tempore* (Mr. PERKINS). The question is on the amendment of the gentleman from Pennsylvania [Mr. BUCKALEW]. Mr. BLOUNT. I desire to offer an amendment to that amendment, and I submit the proposition is in order.

The SPEAKER *pro tempore*. The Chair is informed that an amendment was first offered by the gentleman from Texas [Mr. CRAIN], to which the gentleman from Pennsylvania [Mr. BUCKALEW] offered an amendment. In the present parliamentary condition of the question, no further amendment is in order. A vote will now be taken on the amendment of the gentleman from Pennsylvania.

The amendment of Mr. BUCKALEW was read, as follows:

Strike out the words "an acknowledgment," in lines 29 and 30, of section 2, and insert "*prima facie* evidence."

The amendment was agreed to.

Mr. CRAIN. I now withdraw my amendment.

Mr. BLOUNT. I move to amend by adding to section 2 the following:

But the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other way satisfactory to himself.

The SPEAKER *pro tempore*. The question is on the amendment just offered by the gentleman from Georgia [Mr. BLOUNT].

Mr. HOPKINS. We have no objection to that.

The SPEAKER *pro tempore* (having put the question). The ayes seem to have it.

Mr. CULBERSON, of Texas. Let us have a division on that proposition.

Mr. BLOUNT. I will modify my amendment by inserting, before the word "way," the word "legal;" so as to read, "in any other legal way." I do this to meet a suggestion which is made that the amendment as originally offered might allow the Postmaster-General to open letters.

The question being taken on the amendment of Mr. BLOUNT as modified, it was agreed to; there being—ayes 46, noes 19.

Mr. HAYES. I desire to offer an amendment.

The Clerk read as follows:

Strike out all of section 1, after the word "punished," in line 34, page 2.

Mr. HAYES. Mr. Speaker, the provision which this amendment proposes to strike out allows anybody who sends through the mail anything concerning a lottery—an advertisement, a list of drawings, or anything of that kind—to be punished either at the place where the publication is mailed or at the place where delivery is made. I will ask the gentleman from Illinois [Mr. HOPKINS] whether he desires to discuss this proposition or to make any arrangement as to the time to be occupied.

Several MEMBERS. Let us vote.

Mr. HAYES. I do not desire to take a vote at once. I wish to discuss this question.

Mr. HOPKINS. Suppose we discuss it for five minutes on each side.

Mr. HAYES. I wish to occupy about ten minutes. I do not know whether any other gentleman on this side wants any time or not.

Mr. HOPKINS. Suppose we agree upon fifteen minutes on each side.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. HOPKINS] asks unanimous consent that debate on this amendment be limited.

ited to fifteen minutes on each side. Is there objection? The Chair hears none.

Mr. HAYES. Mr. Speaker, the provision which this amendment proposes to strike out appears to me the most vicious provision in the bill. Under it any one who violates the provisions of this bill in relation to the sending of a list of drawings or the advertisement of a lottery may be prosecuted anywhere in the United States to which such matter may be sent. Now, this is not as innocent a provision as it seems to be. It might cover the question of a drawing at a church fair. Again, in the State of Iowa, in the case of a tie vote for a public office, the selection of the officer is determined by lot, the same language that this bill uses; and a person in that State who might send out an announcement of the result of such a drawing by lot for the determination of the choice of a public officer might be amenable to prosecution under the provisions of this bill, might be prosecuted not only in the State of Iowa, but in any State or jurisdiction in the United States to which such paper might be sent.

Now, I say any such provision is fraught with danger and might become an instrument of tyranny. The provision ought not to be in the bill; there is no necessity for it. It is as bad as one of the grievances for which the Declaration of Independence arraigned the King of Great Britain: that he had transported our people across the seas to be tried for pretended offenses. In fact, this provision invites more trouble than ever, as a matter of fact, existed at or preceding the period of the Revolution as the ground of that statement in the Declaration.

It is claimed that we have the right to enact such a provision because in the case of libel the party may be prosecuted in any jurisdiction to which the libelous matter is sent. But, sir, there are two or three reasons why that analogy fails. In the first place, if the law of libel allows a prosecution under circumstances involving danger of great abuse, it is no reason why we should here by express statute affirm any such doctrine. Besides, there is some question in the authorities as to such being the law of libel. I say it is enough to provide that a man may be indicted, tried, fined, and imprisoned; and there we should stop, leaving the general law to determine where the prosecution may take place, not inserting in this bill a provision which may be used as an engine of tyranny.

Now, Mr. Speaker, in regard to a libel, there again the analogy ceases, in that a libel is a matter founded in malice. But no person on earth would pretend that a publication, legal at the place where it was mailed, and sent out of that jurisdiction, a publication without malice on the part of the person so sending, could be prosecuted in the other jurisdiction as a libel. Take the case of the lottery. In the State of Louisiana it is legal under the State laws. The advertisement and lists of drawings of the lottery is a legitimate business on the part of the paper publishing it so far as the local law is concerned. Consequently, I say we should deal with it as with any other matter and simply provide the punishment, leaving the question of law to take its own course. That portion I have not in this amendment attempted to interfere with:

Any person violating any of the provisions of this section may be proceeded against by information or indictment and tried and punished.

That provision I do not propose to touch by the amendment. It is after that. I simply move to strike out the remainder of the section, which provides that such proceeding may be—
either in the district at which the unlawful publication was mailed or to which it is carried by mail for delivery according to the direction thereon, etc.—
which provision would authorize the trial of such a case anywhere in the United States, and which would result, or might result, in taking a man charged with a violation of this law for trial from one part of the country to what would be to him the uttermost and remotest portion of the United States.

I reserve the remainder of my time, if any.

Mr. HOPKINS. I yield now to the gentleman from Ohio [Mr. GROSVENOR] for five minutes.

Mr. GROSVENOR. Mr. Speaker, the provision of the bill which the gentleman from Iowa proposes to strike out is practically all there is in the bill that will make it effective to crush out the organized criminality of the lottery schemes of the country. The question of fixing the venue at the place where the letter is written soliciting participation in crime or the place to which the letter goes for delivery is not a new question.

In Ohio for many years our statute for the punishment of obtaining goods under false pretenses was in the same situation of doubt, the question being should the crime be complete in the county where the letter was written ordering the goods, or in the county to which it was addressed, or in the county to which the goods were sent?

We have in Ohio the same provision that is insisted upon as a principle by the gentleman from Iowa [Mr. HAYES], that the indictment must be in the county where the crime is committed, but we have solved the problem and made the law efficient in Ohio by declaring by a legislative enactment that the crime shall be complete in either county or both counties.

Thus we got rid of the complication of judicial opinions by legislative enactment. The law has been upheld and enforced, and crime of that character has substantially ceased.

The law which remedied that evil in Ohio is exactly on all fours in principle of constitutional law invaded by this enactment.

Now, here, what do we propose in the pending legislation? We propose that the crime shall be a completed crime in the city of Monaco, New Orleans, or in the city of Washington, or any other city where crime has been made profitable by the delivery of the letters of the lottery company. Is there anything wrong about that? Is there any doubt that this is one of the most effective provisions of this statute? Surely not.

Does the gentleman from Iowa, who is a lawyer, undertake to say that it is not as great a crime here in the District of Columbia to obtain a remittance by representations in a letter written and addressed at New Orleans and delivered here as if written and addressed here? Does he claim that the crime is not as obnoxious to the whole spirit and genius of the criminal theory of the country as it is in New Orleans, where the letter is written?

When it is possible in this enlightened age that the Legislature of a State should do as Louisiana has done we must look about us for a remedy. When the Legislature of a great State will submit to the people of the State a cool and deliberate proposition to organize gambling as a legalized system of robbery, to be made legal by the constitution of the State for a period of twenty years to come, then it is the duty of Congress to look about for some remedy.

What good would it do to go to New Orleans to prosecute a man indicted for crime under this law, if enacted? If the State will legalize such a procedure, what good would it do to go to a district of New Orleans to indict or prosecute? This conspiracy for crime will obtain the money of the people in every ward of the city and of the other cities throughout the country. It will defraud the honest people of every township and every district and every city in the great, broad expanse of this country. Their conduct is a crime at the point where the representation and suggestion and solicitation is operative to bring out the money, and in that district the prosecution ought to be had.

The man who undertakes to evade this law selects his own tribunal. There is no hardship upon him in that connection, no invasion of the principles of the Constitution. He selects Washington City as the place where he will victimize a helpless hired girl, a certain laborer, a certain gentleman, if you please, by a letter of temptation. He selects his own place for the commission of the crime. This location is the one in which he will commit the crime.

Here is where the evidence insists the crime has been committed. Here, then, is the forum in which he ought to be tried. There is therefore no invasion of the constitutional right, and the grand jury of the District of Columbia ought to bring in an indictment for the offense; not for a crime committed in New Orleans, but for a crime committed in the District of Columbia. The grand jury indicts him and makes prosecution possible because he has obtained money by false pretenses and criminality in the District of Columbia.

No argument, Mr. Speaker, is necessary. I say to the members of this House that to sustain this motion to strike this part of the bill out will be to eliminate from the bill all that is powerful in it. Leave it in and you have invaded no constitutional rights; you have invaded no precedent established by the general criminal laws of the United States. If the Louisiana Lottery Company see fit to be indicted and tried only in the State of Louisiana, let it confine its nefarious operations to that State alone.

If it does not want to be indicted for obtaining money on a policy scheme in the District of Columbia let it keep its agent out of the District of Columbia. Let them cease their solicitation within the District of Columbia. If they do not want to be indicted in New York let them avoid that State and confine their criminality solely to the State they are polluting. There ought to be left in the bill this provision to make it powerful to crush this crime which is already a disgrace to one of the States of the Union, and is rapidly becoming a disgrace to the whole country.

Mr. HAYES. Will the gentleman allow me to interrupt him?

Mr. GROSVENOR. Certainly.

Mr. HAYES. I would like to say to him that the great trouble with this bill is that it is, as it perhaps necessarily must be, a general bill, while in reality it is aimed simply at the Louisiana lottery, and the trouble is that it puts in a dangerous provision in order to reach that particular institution.

Mr. GROSVENOR. That is exactly the issue, Mr. Speaker. I deny that there is anything dangerous in this bill. It inveighs against crime; crime recognized as crime by the civilization of the age; crime as offensive to public morals as crime can be made, and it is not a dangerous provision in the bill that makes it efficient to crush such an evil. If there is somebody in the District of Columbia who wants to send letters to the Louisiana lottery I would indict those people here or down there. I would strike at the crime wherever crime has invaded the rights of man and has attempted to carry on nefarious operations like this.

Mr. Speaker, in conclusion I have to say simply this: It is amazing that upon the floor of the American Congress there can be found a proposition to lessen the effect of the blow that is sought to be aimed at a crime so great as this. There ought to be but two questions, is this

provision constitutional and will it be effective? Both these questions are answered in the affirmative. Its severity ought not to be a question in the minds of the American Congress.

Louisiana may disgrace herself by legalizing lotteries within her borders; the American people will leave nothing undone that can justly be done to crush the crime and to save the Government from any suspicion of participation in it. I trust the amendment of the gentleman from Iowa will not prevail.

Mr. HAYES. Mr. Speaker, the gentleman has just said that the question of its severity ought not to be taken into consideration, in fixing punishment, if the object is good, or words to that effect. Now, the whole history of legislation in regard to crime goes to show that the severity of its punishment has no tendency to stop the crime; in other words, that the reduction of too great a penalty or of too severe a law for punishment has always eventuated in a lessening of the crime.

Mr. KERR, of Iowa. Will the gentleman yield for a question?

Mr. HAYES. Yes, sir.

Mr. KERR, of Iowa. Would it be possible under this bill, if you should strike out this section, to punish any one except at the place the letter was sent from?

Mr. HAYES. Now, in regard to that, I say, in analogy to the law of libel, that it is barely possible that these people would be subject to indictment and punishment in the jurisdiction where they sent it, but I do not believe that we ought to affirmatively put it there. If the law puts it there, then I have nothing to say.

Mr. KERR, of Iowa. Would it not be better to settle that question definitely now?

Mr. HAYES. Then I would settle it the other way, for I never would open the door to any such tyranny or oppression as this may be used to accomplish.

Mr. KERR, of Iowa. If it should be settled the other way, would it not then follow that there could be no punishment except at the place the matter was sent from?

Mr. HAYES. My colleague falls into the same error that the gentleman from Ohio [Mr. GROSVENOR] does in arguing this matter. He assumes that this is aimed only at the Louisiana lottery—

Mr. KERR, of Iowa. Any lottery.

Mr. HAYES. Aimed at the Louisiana lottery, an institution that has no friends here and that anybody is willing to see punished; but this is a general law.

Mr. KERR, of Iowa. It would also apply to church fairs, if they had a lottery attached to them.

Mr. HAYES. Yes; and if some paper in your district should innocently publish anything about the matter they might be punished.

Mr. KERR, of Iowa. Yes; and they ought to suffer for it, too, if they published it.

Mr. HOPKINS. Does not my friend know that the courts of New York have decided that such a clause is constitutional?

Mr. HAYES. I am not talking about its constitutionality; I am talking about its propriety. I am not denying the constitutionality of it.

Mr. HOPKINS. The court of appeals of New York has held that it was good law, and other courts have held the same thing, and there is no reason why we should not adopt the same provision.

Mr. HAYES. The gentleman must not misunderstand. I am not denying the constitutionality of it, but I am questioning the propriety of it. In this connection, as I have not had time before this to file a minority report and to have it printed, I desire to ask unanimous consent that I may publish it in the RECORD as a part of the statement that I made.

There was no objection.

The SPEAKER *pro tempore*. The question is on the amendment offered by the gentleman from Iowa [Mr. HAYES], which the Clerk will read.

The Clerk read as follows:

Strike out in section 1 the following:
"Either in the district at which the unlawful publication was mailed or to which it is carried by mail for delivery according to the direction thereon, or at which it is caused to be delivered by mail to the person to whom it is addressed."

The amendment was rejected.

Mr. CALDWELL. Mr. Speaker, the mail service of our country should not be used as the agent of vice and criminality.

Mr. CRAIN. Mr. Speaker, is the gentleman discussing any amendment? I understand that in regard to this matter we ought to be permitted to offer amendments. There is no amendment pending before the House now.

Mr. CALDWELL. The bill is pending.

Mr. KERR, of Iowa. There is another amendment which ought to be made in order to harmonize the bill.

The SPEAKER *pro tempore*. The present occupant of the chair does not know what understanding there may be among members concerning amendments that may be offered, but he understood that the gentleman from Ohio [Mr. CALDWELL], who is a member of the committee, desired to be recognized, and the Chair recognized him. I think the gentleman from Texas [Mr. CRAIN] will be permitted to offer any amendment that he may have.

Mr. CRAIN. How much time does the gentleman from Ohio [Mr. CALDWELL] want?

Mr. CALDWELL. Ten minutes.

The SPEAKER *pro tempore*. The gentleman from Ohio will proceed.

Mr. CALDWELL. Mr. Speaker, the mail service of our country should not be used as the agent of vice and criminality or in any way be an accomplice of organized robbery. Lotteries are condemned as swindling and demoralizing agencies, as skin games of the most corrupting order, by the civilization of this age, and are prohibited and made a crime in thirty-nine of the States of this Union. In only one is this swindling pestilence legalized. In twenty of the States it is a crime to advertise lotteries or lottery tickets. Despite the laws and police power of these States the mail-sacks of our Government are carrying the advertisements and tickets of these monstrous robbing organizations into every village, town, and city in this land.

Lotteries and schemes of chance are legalized in Louisiana, advertisements of lotteries are made lawful by her laws; *ergo*, argues the lottery defender, you have no right to deprive the newspapers of that State containing lottery advertisements the use of the mail, because these advertisements are legitimate under the constitution and laws of the State. As well argue that if under the laws of a State it be lawful to advertise obscene and lascivious literature, destructive of morals and degrading and debauching in influence, the Congress of the United States would have no authority to prohibit the transmission in the mails of newspapers containing such advertisements.

There seems to be great uneasiness in some quarters lest the press be oppressed and its rights curtailed. If its rights and privileges were being threatened the press of the country would not be slow to speak in its own defense. The fact is, Mr. Speaker, that "the press, the mightiest agent for weal or woe in existence," with the exception of those newspapers published under the shadow of these organized robbing concerns—

Have the people's right maintained,
Unawed by influence and unbribed by gain,

The great and powerful press of this country regardless of politics have been and are now united in their opposition to these lotteries. There has been no complaint or cry of alarm from any of our powerful newspapers against this proposed legislation; on the contrary, they are a unit in its support. It has, "like the demigods of old, with brazen clubs uplifted, attacked this moral leper, crushing with relentless force the monster's hydra heads."

For many years, Mr. Speaker, all lotteries and circulars concerning lotteries and gift enterprises have been made unmailed matter under the laws of the United States, and the Postmaster-General has for many years been authorized by law to return to the writers thereof, under such regulations as he might prescribe and upon satisfactory evidence, all registered letters directed to persons carrying on lotteries and other fraudulent schemes of chance and to forbid the payment by any postmaster of any postal money-order and to provide for the return thereof to the remitter of the same named in such money-order; and postmasters have been forbidden by law to act as agents in any way for lotteries.

The manifest purpose of Congress was to make all lottery matter contraband and to entirely deprive them the use of the mails to promote any such fraudulent enterprise. Experience has demonstrated that existing legislation has not served the purpose for which it was intended, and the intention of Congress has been persistently thwarted and the law evaded by those who are engaged in these unlawful pursuits, resorting to every trick and evasion that ingenuity quickened by their greed for unlawful gain could suggest.

The Postmaster-General has faithfully endeavored to enforce the law, but has been unwittingly compelled by its defects to permit the great Department of which he is the chief, and which more than any other Department of the Government is the people's Department, to be the instrument through which they are defrauded by an organized system of robbery. The necessity of better considered and more perfect legislation has long been recognized by the Department and has quickened public sentiment into a demand upon this Congress which can not be disregarded.

This bill has been prepared upon full consultation with the Postmaster-General and the law officers of his Department and approved by the Attorney-General, and adds to existing law the following essential provisions. The list of articles pertaining to lotteries and games of chance which are prohibited from being carried in the mails is enlarged so as to embrace, as far as human language can do so, everything connected with any such enterprise, including newspapers, pamphlets, and other publications containing advertisements thereof under penalty as in existing law.

The bill contains an important provision as to the jurisdiction for the trying and punishing of persons violating this provision, so that the offender may be tried and punished either in the district in which the unlawful publication was mailed or to which it is carried by mail for delivery, according to the direction thereon, or at which it is caused to be delivered by mail to the person to whom it is addressed. In this way the jurisdiction for the trial and punishment of offenders is widely

extended, and will make punishment more certain and render offenses against the law less frequent.

Under existing law an offender could be punished at the place of mailing and for knowingly depositing the prohibited matter in the mail. The ingenuity of the lottery company found very little difficulty in evading the provisions of this law. Under the present law the Postmaster-General is authorized to have returned to the writers such registered letters only as are directed to persons carrying on lotteries. This statute was easily evaded by having such letters addressed to other individuals, banks, and corporations. The present bill enlarges the power of the Postmaster-General so as to embrace any agent or representative of such lottery company, whether individual, firm, bank, corporation, or association of any kind, so as to prevent an evasion of the law.

The sanctity of the mails and private correspondence is carefully guarded by prohibiting any postmaster or other person opening any letter not addressed to himself, thereby preserving the sanctity of the seal. The power of the Postmaster-General to refuse the payment of money-orders is likewise limited in the present law to persons engaged in carrying on lotteries. Conviction under this section was avoided by having them directed to other persons, banks, etc. The present bill enlarges his power so as to embrace all agents and representatives of lotteries, whether they be individuals, firms, corporations, or associations; but this provision does not authorize any person to open any letter not addressed to himself.

It is believed by the Postmaster-General and the law officers of his Department that the amendments proposed in the bill will enable the Department to carry out the intention of Congress and the policy of the law without infringing or violating any private right, and that hereafter this great Department shall not be prostituted to the purposes of fraud and crime, but shall be the means of widely extended social intercourse among our people, of the diffusion of intelligence and the means of carrying on the great business and commercial enterprises of our great nation.

Let us then, my countrymen, place our shoulders to the wheel and pass this bill giving the officers of the Government the authority and power to deprive this hydra-headed monster the use of our mails—this for our country's honor, the good of the service, and the welfare of our people, thus removing from the great business and social department of our Government every imputation of dishonor. [Applause.]

Mr. CRAIN. I have an amendment at the Clerk's desk that I desire to have a vote on. The amendment that I offer is to section 3. I offer the amendment. The amendment is to conform this language to the language of the other section.

The Clerk read as follows:

In section 2, strike out the word "acknowledgment," in line 25, and insert the words "prima facie evidence."

The amendment was agreed to.

Mr. CRAIN. I now yield my time to the gentleman from Louisiana [Mr. WILKINSON].

Mr. WILKINSON. Mr. Speaker, I feel little disposed to trespass at this late hour upon the time of the House. The question under discussion, however, is one of such importance to the State which I have the honor in part to represent, the restrictions imposed by this bill affect so vitally an institution which claims (I regret to say) and is known by the name of that State that I trust this House will bear with me while I go with some detail into this subject and make such statement (as briefly as I can) as my time and your patience will permit. In doing this I wish it to be distinctly understood that I have no word to say in defense of that powerful private corporation known as the Louisiana lottery.

The institutions, the industries, the good name of Louisiana have ever had, with fellow-members from other States, before committees, and on this floor, the willing and earnest efforts of my colleagues and myself in their behalf. But no voice of any Louisiana Representative will be heard to-day in support of the institution whose privileges this bill so largely curtails.

Who can justify or defend it?

It takes from the many to benefit the few. It reaps its amplest harvests from among the poor. It swallows in its capacious maw the savings of honest toil. It drains sums, small in amount, but tremendous in the aggregate, from out the avenues of trade. The retail dealer, the honest shopkeeper, in New Orleans especially, is the loser and wonders why the times are dull and money is so scarce. What wonder this is so when by its own avowal with every ticket sold and every prize paid out it only gives back a little more than 50 cents for every dollar that it receives? It is an adept in the tempter's art. Without the aid of temptation, the author and founder of so much crime, its occupation would be gone. Those intrusted by others with sums of money, large or small, are the easiest victims of its allurements. To many a home once happy its wiles have brought disgrace and desolation untold.

This corporation, which by its daily drawings tempts to the taking of 25 cents from the daily market money, has a revenue many times greater than that received in taxation by the State government of Louisiana.

Is it any wonder that such an institution, with such wealth and power, with its very existence sometimes dependent on the exercise of political control, should be a constant menace to good government and political liberty in Louisiana? And this institution, its calling outlawed by almost every State in the Union, masquerades under the garb of a disinterested charity and a magnificent philanthropy!

Harsh things, Mr. Speaker, have been said about Louisiana in this debate, assertions that might lead members of this House and the public to believe that the spirit of liberty, menaced as it has been, was crushed out in that State, and that corruption, engendered by this institution, now reigned supreme in its stead.

I deny, sir, that since the intelligence and patriotism of Louisiana obtained control of that State corruption has at any time generally prevailed. But, sir, whatever of corruption this institution has wrought during its existence, whatever of evil can justly be charged at its door, the gentleman from Ohio [Mr. GROSVENOR] should remember that it was an inheritance of the days of Republican reconstruction twenty-two years ago. That dreadful period left us many a wrong to right, many a burden to endure. We have already righted many of these wrongs. We have repealed the infamous laws. We have curtailed the debt its plunder made, and, with prosperous days and increasing population, the debt can be borne and liquidated without great hardship to our people. But one wrong, equal if not greater than all the rest, our efforts up to now have failed to put an end to; the lottery company has survived them all, and through twenty-two years has clung to us with such tenacity as the Old Man of the Sea clung to Sinbad, in the Eastern tale. It could not be shaken off.

A Democratic Legislature in 1879 repealed its charter. As a matter of compromise, the terms of which have been shamelessly violated by the lottery company, it was allowed to retain its charter until December 31, 1893. One year after that by constitutional enactment all lotteries in Louisiana were to be ever afterwards prohibited. The greater part of our people looked of late years upon this question as one that would in a few years cease to exist. The wrong might be endured as its end was fast approaching and the constitutional limit of its existence would soon be reached.

The leader of the lottery stated positively, according to common report, that he was not an applicant for a renewal of the lottery charter. But, as the time approached for this expiration, a change came over the determination of this leader and his friends.

The golden stream was too abundant to its beneficiaries to allow its flow to be stopped. Into their coffers was pouring the wealth of kings. Their published schemes provided for a sale of tickets amounting yearly, if all were sold, to a gross sum greater in amount than that received in taxation by the State governments of New York, Pennsylvania, Ohio, and Illinois combined, greater than the revenues from taxation of twenty-eight other State governments that I could name, all put together. If its tickets were all sold the profits to the lottery company would amount to more than the total revenues from taxation of seventeen State governments that I could name. With half its tickets sold the profits would amount to the revenues from taxation of thirteen State governments that I could name, all put together.

No wonder that the corporation was averse to having this sort of thing stopped. What to them was such a little matter as a State constitution? A renewal of this charter must be had and the State constitution changed to suit. No wonder that they were willing to pay a large sum for a new franchise to last twenty-five years. Constantly increasing offers were made as a price for the new franchise, until a sum was agreed on by them 3,000 per cent. greater than that paid for the present franchise!

At the very time the Legislature met, to whom the lottery company had applied for the submission of a constitutional amendment granting a new charter to be voted on by the people, the elements themselves seemed to conspire to aid in having their request granted. A time of distress and danger came to thousands of our people living on the alluvial lands of the Mississippi River, a distress wrought by floods [looking in turn at different members] that came from your valleys in Western New York, and your mountains in Pennsylvania, and your quickly drained fields in Ohio and Illinois, and from your snowy peaks in Colorado. These floods swept away in many places the barriers that had been built at so much cost and toil and made many a family homeless. To relieve this distress the lottery company poured out money with lavish if ostentatious liberality.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. CHEADLE. I ask unanimous consent that the gentleman may be permitted to proceed.

The SPEAKER *pro tempore*. How long? [After a pause]. If there be no objection the gentleman will proceed.

Mr. WILKINSON. This distress came at an opportune time for their purposes. It was a godsend to the lottery company. It was a good time to be liberal. The good opinion of the people was needed and needed badly. It was a good time also to keep the right hand fully informed of what the left hand did and to spread abroad among the people the accounts of the noble benefactions of the lottery.

And this was the opportunity which storm and desolation brought,

and this was what I meant when I said the very elements of nature came to their aid!

The same institution that gave this relief promised, not only relief, but a prevention of this distress in the future, by giving magnificent sums to rebuild, enlarge, and maintain the levees, if their charter would only be renewed for twenty-five years!

The distress was present, the danger was imminent on the one hand—relief was ready for the present, security for the future on the other. And this relief, this security, was to be given without a dollar in return; "all this will I give" if only there be first submitted to, then adopted by, the people, a constitutional amendment inserting "an article on levees, schools, charities, pensions, drainage, and lotteries."

How philanthropic the objects of the amendment! How modest and unselfish that all these great public objects should be placed first and that about lotteries last of all on the list.

And then the proposal, which I quote:

SEC. 3. *Be it further enacted*, That at the next general election all electors who desire to vote for said amendment shall write or print upon their ballots the words, "For the levees, schools, charities, pensions, drainage, and lotteries amendment," and all electors who desire to vote at said election against said amendment shall write or print upon their ballots the words, "Against the levees, schools, charities, pensions, drainage, and lotteries amendment."

This proposal to make it appear that those who are opposed to lotteries must also appear as voting "against levees, schools, and charities"—how cunningly devised! Such ingenuity is clearly patentable.

For a franchise giving this company many million dollars yearly they had paid and were paying the modest sum of \$40,000 yearly. But for a renewal of that franchise for twenty-five years on its expiration they were willing to give each year the magnificent sum of \$1,250,000. It is a big sum, but, large as it is, it is but a small part of their yearly profits. They can well afford to pay it. They can better far afford to pay it than we can to accept it. It has not been accepted yet by the people of Louisiana. My solemn belief is that it never will be. If nothing were done by this Congress; if you were to continue to permit this Government to give that company the aid it now receives in the use of the mails; if Louisiana were left single-handed in this contest; if the extension of its charter were to be two years hence settled by the vote of her people themselves, they would end its existence, for honor and manhood have not yet been crushed out in Louisiana, as some members of this House seem to believe. [Applause.]

I was asked not long ago how it was that the lottery company had secured the votes of two-thirds of the Legislature to support the submission to the people of a constitutional amendment prolonging their charter for twenty-five years. I was asked whether the Legislature of Louisiana had been so corrupt and venal that two-thirds of the whole number in both houses had been bought by the lottery company. I say unhesitatingly, Mr. Speaker, that such was not the case. I repel with indignation the unwarranted insinuation.

I will endeavor now to account for and explain that vote. In the first place, Mr. Speaker, and I say it in no partisan spirit, as one of the factors which contributed to the general result, every solitary member of the Republican party in both the house and the senate voted for the submission of the amendment. On the other hand, every vote cast against this amendment in both the house and the senate was cast by a Democrat. [Applause on the Democratic side.] Among the Democratic members who voted in favor of the amendment were men whom I have known and respected for years, as honorable and as worthy as any men upon this floor, who claimed it to be their duty, on a question so important, to have the judgment and the vote of the people whom they represented. I differed from them then, I differ now, but I find no word of bitterness for my tongue to utter against them or their action in this connection.

There were others in that Legislature who thought that the benefits to be received were so great as to justify their favorable consideration of the submission of the proposed amendment. They thought that the levees could be rebuilt and made secure, education assisted; that the insane asylum, the charity hospital, the different orphan asylums, the maimed Confederate soldiers would secure a welcome aid; that taxes would be greatly lessened, distress relieved, and general prosperity made to smile upon the State. The suffering that was before their eyes, the relief that seemed so welcome and so near, hid, perhaps, as with a veil the calm contemplation of the issues involved. The eyes moistened at the sight of distress saw not perhaps the mailed hand of power that tendered the price. They saw that it would relieve distress, but saw not at the same time that it might prove the price of a people's liberties for a quarter of a century to come.

To such as these I impute no wrong. For such as these and their motives I set not up myself as a judge.

But all were not like them. A few, and but a few, can give no satisfactory explanation of their action. Would that I could, in the case of that few, explain in a manner honorable to them the sudden conversions (or perversions), the sudden changes from one side to the other, from open hostility to justification and support of the proposed measure!

After passing the Legislature under such circumstances as I have alluded to, the governor of the State vetoed the act with its accompanying legislation.

It is true that the advocates of the lottery claim that he had no right to veto the act, but on this question there are diverse opinions.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Mr. WILKINSON. I ask for a few minutes more.

Mr. SPRINGER. I ask unanimous consent that the gentleman from Louisiana be allowed to proceed for ten minutes.

Mr. HOPKINS. I move that he be allowed to extend his remarks in the RECORD. There are a good many other gentlemen who desire to speak.

Mr. CUMMINGS. Oh, no; let him go on. We are getting valuable information on this subject.

Other MEMBERS. Go on; go on.

Mr. PRICE. I trust that my colleague will be given time to finish his speech.

The SPEAKER *pro tempore*. Is there objection to the request of the gentleman from Illinois that the gentleman from Louisiana be permitted to proceed for ten minutes longer?

There was no objection, and it was so ordered.

Mr. WILKINSON. I thank the gentlemen for their courtesy.

Now, Mr. Speaker, I believe that the amendment of which I have spoken may never go to the people of the State of Louisiana for them to vote on. And I base my opinion not alone on the right of the governor to veto the legislation in the form in which it passed both houses, but on the fact that the amendment itself was not drawn as required by the constitution of the State. But if the proposed amendment goes to the people at the next State election, I am as confident as I am that I stand here this afternoon that it will be overwhelmingly defeated and that this blot will be removed from the fair name of my State, and the existence of this and every other lottery barred by our constitution forever. [Applause.]

But that is some time off. The next State election is some time off. If the lottery company had been content to let their charter expire, as they had agreed to do, it is possible that I might not now be an advocate for placing these restrictions upon them, although I consider the constitutional right to do so is clear. I might not now be occupying the position of making an argument to deny the right to use the mails to a corporation chartered by the State whose constitution I have sworn to defend. This constitution itself recognizes the evil which it legalized, and ordained that the present lottery, and all others that might be in its borders, should at a stated time meet their final doom, and this constitution the lottery company by unhallowed means is and has been using every effort to subvert.

Now, Mr. Speaker, a few brief words about the objections urged against this bill. It is said that under it the Government of the United States goes still further toward centralization, that it infringes upon certain rights belonging to the States. If I felt this to be true, in however slight a degree, I should vote against this bill. But, Mr. Speaker, this whole business—the regulation of the mails—is clearly within our province. The passage of this bill exercises to a full extent the legitimate powers of Congress, but does not usurp one jot or one whit of power beyond what belongs to it. Congress has the right to say what shall be carried by mail and what shall not. It has frequently said what shall not. It has forbidden the use of the mails for the sending of obscene books and pictures, and no one has questioned its right to do so. It has said vegetables or fruits shall not go in the mails, that poisons or glass, that animals dead or alive, "except queen bees" properly secured, that packages beyond a certain weight, shall not be transported in that manner. It has exercised the right to limit or forbid the use of the mails on a number of occasions. The highest court in the land has ruled upon this point when Justice Field said in delivering the opinion of the court in the case of *Ex parte Jackson* (96 United States Supreme Court Reports):

The power possessed by Congress embraces the regulation of the entire postal system of the country. The right to designate what shall be carried necessarily involves the right to determine what shall be excluded.

It is said also that this is a blow at the freedom of the press, which, with freedom of speech, Congress is forbidden by the first amendment to the Constitution to make any abridgment of.

Sir, if this is a blow against the freedom of the press it is such a blow as the State of New York has struck where lottery advertisements are forbidden in the newspapers. It is such a blow as other States in this Union have struck who have done likewise, but I have never yet heard it has there been considered a blow at the freedom of the press. The freedom of the press, as I understand it, consists in the right of the editors of the newspapers to freely express their views on public questions without let or hindrance by those in authority. It means to forbid that censorship of the press once so prevalent in European countries and still common in those countries, but this matter of advertisements seems to me to be a different affair. I hold in my hand as good a paper, as well supplied with news, as interesting a paper to read, perhaps, as any in the United States, a paper which is published in a State where lottery advertisements are forbidden and where no newspaper dares to print one, and it seems to thrive and prosper and makes no complaint that its rights have been interfered with.

But I have heard it charged that this bill goes into the domain of

the police power of the States; that when the right was given to Congress by the States to establish post-offices and post-roads it was never dreamt that this power would be extended to regulate the morals of the people.

But is this the only reason—that lotteries are immoral—why this bill receives its support? Are there not many other reasons?

Some of you gentlemen may support this bill solely on the ground of the suppression of immorality. Others may support the bill because the lotteries take money from their States and leave so little in return. I may support this bill, among many reasons, chiefly because a lottery corporation, entrenched behind a new lease of life, might have such power in a State as almost to supersede the powers of the State itself, and be able to dictate at its will or from its necessities who shall possess honors, emoluments, or liberty itself. Rid of one era of slavery, I have no desire to see another.

Mr. Speaker, the members of this House have been so patient with me and so generous in the repeated extensions of my time that for a few moments only will I further trespass upon their patience. This bill may be extreme, but it is constitutional. It infringes upon no right the State or the citizen has under the Constitution. It provides for the breaking of no seal, and any postmaster or postal employé who does so, does so at his peril. The express companies can still carry the tickets and tempting circulars which the bill bars out of the mails, but even this privilege may not last indefinitely.

My position in this matter, Mr. Speaker, is taken deliberately. I shall vote for this bill as amended. [Applause.]

Mr. EVANS rose.

Mr. ROGERS. Mr. Speaker, I desire to have the amendment which I offered pending when the time arrives for a vote, and I ask the gentleman from Tennessee [Mr. EVANS] to let it be submitted so that it may be pending.

Mr. DINGLEY. Mr. Speaker, let the amendment be read, so that we may know what we are doing.

Mr. CRAIN. Mr. Speaker, I also want to offer an amendment, in order to have it pending when the time comes to vote.

The SPEAKER *pro tempore*. The Clerk will again report the amendment of the gentleman from Arkansas.

The Clerk read as follows:

Add to section 3 the following words:
"But the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other legal way."

The SPEAKER *pro tempore*. The Clerk will read the amendment of the gentleman from Texas [Mr. CRAIN].

The Clerk read as follows:

In line 25, of section 3, strike out the word "acknowledgment" and insert "prima facie evidence."

Mr. BURTON. That amendment has been already adopted.

The SPEAKER *pro tempore*. A similar amendment which was adopted related to section 2.

Mr. BURTON. I presume, then, this amendment is designed to make the third section correspond with the second. I suppose there can be no objection.

Mr. CRAIN. The Clerk has not read the amendment on which I desire the action of the House. The amendment just read was adopted, as I understand, by unanimous consent.

The SPEAKER *pro tempore*. The Chair is informed that the amendment was not adopted.

Mr. CRAIN. Then I ask unanimous consent that it be adopted now.

The SPEAKER *pro tempore*. Is there objection?

Mr. GROSVENOR. Let it be considered as pending; I can not agree that it be adopted by unanimous consent.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. GROSVENOR] objects.

Mr. CRAIN. If the gentleman from Ohio understood this matter he would not object. The same amendment was adopted on motion of the gentleman from Pennsylvania [Mr. BUCKALEW] to section two. This amendment simply makes section three conform to that.

Mr. EVANS obtained the floor.

Mr. CRAIN. I would like to have the Clerk read my other amendment, that it may be considered as pending.

Several MEMBERS. Regular order.

The SPEAKER *pro tempore*. The regular order is demanded. The gentleman from Tennessee [Mr. EVANS] will proceed.

Mr. EVANS. Mr. Speaker, the subject under consideration, House bill No. 11569, reported favorably by the Committee on Post-Offices and Post-Roads, being a substitute for House bills Nos. 177, 241, 242, 3321, and 8987, referred to that committee, on which I have the honor to serve, is one that demands from the members of this body the most careful and considerate attention.

The bill before us proposes to so amend sections 3894, 3929, and 4041, Revised Statutes, as to prohibit the use of the mails for the purpose of in any way distributing advertisements or advertising matter pertaining to lotteries, gift enterprises, or schemes to obtain money or property by games of chance; in fact, to prohibit the use of the mails for the purpose of carrying on a correspondence with any lottery or any lottery with the patrons thereof.

This bill seeks to suppress that species of gambling which is carried on through the agency or instrumentality of lotteries. Sections 3894, 3929, and 4041 of the Revised Statutes refer only to "illegal" or "fraudulent" lotteries. It is not my purpose to discuss the constitutional questions involved, if there be any, but my confidence in the wisdom of the Supreme Court is such that I am quite satisfied to allow that body to deal with this question. I shall confine my remarks briefly to existing facts. The Louisiana State Lottery claims that it is not an "illegal" lottery, as it exists under the constitution and laws of that State, and that it is not a "fraudulent" lottery or scheme devised and intended to deceive and defraud the public for the purpose of obtaining money under false pretenses, and so far the Government has failed to successfully prosecute a case against this company, although it is quite evident that Congress intended to confer upon the Postmaster-General authority to stamp out and suppress all lotteries, and each and every State, with the exception of Louisiana, has cooperated with the Postmaster-General, and every State, aside from Louisiana, has suppressed this class of gambling so far as possible within its limits; and now comes up a demand, an appeal, that has been oftentimes repeated, for protection by the National Government.

The States in their sovereign capacity have tried to protect themselves and their citizens from this immoral monster by provisions in their respective constitutions and by legislative enactment, but the United States mails will not permit them to do so. The States prohibit by law their own newspapers from advertising any lotteries or the drawings of any lotteries. The States have, in every way possible, endeavored to quarantine against this pestilence, and yet the United States persists in disregarding the wishes of the States, as expressed in their respective constitutions and laws, by delivering through its mails advertisements for the sale of lottery tickets, into the States and into the homes of the people, thereby corrupting the youth and swindling and robbing the people.

The Louisiana lottery has twelve regular drawings each year, ten monthlies and two known as semi-annual.

Each regular monthly drawing:	
100,000 tickets, at \$20	\$2,000,000
3,134 prizes	1,054,800

Profit monthly	945,200
Profits of ten regular drawings each year	9,452,000

Each semi-annual drawing:	
100,000 tickets, at \$40 each	4,000,000
3,134 prizes	2,109,600

Profit each semi-annual drawing	1,890,400
Profits yearly on semi-annual drawings	3,780,800

Profit of ten monthly drawings	9,452,000
Profit on two semi-annual drawings	3,780,800

Total annual profits	13,232,800
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This is the estimated clear profit of the company annually, as the daily drawings held are expected to, and undoubtedly do, pay all the expenses of the company.

The daily drawings held each day at 4 p. m. are even more pernicious in their effects than the regular lottery drawings. The mode of conducting these is, briefly, as follows:

Seventy-eight numbers, from 1 to 78, are placed in a wheel, each number inclosed in a tube. Out of this number thirteen are drawn by a blindfolded boy, and the numbers are entered on a blackboard in the order in which drawn. The tickets for this drawing are sold at 25 cents each for one-fourth ticket, and the purchaser is permitted to select and have entered upon the ticket when purchased any three of the numbers from 1 to 78. If the first three numbers drawn from the wheel correspond with the three numbers on the ticket, and are drawn in the order in which they appear on the ticket, a prize of \$6,000 is paid (something that has never yet happened in the history of the company and would not likely happen if conducted for the next hundred years). If, however, of the thirteen numbers drawn out of the wheel three of them happen to correspond with the three numbers on your ticket, a prize of about \$36 is given. By paying an extra 25 cents on a ticket you can put what is called a "gig and saddle" on it, and then in the event that two of the numbers on your ticket correspond with any two of the thirteen numbers drawn from the wheel, a prize of \$2.45 is paid. There are sundry other ways of betting on this scheme, but these are the most common because the most simple.

By a mathematical calculation it is found that the chance to win a capital prize is one in 67,525, and when you win it you only get \$4,275.40 for \$1, as against \$15,000 for \$1 in the monthly, with a chance of 1 in 100,000.

The chance to win a prize of \$4.25 is 1 in 1,237.

The chance to win \$1.70 is as 1 to 19.

Take, for instance, the "washerwoman's gig"—4-11-44—the chance that these three, or any other three numbers, will, in any order, be the

first three numbers out of the thirteen taken from the wheel. Five days in the week is the continued product of the numbers 78, 77, 76, divided by 6, which is 76,076, so that 1 in 76,076 is the chance to win. In other words, if one should play this gig every day for 253 years, the mathematical chances are that it would come out once, and after spending \$76,076 one would, if it did come, receive the munificent prize of \$100.

If you bet that any particular number will be one of the thirteen drawn, your chance to win is 1 in 6, and if you do win you are paid 4 for 1.

Compare these figures with those of the roulette table. Your chance to win there is 1 in 31; if you do win you are paid 27 for 1. The professional gambler, who is denounced by the law, indicted by grand juries, and hunted by the police as a species of thief, is satisfied with a percentage in his favor of 12 per cent. This gigantic corporation turns its wheel daily for the unnumbered multitude who may bet at its game. The smallest percentage it permits itself to take is 23 per cent. On the most of its game its percentage is from 33 to 41 per cent., and on part of its game incalculable.

This is the real skin-game annex to the Louisiana State Lottery, and poor servant girls, children, boot-blacks, draymen, hackmen, in fact men of high and low degree by the thousands, patronize this scheme. Agents are located at convenient places all over the city where their tickets are sold and at which places prizes are paid on presentation of winning tickets. One hundred and twenty agents, estimated average receipts of each from \$50 to \$60 per day.

About \$10,000 worth of postage-stamps and stamped envelopes are purchased monthly by the lottery company. This represents 500,000 letters they mail monthly, or 6,000,000 annually, each one of which is a violation of law.

In addition to this the lottery company secures cheap (especially sporting) newspapers to publish their advertisements and send out tons of them to all parts of the United States on pound rates as sample copies.

Very recently the Spirit of the South, a cheap local sporting paper of limited circulation, sent out in one week 4,947 pounds of sample copies, representing about 50,000 copies of the paper. On examination it was found that the paper, in addition to the regular advertisement, contained several columns of local advertisements of the lottery company. The postage paid upon this 2½ tons of papers, representing 50,000 pieces of mail matter, is but \$49.47.

To send a lottery circular through the mails under existing statutes is unlawful, yet that circular in many cases is exactly the same as the advertisements contained in the newspapers. To send through the mails sealed circulars costs 2 cents per ounce. Newspapers and periodicals from regular publishers cost but 1 cent per pound.

To have mailed 50,000 circulars instead of the 50,000 copies of the Spirit of the South before alluded to, and which contained the same matter, would have cost \$1,000 for postage, instead of \$49.47. It is made not only lawful to publish the circulars in newspapers, but much cheaper.

Encouraged by the success of the Louisiana lottery, foreign lottery companies are now advertising in hundreds of the American papers and are building up quite a business, and establishing agencies in all the leading cities of this country.

I find advertised in the Washington daily papers the Louisiana State Lottery, Grand Lottery of Juarez (Mexico), Lottery of Mexican National Government, and I find there the name of that former distinguished soldier, diplomat, and statesman, John S. Mosby, as commissioner of the Juarez Lottery.

Your attention is invited to the fact that the great financial system of this nation, through its agents, four national banks of New Orleans, stands as sponsor or indorser of the Louisiana State Lottery.

I find nothing in the act creating the national-banking system, defining the duties or prescribing the powers of the same, that authorizes national banks, or in the course of business justifies them, to engage in any such copartnerships.

I find, too, among the cards published in a New Orleans paper certain national banks (one in the Lone Star State, another in the newborn State bearing the name of the Father of this Country) advertised as among those drawing prizes in the Louisiana State Lottery, July 15, 1890.

Is it possible that members of this great national-banking system, a financial system that is the pride of the nation, should lend their names and credit to encourage and stimulate illegitimate schemes like lotteries for obtaining money?

Is it surprising that Canada has secured such a large number of our bank presidents and cashiers? It becomes the nation's disgrace—its accredited agents, national banks, the custodians of the people's savings, participating in a scheme for obtaining money that is recognized by the intelligence of the world as illegitimate, illegal, fraudulent, and the most disgraceful species of gambling.

\$100,000.]

A CARD.

NEW ORLEANS, July 23, 1890.

The undersigned certifies that he held for collection, for account of Pacific National Bank, Tacoma, Wash., one-twentieth of ticket No. 32794, single num-

ber, Class G, in the Louisiana State Lottery, which drew the second capital prize of \$100,000, on Tuesday, July 15, 1890, and that the amount was promptly paid by a check on the New Orleans National Bank on presentation of the ticket at the office of the company.

A. J. DRYSDALE,

Runner New Orleans National Bank, New Orleans, La.

A CARD.

NEW ORLEANS, July 23, 1890.

The undersigned certifies that he held for collection, for account of First National Bank, Waco, Tex., one-twentieth of ticket No. 26747, single number, Class G, in the Louisiana State Lottery, which drew the third capital prize of \$50,000, on Tuesday, July 15, 1890, and that the amount was promptly paid on presentation of the ticket at the office of the company.

CHAS. SANTANA,

Note Clerk Louisiana National Bank.

EXHIBIT SHOWING CONSTITUTIONAL AND STATUTORY PROVISIONS OF THE RESPECTIVE STATES RELATING TO LOTTERIES, AGENCIES FOR SAME, AND SALE OF TICKETS.

ALABAMA.

Constitutional provisions.

"The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in any scheme in the nature of a lottery in this State; and all acts or parts of acts heretofore passed by the General Assembly of this State authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided." Adopted 1875. (Art. 4, sec. 26.)

Statutory provisions.

Any person who sets up or carries on a lottery, liable to a fine of not less than \$100 nor more than \$2,000. (Rev. Stat., 1876, sec. 4445.)

Person who sells or acts as agent for the sale of lottery tickets, liable to a fine of not less than \$1,000 nor more than \$2,000. (Rev. Stat., 1876, sec. 4446.)

ARKANSAS.

Constitutional provision.

"The General Assembly shall not authorize any lottery, and shall prohibit the sale of lottery tickets." (Art. 5, sec. 41.)

Statutory provisions.

Any person keeping an office for the sale of lottery tickets, liable to a fine not less than \$50 nor more than \$500, with costs of prosecution. (Sec. 1, Session Laws of Arkansas, 1874-'75, p. 159.)

Any person selling lottery tickets, guilty of a misdemeanor and liable to a fine of not less than \$30, nor more than \$500, and shall stand committed to jail until costs and fine paid. (Sec. 2, session laws of Arkansas, 1874-'75, p. 159.)

CALIFORNIA.

Constitutional provision.

"The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift-enterprise tickets, or tickets in any scheme in the nature of a lottery." (Art. 14, sec. 26. Adopted, 1879.)

Statutory provisions.

Lottery defined. (Rev. Stat., 13, p. 319.)

Any person who sets up or draws a lottery, guilty of a misdemeanor. (Rev. Stat., 1876, sec. 1332.)

Any person who sells or gives, or in any way transfers lottery tickets, guilty of a misdemeanor. (Rev. Stat., 1876, sec. 1332.)

Any person aiding or assisting a lottery, either by printing, writing, advertising, publishing, or otherwise, guilty of a misdemeanor. (Rev. Stat., 1876, sec. 1332.)

Any person who sets up or keeps any office or other place for the sale or registry of tickets, or who, by printing, writing, or otherwise, advertises or publishes the setting up or opening or running of any such offices, is guilty of a misdemeanor. (Rev. Stat., sec. 1332.)

Property offered for sale by means of lottery drawing forfeited. (Rev. Stat., sec. 1332.)

Issuing of lottery tickets a misdemeanor. (Rev. Stat., sec. 1332.)

Letting a building for lottery purposes a misdemeanor. (Rev. Stat., sec. 1332.)

COLORADO.

Constitutional provision.

"The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State." (Art. 18, sec. 2.)

Statutory provisions.

Any person engaging in or promoting a lottery liable to a fine not less than \$100 or imprisonment in jail not less than thirty days. (Sec. 1, acts of 1881, p. 178.)

Any person who opens, carries on, or promotes lottery or other games of chance liable to a penalty of not less than \$100 or imprisonment not less than sixty days. (Sec. 2, acts of 1881, p. 178.)

Any person advertising a lottery liable to a fine not exceeding \$100 or imprisonment in jail not less than sixty days, or both. (Sec. 3, *Id.*)

Owner of newspaper who publishes any advertisement of a lottery liable to a fine of not less than \$1,000. (Sec. 7)—*Id.*

Selling of tickets prohibited under penalty of fine not exceeding \$100 or imprisonment not exceeding sixty days, or both.

CONNECTICUT.

Statutory provisions.

Lotteries prohibited, and any person carrying on same liable to a fine of not less than \$20 nor more than \$100, or imprisonment not more than one year or less than sixty days. (Sec. 4, Rev. Stat., 1875, p. 616.)

Sale of lottery tickets prohibited under a penalty of not more than \$300 nor less than \$50, or imprisonment not less than three months nor more than one year. (Sec. 5, *Id.*)

Persons drawing a lottery liable to a fine of not more than \$300 or imprisonment not more than ninety days, or both.

DELAWARE.

Statutory provision.

All lotteries save those authorized by State authority prohibited. (Rev. Stat. 1874, 254, 255.)

FLORIDA.

Constitutional provision.

"Lotteries are hereby prohibited in this State." (Art. 4, Sec. 20.)

Statutory provisions.

Whoever advertises any lottery ticket or any share in such ticket for sale by himself or another person, etc., shall for each offense be punished by fine not exceeding \$100. (Sec. 4, chap. 80, McLean's Digest, p. 427.)

Persons setting up lottery punishable by fine not exceeding \$2,000. (Sec. 1, McLean's Digest, p. 401.)

Persons leasing building for lottery purposes punishable by fine not exceeding \$2,000. (Sec. 2, *Id.*)

Sale of lottery tickets prohibited under a penalty of not exceeding \$2,000. (Sec. 2, *Id.*)

GEORGIA.

Constitutional provision.

All lotteries and the sale of lottery tickets are hereby prohibited, and this prohibition shall be enforced by penal laws. (Art. I, sec. 2, par. 14.)

Statutory provisions.

Sale of lottery tickets prohibited under a penalty of not less than \$100 nor more than \$500; second offense not exceeding \$1,000 or imprisonment in county jail six months, or both. (Rev. Stat., 1882, sec. 4549.)

Carrying on of lottery prohibited. (Rev. Stat., 1882, sec. 4549.)

Turning of lottery wheel prohibited. (Rev. Stat., 4549.)

Violation two preceding sections punished by fine not less than \$500 nor more than \$1,000, or imprisonment not more than one year. (Rev. Stat., 4549, *Id.*)

IDAHO.

(Constitutional provisions.)

ILLINOIS.

Constitutional provisions.

"The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State." (Art. 3, sec. 27.)

Statutory provisions.

Persons setting up or disposing of property by means of a lottery, liable to a fine of not more than \$2,000. (Sec. 180, Rev. Stat., 1880, p. 383.)

Person permitting a lottery to be carried on on his premises, liable to fine not exceeding \$2,000. (Sec. 181, *Id.*)

Sale of lottery tickets prohibited, under penalty of not exceeding \$2,000. (Sec. 182, *Id.*)

Lottery advertisement prohibited, under penalty not exceeding \$100. (Sec. 183, *Id.*)

Second offense, fine of \$100 and imprisonment not exceeding one year. (Sec. 184, *Id.*)

All property drawn or offered as prize in lottery forfeited to State. (Sec. 185, *Id.*)

INDIANA.

Constitutional provision.

"No lottery shall be authorized nor shall the sale of lottery tickets be allowed." (Art. 15, sec. 8.)

Statutory provisions.

Persons selling lottery tickets or acting as agent for lottery, subject to fine of not more than \$500 nor less than \$10. (Sec. 2077, Rev. Stat., 1881.)

"Whoever writes, prints, advertises, or publishes in any way an account of any lottery," etc., punished by fine not exceeding \$500 nor less than \$10.

IOWA.

Constitutional provision.

"No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed." (Art. 3, sec. 28.)

Statutory provision.

Selling or advertising for sale lottery tickets punishable by imprisonment not exceeding thirty days or fine not exceeding \$100, or both. (McClain's Stat., sec. 4043.)

KANSAS.

Constitutional provision.

"Lotteries and the sale of lottery tickets are forever prohibited." (Art. 15, sec. 3.)

This State has no statute.

KENTUCKY.

Statutory provisions.

Any person setting up, promoting, or carrying on lottery liable to a fine of from \$500 to \$10,000. (Gen. Stat., chap. 29, sec. 1.)

Artists may dispose of their pictures by chance or lot. (Sec. 2, *Id.*)

Persons printing or vending lottery tickets subject to fine of from \$100 to \$1,000. (Sec. 3, *Id.*)

Persons permitting house to be used for lottery purposes liable to like penalty. (Sec. 4, *Id.*)

Advertising of lottery tickets prohibited under like penalty. (Sec. 5, *Id.*)

Court of appeals has sustained prohibitory legislation. See *Miller vs. Com.*, 13 Bush, 731; *Com. vs. Bell*, 13 Bush, 345; *Com. vs. City of Frankfort*, 13 Bush, 185.

LOUISIANA.

Constitutional provisions—Constitutional recognition of lotteries.

General Assembly authorized to grant lottery charters provided each charter pay \$10,000 per annum to the State.

"And provided further, That all charters shall cease and expire on the 1st day of January, 1895, from which time all lotteries are prohibited in this State."

Charter of "Louisiana State Lottery" recognized as binding contract with State, provided company surrenders monopoly clause of its charter. (Const., 1879, art. 167.)

MAINE.

Statutory provisions.

Every lottery scheme or device of chance prohibited and declared a nuisance—

"And whoever is concerned therein, directly or indirectly, by making, advertising, purchasing, receiving, selling, offering for sale," etc., "any lottery ticket or share therein, by printing, publishing, or circulating the same, or any handbill, advertisement, or notice thereof, or by knowingly suffering the same to be published in any newspaper or periodical under his charge, or any cover of paper attached thereto, shall be punished by fine not less than \$100 nor more than \$1,000." (Rev. Stat., sec. 3, p. 855.)

Attorney-general may, by injunction, restrain lottery. (Sec. 4, *Id.*)

All payments and securities for lotteries void, and may be recovered back. (Sec. 5, *Id.*)

Provision of above statute made applicable to all schemes of chances of every kind at fairs and public gatherings, whether for benefit of churches, benevolent institutions, or otherwise. (Sess. of 1877, chap. 176, p. 131.)

MARYLAND.

Constitutional provisions.

No lottery shall hereafter be authorized by the General Assembly. (Art. 3, sec. 25.)

Statutory provisions.

Drawing of lottery and sale of lottery tickets prohibited. (Sec. 159, Rev. Code, p. 818.)

Penalty for violating above section, fine not less than \$200 nor more than \$1,000, or imprisonment not less than three nor more than twelve months. (Sec. 161, *Id.*)

In addition to above penalty, person who gives money for ticket may recover from person who sold same \$50 for each ticket sold. (Sec. 162, *Id.*)

Person keeping house for lottery purposes liable to penalty of \$1,000. (Sec. 163, *Id.*)

Owner who permits house to be used for sale of lottery tickets liable to penalty of \$1,000. (Sec. 164, *Id.*)

Persons bringing lottery tickets into State for sale liable to a penalty of \$1,000. (Sec. 165, *Id.*)

"If any person shall by printing, writing, or in any other way publish an account of any lottery," etc., subject to a fine of \$1,000, or imprisonment for sixty days. (Sec. 166, *Id.*)

Insuring lottery tickets punishable by fine not less than \$100 nor exceeding \$1,000, or imprisonment not less than three months or more than six months, or both. (Sec. 167, *Id.*)

Contracts in aid of lotteries void. (Sec. 168, *Id.*)

Second offense under preceding sections punished by imprisonment in penitentiary not less than two nor more than five years. (Sec. 169, *Id.*)

Preceding sections apply to all lotteries, both in and out of State. (Sec. 170, *Id.*)

Courts to give previous sections of statute liberal construction. (Sec. 170, *Id.*)

MASSACHUSETTS.

Statutory provisions.

Any person setting up or promoting a lottery, liable to a fine not exceeding \$2,000. (Sec. 1, Pub. Stat., 1882, ch. 209, p. 1176.)

Persons permitting a building to be used for lottery, punished by fine not exceeding \$2,000. (Sec. 2, *Id.*)

Any person selling lottery tickets, subject to a fine not exceeding \$2,000. (Sec. 3, *Id.*)

Second offense violating above statute, in addition to fine, shall be imprisoned not exceeding one year. (Sec. 4, *Id.*)

Advertisement of tickets prohibited under a penalty not exceeding \$100. (Sec. 5, *Id.*)

Making or vending fictitious lottery tickets, punished by imprisonment not exceeding three years. (Sec. 6, *Id.*)

Prizes in lotteries forfeited to State. (Sec. 8, *Id.*)

Aiding foreign lotteries, punished by fine not exceeding \$2,000. (Sec. 9, *Id.*)

Selling foreign lottery tickets, punished by fine not exceeding \$2,000.

MICHIGAN.

Constitutional provisions.

The Legislature shall not authorize any lottery nor permit the sale of lottery tickets. (Art. 4, sec. 27.)

Statutory provisions.

Persons setting up or promoting liable to a fine not exceeding \$2,000 or imprisonment not exceeding one year. (Sec. 9331, Howell's Ann. Stats., 1882, p. 2257.)

Selling of tickets punished by fine not more than \$2,000 or imprisonment not more than one year. (Sec. 9332, *Id.*)

Second offense punished by imprisonment in penitentiary not more than three years or county jail not more than one year. (Sec. 9333, *Id.*)

Advertising of lottery tickets prohibited under penalty not exceeding \$100.

MINNESOTA.

Constitutional provisions.

The Legislature shall never authorize any lottery or the sale of lottery tickets. (Art. 4, sec. 31.)

Statutory provisions.

Persons who set up or promote a lottery liable to imprisonment in county jail not more than six nor less than one month. (Sec. 1, ch. 93, Rev. Stats. 1878, p. 914.)

Selling of lottery tickets punished by fine not exceeding \$500 nor less than \$100. (Sec. 2, *Id.*)

Advertisement of tickets punished by fine not exceeding \$100.

MISSOURI.

Statutory provisions.

Lotteries prohibited, and persons carrying on same guilty of misdemeanor. (Sec. 1561, Rev. Stat. 1879, p. 272.)

Persons selling tickets or advertising lotteries liable to a fine not exceeding \$1,000. (Sec. 1567, *Id.*)

MISSISSIPPI.

Constitutional provision.

"The Legislature shall never authorize any lottery, nor shall the sale of any lottery tickets be allowed, nor shall any lottery heretofore authorized be permitted to be drawn or tickets therein to be sold." (Art. 2, sec. 13.)

Statutory provision.

Any person who sells or acts as agent for lottery tickets or keeps a place for sale of tickets, liable to a fine not exceeding \$500 and imprisonment not exceeding one year. (Rev. Stat. 1880, sec. 2879, p. 774.)

MONTANA.

Constitutional provision.

"The Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in the State." (Art. 19, sec. 2.)

NEBRASKA.

Constitutional provision.

"The Legislature shall not authorize any games of chance, lottery, or gift enterprise, under any pretense or for any purpose whatever." (Art. 4, sec. 21.)

Statutory provisions.

Person who sets or promotes a lottery liable to a fine of not exceeding \$500. (Sec. 140 Annotated Stats. 1881, p. 38.)

Sale of tickets, or acting as agent for lottery, punished by fine not exceeding \$500 or imprisonment not exceeding six months. (Sec. 141, *Id.*)

Advertising of lottery tickets prohibited under a penalty of not exceeding \$100. (Sec. 142, *Id.*)

NEVADA.

Constitutional provision.

"No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed." (Art. 4, sec. 2.)

Lotteries, and the sale of lottery tickets, prohibited under a penalty not exceeding \$500 or imprisonment not exceeding six months. (Com. L. 1873, secs. 2495 to 2502, inclusive.)

NEW HAMPSHIRE.

Statutory provisions.

Person setting up or offering to dispose of property by means of lottery liable to a fine not exceeding \$500. (Sec. 1, Gen'l Laws, 1876, p. 614.)

Person who sells or offers for sale lottery tickets or prints or publishes any account of lottery, punishable by a fine not exceeding \$100. (Sec. 2, *Id.*)

Person mailing letters or circulars concerning lottery for delivery in this State liable to a fine of \$100. (Sec. 3, *Id.*)

An indictment under preceding section not necessary to prove who is the owner of property to be drawn or who draws lottery. (Sec. 4.)

NEW JERSEY.

Statutory provisions.

All lotteries declared common and public nuisance. (Sec. 51, Rev. Stat. 77, p. 236.)

Persons opening or drawing a lottery liable to penalty of \$2,000, one-half to informer. (Sec. 8, *Id.*, p. 459.)

Sales and transfers of property in pursuance of lottery void. (Sec. 9, *Id.*)

Persons selling lottery tickets liable to a penalty of not exceeding \$100 or imprisonment at hard labor not exceeding one year, or both. (Sec. 52, *Id.*, p. 236.)

Insuring for or against lottery tickets punished by fine not exceeding \$100, or imprisonment not exceeding one year, or both. (Sec. 53, *Id.*, p. 236.)

Constitutional provision.

"No lottery shall be authorized by this State, and no ticket in any lottery not authorized by a law of this State shall be bought or sold within this State." (Art. 4, sec. 2.)

NEW YORK.

Constitutional provision.

"Nor shall any lottery hereafter be authorized or any sale of lottery tickets allowed within this State." (Const. 1846, Art. 1, sec. 10.)

Statutory provisions.

All lotteries common and public nuisance. (Sec. 26, Rev. Stat. (7th Add.), vol. 3, p. 1967.)

Persons setting up lottery liable to a fine equal to whole amount involved in such lottery, and if that can not be ascertained, \$2,500 or imprisonment not exceeding two years, or both. (Sec. 27, *Id.*)

Advertisement of lotteries prohibited under a penalty not exceeding \$150, or imprisonment not exceeding three months. (Sec. 28, *Id.*, 1963.)

Persons selling tickets liable to a fine of not exceeding \$500 or imprisonment not exceeding one year, or both. (Sec. 29, *Id.*)

Selling or offering to sell property by means of lottery punishable by fine not exceeding \$500, or imprisonment not exceeding one year. (Sec. 30, *Id.*)

Property offered for sale by means of lottery forfeited. (Sec. 31, *Id.*)

Persons purchasing tickets may recover double amount paid for same. (Sec. 32, *Id.*)

Issuing tickets prohibited by section 27, punished by fine not exceeding \$3,000, or imprisonment not exceeding one year. (Sec. 36, *Id.*)

The above provisions of the Revised Statutes are taken from the act of 1827, page 327, and except from the operation of the statute lotteries authorized by the law of the State. The clause in the Constitution of 1840, above quoted, eliminates all the exceptions from the statute. (See Fay's Dig. Laws of N. Y., vol. 3, p. 192.)

NORTH CAROLINA.

Statutory provision.

Persons who set up or promote or offer property for sale by means of lottery liable to a fine not exceeding \$2,000 or imprisonment not exceeding six months, or both. (Sec. 1047, Code of 1881.)

Persons selling tickets or acting as agent of lottery to be drawn in or out of State liable to penalty provided in preceding section. (Sec. 1048, *Id.*)

NORTH DAKOTA.

(No constitutional provision.)

OHIO.

Constitutional provision.

"Lotteries and the sale of lottery tickets for any purpose whatever shall forever be prohibited in this State." (Const. 1851, art. 15, sec. 6.)

Statutory provisions.

"Whoever writes, prints, or publishes in any way an account of any lottery, etc., punished by fine not more than \$100." (Sec. 6929, Rev. Stat., 1880.)

Selling of lottery tickets punished by fine not more than \$500 or imprisonment not more than six months, or both. (Sec. 6930, *Id.*)

Opening, carrying on, or acting as agent for lottery punished by fine not more than \$500 nor less than \$50, or by imprisonment not more than ninety nor less than ten days. (Sec. 6931, *Id.*)

OREGON.

Constitutional provisions.

"Lotteries and the sale of lottery tickets for any purpose whatever are prohibited, and the Legislative Assembly shall prevent the same by penal laws." (Art. 15, sec. 4.)

Statutory provisions.

Persons setting up or promoting a lottery liable to imprisonment in penitentiary not less than six months nor more than one year, or in any county jail not less than three months nor more than one year, or by fine not more than \$1,000 nor less than \$100. (Sec. 659, Rev. Laws, 1872, page 435.)

Selling lottery tickets punished by fine not less than \$50 nor more than \$500, or by imprisonment in county jail not less than three months nor more than one year. (Sec. 660, *Id.*)

Advertisement of lottery tickets punished by imprisonment in county jail not less than one month nor more than six months, or by fine not less than \$20 nor more than \$200. (Sec. 661, *Id.*)

Selling of false and fictitious lottery tickets punished by imprisonment in penitentiary not less than one year nor more than three years. (Sec. 662, *Id.*)

Second conviction for violating sections 659 and 660; penalty, imprisonment in penitentiary not more than three nor less than one year. (Sec. 664, *Id.*)

PENNSYLVANIA.

Statutory provisions.

All lotteries declared to be a public nuisance and all transfers of property in pursuance of any lottery void. (Sec. 81, Brightly and P.'s Dig., vol. 1, p. 331.)

Setting up a lottery punished by fine not exceeding \$1,000 and imprisonment in solitary confinement at hard labor not exceeding one year. (Sec. 82, *Id.*)

Any person who sells or exposes to sale or advertises for sale lottery tickets shall be sentenced to imprisonment at hard labor not exceeding two years, and to pay a fine not exceeding \$1,000.

RHODE ISLAND.

Constitutional provisions.

"All lotteries shall hereafter be prohibited in this State except those already authorized by the General Assembly." (Art. 4, sec. 12.)

Statutory provisions.

Persons setting up, promoting, or carrying on a lottery guilty of a misdemeanor, and liable to imprisonment not exceeding two years or fine not exceeding \$2,000. (Sec. 1, ch. 246, Public Stat. 1882, p. 690.)

The sale of tickets in lottery punished by fine not exceeding \$50. (Sec. 2, *Id.*, p. 691.)

Notes given for lottery tickets void. (Sec. 3, *Id.*)

SOUTH CAROLINA.

Constitutional provisions.

"Lotteries and the sale of lottery tickets for any purpose whatever are prohibited, and the General Assembly shall prevent the same by penal statutes." (Art. 14, sec. 2.)

Statutory provisions.

Setting up and promoting lottery punished by fine of \$1,000; one-third to State, one-third to informer, and one-third to poor, and court shall also commit party to jail for twelve months. (Sec. 1, chap. 135, Rev. Stat., p. 737.)

Persons advertising or contributing to a lottery subject to a fine of \$100. (Sec. 2, *Id.*)

Selling lottery tickets punished by fine of not exceeding \$10,000. (Sec. 3, *Id.*)

SOUTH DAKOTA.

Constitutional provisions.

"The Legislature shall not authorize any game of chance, lottery, or gift enterprise under any pretense or for any purpose whatsoever." (Art. 3, sec. 25.)

TENNESSEE.

Constitutional provisions.

"The Legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this State." (Art. 2, sec. 5.)

Statutory provisions.

Any person who makes or aids in making, draws or aids in drawing, or in any way interested in drawing a lottery, guilty of misdemeanor, and liable to a fine of \$1,000 and imprisonment in county jail three months. (Sec. 4899, Rev. Stat. 1871, vol. 3. This sec. taken from act 1835, ch. 44, sec. 2.)

Selling of tickets in lottery punished by fine of \$500 and one month in county jail. (Sec. 4890, *Id.*)

Persons buying lottery tickets liable to a fine not exceeding \$100 or imprisonment in county jail not more than twenty days. (Sec. 4891, *Id.*)

TEXAS.

Constitutional provisions.

The Legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in the State as well as the sale of tickets in lotteries, gift enterprises, or other evasions involving the lottery principle established or existing in other States. (Const. 1875, art. 3, sec. 47.)

Statutory provisions.

If any person shall establish a lottery or dispose of any estate, real or personal, by lottery, he shall be fined not less than \$100 nor more than \$1,000. (Crim. Code, 1879, art. 351, p. 47.)

If any person shall sell or offer for sale or keep for sale any ticket or part of ticket in any lottery, he shall be fined not less than \$10 nor more than \$50. (Crim. Code, 1879, art. 352, p. 47.)

VERMONT.

Statutory provisions.

Setting up or promoting a lottery not authorized by law of State punished by fine not more than \$200. (Sec. 4302, Rev. Laws, 1880, p. 285.)

Disposing of property by game of chance punished by fine not more than \$200. (Sec. 4303, *Id.*)

Selling of tickets in lotteries except those authorized by the law of the State or of the United States punished by fine not exceeding \$300. (Sec. 4304, *Id.*)

VIRGINIA.

Constitutional provisions.

"No lottery shall hereafter be authorized by law, and the buying, selling, or transferring of ticket or chances in any lottery shall be prohibited." (Art. 5, sec. 18.)

Old constitution contains same provisions.

Statutory provisions.

Persons buying or selling lottery tickets or setting up or promoting a lottery liable to imprisonment in jail not more than one year or fined not more than \$500.

WASHINGTON.

Constitutional provision.

The Legislature shall never authorize any lottery or grant any divorce. (Art. III, sec. 24.)

WEST VIRGINIA.

Constitutional provision.

No lottery shall be allowed by law, and the buying, selling, or transferring of tickets or chances in any lottery shall be prohibited. (Art. II, sec. 1.)

Statutory provisions.

Setting up or promoting lottery, and the selling of lottery tickets, punished by imprisonment in county jail not more than one year, and fine not exceeding \$500. (Sec. 11, Code of 1870, p. 698. See also acts of 1875, p. 150.)

All property proposed to be drawn by lottery forfeited to State. (Sec. 12, Code of 1870, p. 698.)

WISCONSIN.

Constitutional provision.

"The Legislature shall never authorize any lottery." (Art. III, sec. 24.)

Statutory provision.

Setting up or promoting a lottery, punished by fine or punished by imprisonment in county jail not more than six months, or fine not more than \$100. (Sec. 4523, Rev. Stat., 1878, p. 1068.)

Selling of lottery tickets punished by fine not exceeding \$500. (Sec. 4524, *Id.*)

Persons advertising lottery tickets or aiding in sale of same liable to a fine not exceeding \$100. (Sec. 4525, *Id.*)

Selling fictitious lottery tickets punished by imprisonment not more than one year nor less than six months, or fine not exceeding \$500. (Sec. 4526, *Id.*)

Property in lottery forfeited to State. (Sec. 4527, *Id.*)

WYOMING.

(No constitutional provision.)

RECAPITULATION.

Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Montana, Mississippi, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin, in all, thirty-one States, have in their constitutions prohibited lotteries, while Connecticut, Kentucky, Maine, Massachusetts, Missouri, New Hampshire, North Carolina, and Pennsylvania, eight, have enacted laws prohibiting lotteries. Delaware and Vermont, by their respective constitutions, prohibit all lotteries except those authorized by law, and none are authorized by law. North Dakota and Wyoming, so far as I can find, have failed to deal with the question in their constitutions. Louisiana, by her constitution, recognizes lotteries, and her Legislature is authorized to grant charters to lottery companies upon the payment of \$40,000 per annum to the State. "All charters to expire 1st day of January, 1895. Lotteries prohibited thereafter."

Thus, forty-two of the forty-four States of the Union have expressed the wishes of their people; and, it being the wish of the great majority of the States of this Union that lotteries should not be permitted, it is my humble opinion that the parent Government should protect the States to the fullest extent.

Many of the States by statutory provision prohibit lottery advertisements and prohibit lottery agencies or the sale of lottery tickets, and subject the offender to fines from \$50 to \$2,000. Many, very many, of the best newspapers in the land refuse to become parties to this scheme of obtaining money by false pretenses, and refuse to advertise lotteries, and advocate the justness of the people's cause in excluding from the mails papers that do advertise lotteries or lottery drawings. I regret to say that the District of Columbia, the seat of the Government of this nation, has failed to provide necessary legislation to prohibit the carrying on and advertising this worst of all classes of gambling, and in consequence this city contributes, as I am advised, about \$1,500,000 annually.

The immense wealth accumulated by this Louisiana State Lottery has enabled it to control almost everything in Louisiana. Finance, politics, morals, seem to be controlled by this power, and to oppose it, particularly in New Orleans, seems to be fatal.

If we should be disposed to believe editorials appearing in the leading New Orleans papers lately, we would be convinced that lottery money was used very largely to elect governors and Legislatures with a view to control legislation.

I am advised, too, that not long since, almost within the shadow of the Dome of the Capitol of this nation, a well known gentleman of this city gave a dinner to a number of distinguished gentlemen, and when the wine flowed freely one of the speakers of the occasion took the opportunity to put all parties upon notice that if there was any legislation permitted at this session of Congress antagonistic to the interests of the Louisiana State Lottery, the company would see during the next campaign that any member favoring such legislation should be relegated to the shades of private life. If this be true, it is quite apparent that the Louisiana State Lottery is not only in the business of making statesmen, but when necessary is disposed to engage in unmaking them. The good people of the State of Louisiana are making an honest, honorable, heroic effort to purge the State of this plague, that has for the past twenty years been a blot upon the good name and fame of her people. Let us stand up and be counted as her friends. The United States can not afford to longer remain a silent partner. [Applause.]

Mr. HITT. Mr. Speaker, the lottery is the most pernicious and widespread form of gambling vice, because it uses for its instrument the Post-Office Department; that is, the Government. The ordinary gambling hell is confined to one house and its frequenters. A lottery spreads through the whole nation; it reaches everywhere, and it does it by the aid of the Government. It was not for this that we built up our magnificent postal system, which is supported at such vast expense annually. Yet that postal system is the instrument to-day and might almost be called the partner or accessory of this great swindling scheme.

What else is there of it? The capital stock of the Louisiana Lottery Company when it was organized was called \$1,000,000; that is, they pretended that there was a million of dollars invested in shares of stock. As a matter of fact, the investment consisted of some stationery

and tickets, a franchise, and the facilities afforded by the United States mails, with the protection which the Government accords to the sacredness of the seal, and thus kept all their business secret, while affording them every facility for carrying on this profitable mischief. So the stock rose to 1,400 per cent. This bill, it is believed, will do what several others which we have passed for the same purpose failed to do, stop that partnership, end that abuse; and we can prove by our votes to-day in passing it as Representatives that this is a Government for the people, for their good, and not to destroy the people by nourishing this engine of deceit and wrong.

Again and again the Postmaster-General has tried to exclude the lottery letters and tickets from the mails, but the law has been evaded, and the question now comes up again with the increase of the wrong. The President has sent us a pressing message; the Post-Office Department has collaborated in the preparation of this bill; the Attorney-General has pronounced it constitutional and efficient; it has the sympathy of good men and women everywhere. It is to extinguish an industry of wrong that has grown to such stupendous proportions that it now gathers in \$22,000,000 annually from the people.

The company has become so balefully powerful that it attempts to debauch Legislatures and the press and many of the people in a great State. It attempted by enormous bribery and offer of a quarter of a million dollars to capture North Dakota, but the sturdy people of that State, poor and hard pressed as they were, proved to be of a stronger and better material than these schemers had estimated.

It is demoralizing to people. Go down to their office in this city and see the long line of anxious faces gathered there every day, poorly dressed women, workmen, eager clerks, the eyes of all lighted with cupidity and dazzled with the promises of the company. These policy offices exert the same evil influence everywhere, and thousands more are reached through the mails until the lottery craze and infatuation grows upon them and they spend all they have in this insane gambling, and often end in ruin, sometimes in suicide.

There is an enormous gambling hell conducted with great splendor at Monaco, in Italy, which has corrupted the press into silence and enticed the world by palatial splendors. An officer of the British Christian Association, which had undertaken to investigate the real workings of that place, told me that they had a list of two hundred suicides there in one year, none of which had been published in the press. This was a gambling establishment confined to one place, and not like this stupendous Louisiana scheme, which reaches its arms over the whole nation.

It has corrupted the employes in the Post-Office Department, as the inspectors have reported, and made some of the agents of the Government the agents of the lottery, who can be influenced, just as it was proved in Louisiana that members of the Legislature can be influenced by so rich a power. Railway postal clerks are tempted to rob the mails, seeing the vast number of these lottery letters passing through containing money and knowing that they are letters from a dupe to a swindler and the whole business dishonest. It presents unusual temptation to the railway postal clerks, and the Department states that there has been a great increase of mail robbery from this particular quarter. The prodigious sums collected by the lottery company, which are drawn in small amounts, prove how many thousands of people are becoming infatuated with the lottery craze, debased and robbed and turned from honest pursuits, and this is getting worse all the time.

It is not pleasant to people struggling hard with the task of daily life to see the prodigious fortunes piled up by this great swindle and to witness the dazzling splendors and gayeties at watering places and fashionable resorts of persons who bear the very names that are seen in these lottery charters, persons who never do a day's work, never produce a pound of what goes to feed or clothe or render comfortable their fellow-man, following an occupation as vile and as pernicious as this by the authority of a State, and with the facilities afforded by the United States through its Post-Office Department passing all others in this world's goods. "They toil not, neither do they spin; yet Solomon in all his glory was not arrayed like one of these."

Without the aid of the Government through the Post-Office Department, the whole business would be cut down to a mere local gambling establishment, answerable to the police powers of the local government. That is what I trust this bill will do. It broadens the present law so that a lottery letter can be followed after it is mailed at New Orleans or Washington, which are the centers of the lottery business, and the offenders punished wherever the letter goes, not alone in Louisiana, where juries can be readily affected by the tremendous power of the lottery company.

It will close the mails to newspapers advertising lotteries, which will be a long step toward destroying their means of reaching and deluding the victim by alluring advertisements and promises which appeal to the cupidity of the ignorant and unthinking who hasten to be rich without labor. Nor does it in the least interfere with the inviolability of the seal upon letters, which will be as sacred hereafter as they have been and always should be. It authorizes the Postmaster-General, upon satisfactory evidence, which will soon be obtained by the agents of the Department, in regard to the character of lottery letters, to stop their transmission through the mails and institute proceedings

to punish those sending. We know that the Postmaster-General will faithfully and zealously perform his part if we do ours and pass this bill. Let us do it, and do it now.

Mr. CRAIN. I now desire a vote on my amendment to section 3, being the same as that offered by the gentleman from Pennsylvania [Mr. BUCKALEW] to section 2, and adopted by the House. The gentleman in charge of the bill will, I suppose, acquiesce in this amendment.

Mr. HOPKINS. There is no objection to it, as I understand.

The SPEAKER *pro tempore*. The amendment of the gentleman from Texas to strike out, in line 25 of section 3, the word "acknowledgment" and insert "*prima facie* evidence," will, in the absence of objection, be considered as adopted.

There was no objection.

Mr. CRAIN. I have another amendment—

Mr. CHEADLE. Why not let the amendment of the gentleman from Arkansas [Mr. ROGERS] be acted on?

Mr. CRAIN. I have no objection to that.

The SPEAKER *pro tempore*. The Clerk will report the amendment of the gentleman from Arkansas [Mr. ROGERS].

The Clerk read as follows:

Add to section 3 the following:

"But the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other legal way."

Mr. HOPKINS. There is no objection to that amendment. The same amendment was adopted on motion of the gentleman from Georgia [Mr. BLOUNT] to section 2.

Mr. GROSVENOR. I can not permit a measure of such importance as this, and one which will ultimately be construed in the courts, to be passed without stating in a word my opposition to such an amendment as that just read. The danger of this and all such amendments is that, instead of enlarging the scope of the bill, they narrow the authority of the officers upon whom the execution of the act must depend. The danger is that the courts and all the other authorities of the Government will be precluded from considering the question here involved, simply because Congress has declared that the Postmaster-General may ascertain the matter. If other gentlemen want that sort of a law, that is their concern; but in my judgment the probable effect of a provision of this kind will be that, instead of enlarging the power of the executive bureaus of the Government, it will be found to limit their powers absolutely; and, instead of there being simply a *prima facie* presumption, it will be a conclusive presumption in all the other Departments except that of the Postmaster-General.

Mr. ROGERS. Mr. Speaker, I think I ought to say one word in reply to my friend from Ohio [Mr. GROSVENOR]. He and I are seeking precisely the same end. We desire that the Postmaster-General may have all the power he may legally exercise in this matter. Now, for the ascertainment of who are the agents of this lottery company, you prescribe here one method, the publication in a newspaper that a particular man or corporation is an agent; and it is declared that such publication shall be *prima facie* evidence of the agency. This provision is the expression of one method of ascertaining the agency. Now, in this case, I take it, the rule of law would apply that the expression of one thing operates as an exclusion of everything else. The amendment I offer seeks to broaden rather than limit the scope of the inquiry, and allows the existence of the agency to be ascertained by any legal method that may be suggested.

Mr. GROSVENOR. That I would be perfectly willing to assent to, but the amendment limits the ascertainment to a single bureau of the Government.

Mr. ROGERS. Not at all. With the amendment the provision will read in this way:

The public advertisement by such person or company so conducting any such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by means of postal money-orders to any other person, firm, bank, corporation, or association named therein shall be held to be *prima facie* evidence of the existence of said agency by all the parties named therein, but the Postmaster-General shall not be precluded from ascertaining the existence of such agency in any other legal way.

In this form the provision is not a limitation, but a widening of the power of the Government in reference to this matter.

Mr. GROSVENOR. Suppose this bill should become a law and a party should be indicted under it, would not the court be compelled to charge the jury that so far as they were concerned the advertisement of the lottery company was *prima facie* evidence on this point?

Mr. ROGERS. I do not think so.

Mr. GROSVENOR. That is exactly the danger.

Mr. ROGERS. I do not think any such consequence would follow, because this provision here has nothing in the world to do with the question of an indictment in the courts; it refers simply to the ascertainment of the existence of the agency by the Postmaster-General for the purpose of stopping the transmission of the mail matter of the party. That is the whole object. And I take it if a man advertised me in a newspaper as a horse-thief when it was produced and read in court the court would hardly admit that it was even *prima facie* evidence of my guilt. I assume that it would not be evidence at all. But this provision makes it evidence, so far as the lottery is concerned.

Mr. HOPKINS. Mr. Speaker, there has been no objection, I believe, interposed to the amendment. The committee is willing to have it adopted, and I ask a vote.

The amendment of Mr. ROGERS was adopted.

Mr. CRAIN. I desire to know, Mr. Speaker, what was done with the amendment I offered to section 3, providing that the words "an acknowledgment" should be stricken out and "*prima facie*" inserted?

The SPEAKER *pro tempore*. That was adopted.

Mr. HAYES. How much time have I remaining, as controlling the time on this side?

The SPEAKER. The Chair is informed that the gentleman has ten minutes remaining.

Mr. HANSBROUGH was recognized.

Mr. BLOUNT. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman from North Dakota is recognized.

Mr. BLOUNT. I think the gentleman will not object when I make it. There seems to be misunderstanding on both sides as to the division of time. I ask the attention of the gentleman from Illinois [Mr. HOPKINS]. The Speaker announced that the gentlemen from Iowa [Mr. HAYES] had ten minutes time remaining. I wish to know if there has been any agreement as to the division of time beyond certain amendments?

Mr. HOPKINS. I do not know of any. I think the gentleman from Iowa occupied his time.

The SPEAKER. The Chair was informed that the gentleman had ten minutes more.

Mr. BLOUNT. There was no division of time except as to two amendments.

The SPEAKER. The gentleman from North Dakota is recognized, after which the Chair will recognize the gentleman from Georgia.

Mr. HANSBROUGH. Mr. Speaker, I recently had the misfortune to encounter the opposition of what has aptly been termed the lottery octopus, and, like the fellow who accidentally collided with the mule, I got the worst of it. My opposition to the lottery antedates my election as a member of this House, and I have frequently taken occasion since then to emphasize that opposition, so that what I may say in the brief remarks I shall make at this time can not be said to be the result of disappointment.

The bill under consideration is a substitute for a bill I introduced in this House on the 3d of April last. It contains some additional provisions, in which I cheerfully concur. At the time of the introduction of the bill, it seemed to me that it was clearly the duty of this Congress to enact some sort of measure that would strengthen existing statutes touching the question of lotteries. I have had no reason to change my mind on the subject; in fact, my belief that something should be done is a little stronger now than it was then.

The State of North Dakota, which I have the honor to represent upon this floor, passed through an ordeal last winter that but few States in this Union have ever experienced. An attempt was made at that time by an organization of men, residents and non-residents, to secure legislative authority for the establishment of a lottery in North Dakota. The State had been in the Union but two months. By a serious oversight on the part of those who framed the State constitution, the lottery prohibition clause which is to be found in the constitutions of every State in the Union except three, I believe, was omitted from the constitution of North Dakota. It is claimed by some that this omission was by design; that the men who, after the adoption of the constitution and during the first session of the first State Legislature, sought to obtain a charter for the establishment of a lottery, know more about the omission of the lottery prohibition clause than they would now confess to.

Yet, Mr. Speaker, in justice to the majority of the gentlemen who composed that constitutional convention, I want to say that I do not believe, if the failure to insert such a clause was by design, that there were more than half a dozen members of the convention who were at the time aware of the purpose sought to be accomplished. Howsoever this may have been, the general public did not discover the omission until a bill was introduced in the Legislature early in the present year providing for the chartering of a lottery in North Dakota. The advocates of the bill offered the plausible and seductive argument that the young State was poor, that her people were poor, and that the men who were asking for the lottery charter were rich.

The first two propositions were true; the State and her people were poor and they are poor to-day; but, be it said to their great credit, they have not yet reached that degree of want in poverty which would induce them to sell their honor and their manhood. The lottery men were willing to pay the State \$100,000 for the privilege of opening their game at its capital; and, as a final inducement, when public sentiment was about to drive them from the field, they proposed, in addition to the \$100,000 in cash, to donate to the farmers—many of whom for two consecutive years had lost their grain crops—they proposed to donate to the farmers of the State 150,000 bushels of seed-wheat—a total bribe offered by the lottery people equal to \$250,000. Let it be again recorded that our people, poor as they are, spurned that offer also. The State senate did pass the bill, but the positive and unswerving opposition of

the governor and other well disposed people checked the measure in the lower house, where it was indefinitely postponed.

And this was the end of the beginning of lottery legislation in my State. Where the beginning of the end will be, I can not say. Certain it is that the serpent is not dead. I believe it is simply scotched. The enactment of the bill under consideration will do much toward discouraging further attempts to pollute the politics and corrupt the people of North Dakota by establishing an institution that for so many years has disgraced one of the older States of the Union.

Now, Mr. Speaker, I do not charge the concern known as the Louisiana Lottery Company with entire responsibility for what took place in my State last winter. On the contrary, I am of the opinion that the Louisiana Lottery Company *per se* was not directly implicated. It is said an agent of that company was on the ground at our State capital while the question was up in the Legislature, but that his mission there was not, in fact, to transfer the New Orleans game to our State, but simply to frighten the people of Louisiana into the belief that such transfer would take place if the Legislature of the latter State refused to recharter the concern; that the threat to remove from Louisiana to North Dakota was simply a club held over the heads of the people of Louisiana. And from reports recently printed in the papers it looks as if the threat had had the desired effect.

The general impression that a large capital is required to start a lottery is erroneous. Why does it need large capital to begin with? Certainly not to pay prizes. With a State charter behind it to give it apparent respectability and with a few thousand circulars and a live advertising agent, a lottery company may set a date—say three months ahead—when a drawing will take place. By that time enough tickets will have been sold for cash to pay all the prizes offered and 100 per cent. upon the company's stock besides. I was told recently by a gentleman who knows something of the inside workings of such enterprises that the fairest and squarest lottery that ever existed never paid out in prizes over 30 per cent. of its receipts. There is no means of knowing what the total disbursements are. No wonder Louisiana Lottery Company's stock, said to have originally been worth 35 cents on the dollar, was recently semi-officially quoted in New York at \$1,400 per share. No wonder that an association of lottery sharps could offer \$250,000 for the privilege of doing business in North Dakota. No wonder that the managers of the New Orleans game could afford to offer, as they are reported to have offered recently, upward of a million dollars per year for an extension of its charter.

There is nothing that is legitimate in lotteries. There is everything in them that is illegitimate and demoralizing. They advertise to pay certain amounts of money in prizes. Do they do it? Who knows? Only the managers know. To whom are the managers responsible? Not to the law. They are responsible to themselves only. There is no way to compel them to do what they agree to do. The lottery drawings take place in the presence of and are conducted by those persons only who are interested in the dividends.

And who, let me ask, is it that suffers most at the hands of the lottery? It is not the man or woman of wealth, for they are not usually tempted by games of chance, and if they are they can afford to lose a few dollars in that way. It is not the man or woman in moderate circumstances and of frugal, saving habits, for they know the value of money and are not slow to discover the illegitimacy of a concern that professes to pay a thousand for one. But, Mr. Speaker, it is the poor man or poor woman with their last miserable dollar, and being the last dollar and they not knowing where the next is coming from, it may—so runs the imagination of its possessor—draw a prize and make its owner happy. Vain hope! And if it draws a blank the poor, desperate creature can not be much worse off. And so that last dollar goes to buy a coupon in "the great, extraordinary, mammoth, monthly gift enterprise," and it is dropped into the slot with a million other last miserable dollars extracted, under false pretenses, from the pockets of the poor; and what do the managers of the lottery care if the bread that those last dollars should have purchased is not forthcoming to appease the hunger of unfortunate children or other dependents?

I submit that it is the highest duty of Congress to lessen the temptations constantly thrown in the pathway of the thousands of people who continue to believe that the traditional pot of gold is to be found at the end of the rainbow. It is the duty of Congress to check the lottery evil now, ere it grows even more powerful than Congress itself. It is no answer to the absolute necessity that exists for legislation against the lottery to say that such legislation is unconstitutional. The test will be in the application of the law. If the legitimate business of any citizen should be interfered with by the enactment of the proposed amendment to existing statutes, ample remedy may be found in the courts. I have no doubt that if Congress does its duty in this matter now the courts will not be slow in doing theirs when the time comes.

The Government under present conditions is virtually a silent partner in every lottery enterprise in this country, and as such is largely instrumental in assisting to rob the people whom it should protect against impositions of all kinds. The post-offices and mail-bags of this country should be legally closed against the fraudulent enterprises which live and thrive upon the dollars wrung from the pockets of weak-

minded and credulous people. For the sake of the integrity of those weaker States of the Union, where the allurements of gold may overcome the pride that is a part of honorable poverty; for the sake of the integrity of the National Government itself, I appeal to the members of this House to vote for this bill and thus wipe out an evil that has already reached alarming proportions. [Applause.]

Mr. BLOUNT. Mr. Speaker, during preceding Congresses I had the honor of being chairman of the Committee on the Post-Office and Post-Roads of the House, and made special efforts during my service on that committee for the purpose of passing anti-lottery legislation, especially the feature embodied in this bill which excludes from the mails of the United States papers containing lottery advertisements. In the Congress before the last, while a majority report was made from the committee, it so happened that under the rules of procedure adopted by the House the subject was never reached for action.

In the last Congress it so happened that, without reference to party lines, a majority of the Committee on the Post-Office and Post-Roads regarded the measure as unconstitutional, and for that and other reasons reported the same adversely.

The country is to be congratulated that we have assembled together now under different circumstances. Slowly there has been developing in the public mind of the country a demand for reform in this regard. Certain acts on the part of the Louisiana Lottery Company in endeavoring to get charters from the State of Louisiana and the State of North Dakota have arrested public attention to the enormity of the crimes of that organization and prepared an opinion outside as well as in this House to give effect to the moral sense of the country.

The States of the Union, all of them, except one, either by constitutional provision or legislative enactment, have announced their judgment upon the moral phase of this question. In the State of Alabama, for instance—and I will read a few extracts as an illustration of the prevalent sentiment throughout the country in regard to lotteries—provision is made that—

The General Assembly shall have no power to authorize lotteries or gift enterprises for any purposes, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in any scheme in the nature of a lottery in this State; and all acts or parts of acts heretofore passed by the General Assembly of this State authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

The State of Arkansas declares in her constitution as follows:

The General Assembly shall not authorize any lottery and shall prohibit the sale of any lottery tickets.

The State of California declares in her fundamental law:

The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery.

These are but samples, Mr. Speaker, and I might go on reading from constitutions and laws of nearly all of the States of this Union embodying similar declarations in regard to these infamous enterprises.

I hold in my hand a report made by the Senator from Iowa [Mr. WILSON], in which he sums up as follows:

From the foregoing it appears that lotteries are prohibited by constitutional provisions in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin—total, 27; by statutory provisions in Connecticut, Kentucky, Maryland, Massachusetts, Missouri, New Hampshire, North Carolina, and Pennsylvania—total, 8; by constitution or statute, or both, 35.

Delaware and Vermont prohibit all lotteries except those authorized by the laws of the State.

Louisiana by constitutional provision authorizes lotteries until 1895, after which they are prohibited.

Lottery advertisements prohibited in California, Colorado, Florida, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New York, Ohio, Oregon, Pennsylvania, and Wisconsin—total, 20.

From the foregoing it clearly appears that the bill reported by the committee is not only within the power and duty of Congress, but is also in harmony with and in support of the policy of every State in the Union.

Mr. Speaker, strange to say that, notwithstanding the various States of this Union by entering it into their fundamental law or by statutes have expressed the moral abhorrence of the people of those States to the lottery system, and above all things else to the lottery system known as the Louisiana lottery, the mails of the United States have been carrying, by means of the press of the country, advertisements of these criminal schemes for plundering the poor all over this land, until with audacious spirit they were seeking to insert in the fundamental laws of States in this Union the constitutional right to continue. And how has action been delayed against this evil?

This Capitol has been infested with its agents, with its counsel. The press of the country has in a large measure subserved its purposes, and there has been thrust before us in this body and the other, from time to time, the declaration that there was no constitutional power to prevent this enormity. I am glad, sir, that we have reached that state of public sentiment where the decision of the Supreme Court of the United States has declared that the Congress of the United States shall have authority to declare what shall or shall not be placed in the mails of the United States. The decisions of the courts have been clear and unmistakable, but the contrary opinion has been dinged into everybody's ears, and confusion came until a healthier public sentiment made a healthier moral perception on the part of legislators. We have

reached, sir, a point where the power is clear, and, the power being clear to exclude the instrumentalities of this corporation to continue its crimes, the moral sentiment of the country is about to be responded to by legislation in pursuance of it. It is a stupendous wonder that we have been delayed until this hour in the exercise of the power to exclude newspapers containing lottery advertisements from the mail.

Mr. Speaker, I wish to take occasion here to quote the words of the Supreme Court of the United States upon this question:

The following is the opinion of the Supreme Court of the United States in *Ex parte Jackson* (96 United States Supreme Court Reports):

1. The power vested in Congress to establish "post-offices and post-roads" embraces the regulation of the entire postal system of the country. Under it Congress may designate what shall be carried in the mail and what excluded.

2. In the enforcement of regulations excluding matter from the mail a distinction is to be made between what is intended to be kept free from inspection, such as letters and sealed packages subject to letter postage, and what is open to inspection, such as newspapers, magazines, pamphlets, and other printed matter, purposely left in a condition to be examined.

3. Letters and packages, subject to letter postage, in the mail can be opened and examined only under like warrant, issued upon similar oath or affirmation, particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. The constitutional guaranty of the right of the people to be secure in their persons against unreasonable searches and seizures extends to their papers, thus closed against inspection, wherever they may be.

4. Regulations against transporting in the mail printed matter, which is open to examination, can not be enforced so as to interfere in any manner with the freedom of the press. Liberty of circulating is essential to that freedom. When, therefore, printed matter is excluded from the mail, its transportation in any other way as merchandise can not be forbidden by Congress.

5. Regulations excluding matter from the mail may be enforced through the courts upon competent evidence of their violation obtained in other ways than by the unlawful inspection of letters and sealed packages; and with respect to objectionable printed matter, open to examination, they may in some cases also be enforced by the direct action of the officers of the postal service upon their own inspection, as where the object is exposed, and shows unmistakably that it is prohibited, as in the case of an obscene picture or print.

6. When a party is convicted of an offense and sentenced to pay a fine it is within the discretion of the court to order his imprisonment until the fine shall be paid.

PETITION FOR WRIT OF HABEAS CORPUS AND CERTIORARI.

Section 3894 of the Revised Statutes provides that—
"No letter or circular concerning illegal lotteries, so-called gift concerts, or other similar enterprises, offering prizes, or concerning schemes devised and intended to deceive and defraud the public for the purpose of obtaining money under false pretenses, shall be carried in the mail. Any person who shall knowingly deposit or send anything to be conveyed by mail in violation of this section shall be punishable by a fine of not more than \$500 nor less than \$100, with costs of prosecution."

By an act approved July 12, 1876 (19 Stat., 90), the word "illegal" was stricken out of the section. Under the law as thus amended the petitioner was indicted, in the circuit court of the United States for the southern district of New York, for knowingly and unlawfully depositing, on the 23d of February, 1877, at that district, in the mail of the United States, to be conveyed in it, a circular concerning a lottery offering prizes, inclosed in an envelope addressed to one J. Ketcham, at Gloversville, N. Y. The indictment set forth the offense in separate counts, so as to cover every form in which it could be stated under the act.

Upon being arraigned, the prisoner stood mute, refusing to plead; and thereupon a plea of not guilty was entered in his behalf by order of the court (Revised Statutes, section 1032). He was subsequently tried, convicted, and sentenced to pay a fine of \$100, with the costs of the prosecution, and to be committed to the county jail until the fine and costs were paid. Upon his commitment, which followed, he presented to this court a petition alleging that he was imprisoned and restrained of his liberty by the marshal of the southern district of New York, under the conviction; that such conviction was illegal, and the illegality consisted in this: that the court had no jurisdiction to punish him for the acts charged in the indictment; that the act under which the indictment was drawn was unconstitutional and void, and that the court exceeded its jurisdiction in committing him until the fine was paid.

He therefore prayed for a writ of habeas corpus to be directed to the marshal to bring him before the court, and a writ of certiorari to be directed to the clerk of the circuit court to send up the record of his conviction, that the court might inquire into the cause and legality of his imprisonment. Accompanying the petition, as exhibits, were copies of the indictment and of the record of conviction. The court, instead of ordering that the writs issue at once, entered a rule, the counsel of the petitioner consenting thereto, that cause be shown, on a day designated, why the writs should not issue as prayed, and that a copy of the rule be served on the Attorney-General of the United States, the marshal of the southern district of New York, and the clerk of the circuit court.

The Attorney-General, for himself and others, answered the rule by averring that the petition and exhibits do not make out a case in which this court has jurisdiction to order the writ to issue, and that the petitioner is in lawful custody by virtue of the proceedings and sentence mentioned in the exhibits, and the commitment issued thereon.

Mr. A. J. Dittenhofer and Mr. Louis F. Post for the petitioner.
1. From the power to establish post-offices and post-roads, that of receiving, carrying, and delivering the mail is implied, and from these are derived other incidental powers, one of them being the right to protect the mail by appropriate legislation. (*McCullough vs. Maryland*, 4 Wheat., 316; *Sturtevant vs. City of Alton*, 3 McLean, 393.)

As the power of Congress is exclusive, its legislation establishing a post-office or post-road, or regulating the receipt, protection, carriage, or delivery of the mail, is therefore supreme. Congress has, in the exercise of the power, declared (Rev. Stat., sec. 3982) that "No person shall establish any private express for the conveyance of letters or packets, or in any manner cause or provide for the conveyance of the same by regular trips or at stated periods, over any post-route which is or may be established by law, or from any city, town, or place to any other city, town, or place between which the mail is regularly carried."

3. The power so vested in Congress imposed upon that body the duty to furnish adequate facilities for the secure transportation and delivery of all letters and packets which were considered legitimate mail matter at the time of the adoption of the Constitution. To provide the requisite funds for the performance of this duty, Congress has imposed reasonable rates of postage; and to protect the contents of the mail has prohibited the putting in the mail-bags of any poisonous or explosive article which may injure them or the persons connected with the mail service; and it has also limited the bulk and weight of mailable packets. These are matters of appropriate regulation. Never, however, until 1836, was any attempt made to exclude established mail matter from the mails.

The President had previously recommended to Congress the passage of a law prohibiting the conveyance by mail of publications inciting persons held to service in the Southern States to revolt against their masters. Pursuant to the recommendation, a bill was introduced in the Senate providing that it should not be lawful for any deputy postmaster knowingly to receive and put into the mail any pamphlet, newspaper, handbill, or other printed, written, or pictorial representation touching the subject of slavery directed to any person or post-office where, by the laws thereof, their circulation was prohibited (Cong. Globe, 1836, page 150). The measure was signally defeated. The views of the most eminent statesmen of that day, as they appear in the public debates, against its passage upon constitutional grounds, are applicable to the statute under which the petitioner was convicted, and conclusively demonstrate its constitutionality.

4. In the year 1868, Congress, in the exercise of an assumed power, declared that it should not be lawful to deposit in a post-office, to be sent by mail, any letters or circulars concerning lotteries, so-called gift concerts, or other similar enterprises (15 Stat., 196), although all letters whatsoever, without regard to the character of the communication contained in them, had been previously considered to be legitimate mail matter. That act, initiating this species of legislation, is of a like character with the one governing this case, and both are unconstitutional.

If Congress can exclude from the mail a letter concerning lotteries which have been authorized by State legislation and refuse to carry it by reason of their asserted injurious tendency, it may refuse to carry any other business letter; and as the conveyance of letters otherwise than by the mail of the United States at stated periods, over any post-road, has, as above shown, been prohibited by Congress, that body may cut off all means of epistolary communication upon any subject which is objectionable to a majority of its members. So long as the duty of carrying the mails is imposed upon Congress, a letter or a packet which was confessedly mailable matter at the time of the adoption of the Constitution can not be excluded from them, provided the postage be paid and other regulations be observed. Whatever else has been declared to be mailable matter—as postal cards, postal money-orders, merchandise, etc., all of which were unknown to the postal system when the convention concluded its labors in 1787—may, in the discretion of Congress, be abolished.

Mr. Assistant Attorney-General Smith, contra.
1. Congress has the power "to establish post-offices and post-roads" and to make all necessary and proper regulations for carrying into execution that power.

The framers of the Constitution meant to create an establishment as an entirety; not merely to designate the places at which mails should be taken up and delivered and the routes by which they should be transported from point to point. Full sovereign control over the whole subject was given, to be exercised by any appropriate means. (*Kohl et al. vs. United States*, 91 U. S., 367; *Dickey vs. Maysville and Lexington Turnpike Road Co.*, 7 Dana (Ky.), 113; *Sturtevant vs. City of Alton*, 3 McLean, 393; 2 Story, Const., secs. 1125-1150; Rawle, Const., chapter 9, pages 103, 104.)

2. Having exclusive power over the subject Congress can prescribe the matter which shall receive the benefits of this establishment, and he who complains that he can not use it to transmit obscene or improper communications no more maintains a constitutional right than does the debtor who can not avail himself of the bankrupt act because he owes but \$100 or because (under the first law on this subject) he is not a trader. It is a question of administration merely. If the public interests require the exclusion of articles morally contaminating, as well as of poisons, acids, or explosives, to prohibit their deposit in the post-office is as "essential to the beneficial exercise of the power" granted by the Constitution, though "not indispensably necessary to its existence" as any of those mentioned in *McCulloch vs. The State of Maryland*, 4 Wheat., 316.

The remedy is in the hands of the people, if Congress so legislates as to deprive them of the full and just enjoyment of postal privileges.

Any State choosing to sanction a business which Congress thinks ought not to have the use of the mails to facilitate its transactions can, if she please, provide means of communication for matter so excluded from the mails. (2 Story, Const., sec. 1150; 1 Tucker's Bl. Com., app., 265.)

But, if there is a right to exclude any matter from the mail, the extent of its exercises is one of legislative discretion.

Mr. Justice Field, after stating the case, delivered the opinion of the court.
The power vested in Congress "to establish post-offices and post-roads" has been practically construed, since the foundation of the Government, to authorize not merely the designation of the routes over which the mail shall be carried and the offices where letters and other documents shall be received to be distributed or forwarded, but the carriage of the mail and all measures necessary to secure its safe and speedy transit and the prompt delivery of its contents. The validity of legislation prescribing what should be carried and its weight and form and the charges to which it should be subjected has never been questioned. What should be mailable has varied at different times, changing with the facility of transportation over the post-roads.

At one time only letters, newspapers, magazines, pamphlets, and other printed matter, not exceeding 8 ounces in weight, were carried; afterwards books were added to the list; and now small packages of merchandise, not exceeding a prescribed weight, as well as books and printed matter of all kinds, are transported in the mail. The power possessed by Congress embraces the regulation of the entire postal system of the country. The right to designate what shall be carried necessarily involves the right to determine what shall be excluded. The difficulty attending the subject arises, not from the want of power in Congress to prescribe regulations as to what shall constitute mail matter, but from the necessity of enforcing them consistently with rights reserved to the people, of far greater importance than the transportation of the mail. In their enforcement a distinction is to be made between different kinds of mail matter, between what is intended to be kept free from inspection, such as letters and sealed packages subject to letter postage, and what is open to inspection, such as newspapers, magazines, pamphlets, and other printed matter, purposely left in the condition to be examined. Letters and sealed packages of this kind in the mail are as fully guarded from examination and inspection, except as to their outward form and weight, as if they were retained by the parties forwarding them in their own domiciles.

The constitutional guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers thus closed against inspection, wherever they may be. Whilst in the mail they can only be opened and examined under like warrant, issued upon similar oath or affirmation particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. No law of Congress can place in the hands of officials connected with the postal service any authority to invade the secrecy of letters and such sealed packages in the mail; and all regulations adopted as to mail matter of this kind must be in subordination to the great principle embodied in the fourth amendment of the Constitution.

Nor can any regulations be enforced against the transportation of printed matter in the mail which is open to examination, so as to interfere in any manner with the freedom of the press. Liberty of circulating is as essential to that freedom as liberty of publishing; indeed, without circulation the publication would be of little value. If, therefore, printed matter be excluded from the mail, its transportation in any other way can not be forbidden by Congress.

In 1836 the question as to the power of Congress to exclude publications from the mail was discussed in the Senate, and the prevailing opinion of its members, as expressed in debate, was against the existence of the power.

President Jackson, in his annual message of the previous year, had referred to the attempted circulation through the mail of inflammatory appeals addressed to the passions of the slaves, in prints, and in various publications, tending to stimulate them to insurrection; and suggested to Congress the propriety of passing a law prohibiting, under severe penalties, such circulation of "incendiary publications" in the Southern States.

In the Senate, that portion of the message was referred to a select committee of which Mr. Calhoun was chairman, and he made an elaborate report on the subject, in which he contended that it belonged to the States, and not to Congress, to determine what is and what is not calculated to disturb their security, and that to hold otherwise would be fatal to the States; for, if Congress might determine what papers were incendiary, and as such prohibit their circulation through the mail, it might also determine what were not incendiary and enforce their circulation. Whilst, therefore, condemning in the strongest terms the circulation of the publications, he insisted that Congress had not the power to pass a law prohibiting their transmission through the mail on the ground that it would abridge the liberty of the press. "To understand," he said, "more fully the extent of the control which the right of prohibiting circulation through the mail would give to the Government over the press, it must be borne in mind that the power of Congress over the post-office and the mail is an exclusive power. It must also be remembered that Congress, in the exercise of this power, may declare any road or navigable water to be a post-road, and that, by the act of 1825, it is provided 'that no stage or other vehicle which regularly performs trips on a post-road, or on a road parallel to it, shall carry letters.' The same provision extends to packets, boats, or other vessels on navigable waters. Like provision may be extended to newspapers and pamphlets which, if it be admitted that Congress has the right to discriminate in reference to their character what papers shall or what shall not be transmitted by the mail, would subject the freedom of the press on all such subjects, political, moral, and religious, completely to its will and pleasure. It would in fact, in some respects, more effectually control the freedom of the press than any seditious law, however severe its penalties." Mr. Calhoun, at the same time, contended that when a State had pronounced certain publications to be dangerous to its peace and prohibited their circulation, it was the duty of Congress to respect its laws and co-operate in their enforcement; and whilst, therefore, Congress could not prohibit the transmission of the incendiary documents through the mails, it could prevent their delivery by the postmasters in the States where their circulation was forbidden. In the discussion upon the bill reported by him, similar views against the power of Congress were expressed by other Senators, who did not concur in the opinion that the delivery of papers could be prevented when their transmission was permitted.

Great reliance is placed by the petitioner upon these views, coming, as they did in many instances, from men alike distinguished as jurists and statesmen. But it is evident that they were founded upon the assumption that it was competent for Congress to prohibit the transportation of newspapers and pamphlets over postal routes in any other way than by mail, and of course it would follow that if, with such a prohibition, the transportation in the mail could also be forbidden the circulation of the documents would be destroyed and a fatal blow given to the freedom of the press. But we do not think that Congress possesses the power to prevent the transportation in other ways, as merchandise, of matter which it excludes from the mails. To give efficiency to its regulations and prevent rival postal systems it may perhaps prohibit the carriage by others for hire, over postal routes, of articles which legitimately constitute mail matter, in the sense in which those terms were used when the Constitution was adopted, consisting of letters, and of newspapers, and of pamphlets, when not sent as merchandise; but further than this its power of prohibition can not extend.

Whilst regulations excluding matter from the mail can not be enforced in a way which would require or permit an examination into letters or sealed packages subject to letter postage, without warrant, issued upon oath or affirmation, in the search for prohibited matter, they may be enforced upon competent evidence of their violation obtained in other ways, as from the parties receiving the letters or packages, or from agents depositing them in the post-office, or others cognizant of the facts. And as to objectionable printed matter, which is open to examination, the regulations may be enforced in a similar way by the imposition of penalties for their violation through the courts, and, in some cases, by the direct action of the officers of the postal service. In many instances, those officers can act upon their own inspection, and, from the nature of the case, must act without other proof, as where the postage is not prepaid, or where there is an excess of weight over the amount prescribed, or where the object is exposed, and shows unmistakably that it is prohibited, as in the case of an obscene picture or print. In such cases no difficulty arises and no principle is violated in excluding the prohibited articles or refusing to forward them. The evidence respecting them is seen by every one and is in its nature conclusive.

In excluding various articles from the mail the object of Congress has not been to interfere with the freedom of the press or with any other rights of the people, but to refuse its facilities for the distribution of matter deemed injurious to public morals. Thus by the act of March 3, 1873, Congress declared "that no obscene, nude, or lascivious book, pamphlet, picture, paper, print, or other publication of an indecent character, or any article or thing designed or intended for the prevention of conception or procuring of abortion, nor any article or thing intended or adapted for any indecent or immoral use or nature, nor any written or printed card, circular, book, pamphlet, advertisement, or notice of any kind, giving information, directly or indirectly, where, or how, or of whom, or by what means, either of the things before mentioned may be obtained or made, nor any letter upon the envelope of which, or postal card upon which indecent or scurrilous epithets may be written or printed, shall be carried in the mail; and any person who knowingly deposits or causes to be deposited, for mailing or delivery, any of the hereinbefore mentioned articles or things, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall, for every offense, be fined not less than \$100, nor more than \$5,000, or imprisonment at hard labor not less than one year nor more than ten years, or both, in the discretion of the judge."

All that Congress meant by this act was that the mails should not be used to transport such corrupting publications and articles, and that any one who attempted to use it for that purpose should be punished. The same inhibition has been extended to circulars concerning lotteries, institutions which are supposed to have a demoralizing influence upon the people. There is no question before us as to the evidence upon the conviction of the petitioner was had, nor does it appear whether the envelope in which the prohibited circular was deposited in the mail was sealed or left open for examination. The only question for our determination relates to the constitutionality of the act, and of that we have no doubt.

The commitment of the petitioner to the county jail until his fine is paid was within the discretion of the court under the statute.

As there is an exemplified copy of the record of the petitioner's indictment and conviction accompanying the petition, the merits of his case have been considered at his request upon this application, and, as we are of the opinion that his imprisonment is legal, no object is subserved by issuing the writs; they are therefore denied.

Mr. Speaker, I think we can congratulate ourselves and the country upon the fact that we are about to consummate a great moral act in

the interests of the best people and the best sentiment of the country. [Applause.]

Mr. CALDWELL. Mr. Speaker, I ask unanimous consent that leave be granted members to print remarks in the RECORD.

There was no objection.

NATHANIEL M'KAY ET AL.

Mr. HAYES. Mr. Speaker, as a matter of privilege I desire to enter a motion to reconsider the bill (S. 848) for the relief of Nathaniel McKay and the executors of Donald McKay.

Mr. THOMAS. I move to lay that motion on the table.

LOTTERIES.

Mr. HOPKINS. The previous question has been ordered on the lottery bill, and that is the only thing in order.

The SPEAKER. The time has arrived when, under the action of the House, the previous question is ordered on the lottery bill. The question is upon the engrossment and third reading of the bill.

Mr. PRICE. I ask unanimous consent that I may have one minute.

Several MEMBERS. Let him have it.

There was no objection.

Mr. PRICE. Mr. Speaker, I do not propose to discuss the merits or demerits of this bill. I am in favor of the bill. My object in asking for this one minute is simply to repel the statement made by the gentleman from Tennessee [Mr. EVANS] that the morals of the State of Louisiana are absolutely under the dominion of the Louisiana Lottery Company. He stated that financially, politically, and morally the Louisiana Lottery Company has control of the State which I am proud to say I was born in and which I am proud to have the honor in part to represent upon this floor. It is true that the State of Louisiana was saddled with the lottery by the carpet-bag government. It is also true that many of the truest and best men there now believe that it would be wise to recharter it in order to derive revenue. I want to tell the gentleman that 93 per cent. of the revenues derived by that lottery company come from without the State of Louisiana. [Applause on the Democratic side.]

The SPEAKER. The time of the gentleman has expired. The question is on ordering the bill to be engrossed for a third reading.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was put, and the Speaker announced that the "ayes" seemed to have it.

Mr. HAYES. Division.

The House divided.

During the count,

Mr. HAYES. I withdraw the demand for a division.

Mr. HOLMAN. I insist on the count. I want to show the unanimity of the vote in favor of this measure. [After a pause.] I withdraw the demand for a count on the ground that the apprehension is expressed that there may not be a quorum present.

So the bill was passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. ALLEN, of Michigan. I rise to a personal explanation.

Mr. BRECKINRIDGE, of Kentucky. I move that the House do now adjourn. [Cries of "Regular order!"]

The SPEAKER. The gentleman from Michigan rises to a question of personal privilege?

Mr. ALLEN, of Michigan. I rise to a personal explanation, because I think I ought to make one. When I left the House on Tuesday last I made an arrangement with my colleague [Mr. CHIPMAN] to pair with him. That was the understanding, but by some inadvertence somewhere this was not made a matter of record, and consequently he has not been voting. It is justice to him to state the reason why he did not vote, as he supposed he was paired with myself. The RECORD does not show that he was; and this, of course, never will be explained unless by me, and that is the reason why I make this explanation now.

DISTRESS IN OKLAHOMA.

Mr. CANNON. I desire to call up the joint resolution appropriating money for the relief of distress in the Territory of Oklahoma; and I ask that the request of the Senate for the appointment of a conference committee be complied with, and that conferees on the part of the House may be appointed.

The Clerk read as follows:

Joint resolution to appropriate money for the Territory of Oklahoma, to relieve distress therein.

The SPEAKER. The question is on insisting on the amendment of the House disagreed to by the Senate, and to grant the conference requested.

The motion was agreed to.

The SPEAKER announced as conferees on the part of the House Mr. HENDERSON of Iowa, Mr. CANNON, and Mr. BRECKINRIDGE of Kentucky.

Mr. McMILLIN. I move that the House do now adjourn.
Mr. HOPKINS. I move that the House do now adjourn.

CUSTOMS DISTRICT OF PUGET SOUND.

Mr. SWENEY. Mr. Speaker, I present a conference report.
Mr. McMILLIN. A motion to adjourn is pending.

The SPEAKER. The gentleman from Iowa presents a conference report.

Mr. McMILLIN. But a motion to adjourn was made before the gentleman presented his report.

The SPEAKER. The Chair recognizes the gentleman to present the conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3163) to reorganize and establish the customs collection district of Puget Sound, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment as follows: Restore the section stricken out and in lieu of the words "four thousand," where they occur in said section, insert the words "three thousand five hundred."

That the House recede from its amendment numbered 2.

JOHN LIND,
J. H. SWENEY,
FELIX CAMPBELL,
Managers on the part of the House.

J. N. DOLPH,
S. M. CULLOM,
A. P. GORMAN,
Managers on the part of the Senate.

STATEMENT OF THE HOUSE CONFEREES.

The managers on the part of the House of the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3163) to reorganize and establish the customs-collection district of Puget Sound, submit the following written statement in explanation of the effect of the action recommended on said amendments in the accompanying conference report, namely:

On the first amendment: The salary of the collector is fixed at \$3,500 per annum instead of \$4,000 as provided in the Senate bill and \$3,000 as proposed by the House. The salaries of the deputy collectors at Tacoma and Seattle are respectively fixed at \$2,000 per annum instead of leaving the amount to be fixed by the Secretary of the Treasury under the general law as proposed by the House amendment.

On the second amendment: The last section of the bill is numbered 4 by reason of the insertion of the amendment above explained.

JOHN LIND,
J. H. SWENEY,
FELIX CAMPBELL,
Managers on the part of the House.

The SPEAKER. The question is on the adoption of the report of the conference committee.

Mr. BRECKINRIDGE, of Kentucky. I renew the motion to adjourn. The report of the conference committee can go into the RECORD, and we can act on it on Monday.

Mr. SWENEY. I would ask the "Senator" from Kentucky if he will not yield, for this has been pending for several weeks.

Mr. McMILLIN. It can be printed in the RECORD and go over.

Mr. BRECKINRIDGE, of Kentucky. I might have yielded had not the gentleman cast that slight upon me by calling me "the Senator from Kentucky." The House is much the superior body in the present condition of public affairs, when the Senate is a deliberative body and we are not; and I prefer to be in the House, as we can get through business. Therefore I renew the motion to adjourn. [Laughter.]

The question was put, and carried.

LEAVE OF ABSENCE.

Pending the announcement of the vote, by unanimous consent, leave of absence was granted as follows:

To Mr. McADOO, for four days, on account of sickness in his family.

To Mr. STIVERS, indefinitely, on account of sickness in his family.

To Mr. BOWDEN, for three days, from Monday next, on account of sickness in his family.

And then (at 4 o'clock and 53 minutes) the House adjourned until Monday, August 18, at 12 o'clock m.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk and disposed of as follows:

Mr. HILL, from the Committee on Pensions, reported with amendment the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 11171) granting an increase of pension to Edwin Reeder, late a member of Company A, First Tennessee Infantry, in the war with Mexico. (Report No. 2979.)

A bill (H. R. 10898) to increase the pension of Daniel P. Roberts, late a second lieutenant in Company F of the Third Regiment of Missouri Volunteers, in the war with Mexico. (Report No. 2980.)

Mr. BELKNAP, from the Committee on Invalid Pensions, reported favorably the bill of the Senate (S. 3927) granting a pension to Maria

E. Baker, accompanied by a report (No. 2981)—to the Committee of the Whole House.

Mr. HAYES, from the Committee on the Post-Office and Post-Roads, to which was referred the bill of the House (H. R. 11569) to amend certain sections of the Revised Statutes relating to lotteries, and for other purposes, in behalf of the minority of said committee, submitted his views in writing thereon; which were ordered to be printed as Part 2 of Report No. 2844—to the House Calendar.

Mr. BELKNAP, from the Committee on Invalid Pensions, reported with amendment the bill of the House (H. R. 5093) for the relief of Margaret A. Myers, accompanied by a report (No. 2982)—to the Committee of the Whole House.

Mr. DE LANO, from the Committee on Pensions, reported with amendment the bill of the House (H. R. 11075) for the relief of John B. Roper, accompanied by a report (No. 2983)—to the Committee of the Whole House.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as indicated below:

By Mr. CHEADLE: A bill (H. R. 11767) granting a pension to Lavinia M. Payne—to the Committee on Invalid Pensions.

By Mr. FUNSTON: A bill (H. R. 11768) to increase the pension of George Mack—to the Committee on Invalid Pensions.

By Mr. STONE, of Kentucky: A bill (H. R. 11769) for the relief of the legal representatives of H. Cortes, deceased, of Ballard County, Ky.—to the Committee on War Claims.

By Mr. WHEELER, of Alabama: A bill (H. R. 11770) granting a pension to Benjamin Donnell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11771) for the relief of the widow of Asberry G. M. Edwards—to the Committee on Invalid Pensions.

Also, a bill (H. R. 11772) for the relief of the heirs of William Farmer and Jeremiah Farmer—to the Committee on Pensions.

By Mr. WILSON, of Missouri: A bill (H. R. 11773) granting an increase of pension to Mrs. Mary B. Cushing—to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

By Mr. CARUTH: Resolutions of August Willich Post, No. 132, Grand Army of the Republic, of Louisville, Ky., favoring preference being given to ex-soldiers, sailors, and marines of the late war in all appointments in the civil service—to the Committee on Military Affairs.

By Mr. FUNSTON: Petition asking that the charge of desertion against John Kinchlow be removed—to the Committee on Military Affairs.

By Mr. JOSEPH: Memorial of the board of county commissioners of Bernalillo County, New Mexico, praying for the passage of House bill 975, providing for the confirmation of the title to certain lands to the town of Albuquerque, N. Mex.—to the Committee on Private Land Claims.

By Mr. WILSON, of Missouri: Petition of Mrs. Mary B. Cushing and others for an increase of pension for Mrs. Cushing—to the Committee on Invalid Pensions.

SENATE.

MONDAY, August 18, 1890.

The Senate met at 10 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

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

SENATE CLOCK.

Mr. EDMUNDS. Mr. President, I rise to what may be considered partly a privileged motion and partly a petition. Many of us have observed here in the last three or four weeks that our Senate clock, which regulates the meeting of the Senate, varies from day to day very considerably. It is three minutes faster this morning than it was on Saturday, and it is a great inconvenience to Senators who wish to attend at the very opening, as most of us I hope do. I therefore ask unanimous consent that the Sergeant-at-Arms be instructed to procure, as soon as possible, a new and suitable clock to take the place of the one we now have.

The PRESIDENT *pro tempore*. The Chair has been several times embarrassed by the eccentricities of the clock. If there be no objection, the Sergeant-at-Arms will be directed to procure a clock for the use of the Senate in accordance with the suggestion of the Senator from Vermont.

Mr. BLAIR. I suggest that the Sergeant-at-Arms be also directed to procure one that will not be liable to the eccentricities of our clock at the close of the session.