

day of the week in the District of Columbia—to the Committee on the District of Columbia.

By Mr. STEELE: Petition of F. E. Kauffman, of Mount Vernon, Ind., president of the Indiana Millers' Association, favoring the passage of Senate bill No. 3027 and House bill No. 6705, for pure flour—to the Committee on Agriculture.

Also, petition of Capt. R. L. Jacobs, Company L, Second Regiment Indiana National Guard, of Kokomo, Ind., in favor of the passage of House bill No. 2876, increasing the appropriation for the militia—to the Committee on the Militia.

By Mr. STEPHENS of Texas: Petition of citizens of Taylor, Tex., asking the Government to assume control and secure deep water at Aransas Pass Harbor, Texas—to the Committee on Rivers and Harbors.

By Mr. STRODE of Nebraska: Petition of officers and members of Company F, Second Infantry, Nebraska National Guard, in favor of the passage of House bill No. 2876, relating to the militia—to the Committee on the Militia.

Also, petition of the Red Ribbon Club of Lincoln, Nebr., for the passage of a bill to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

By Mr. STURTEVANT: Petition of 110 citizens of Erie City, Pa., praying for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. TONGUE: Petitions of the Woman's Christian Temperance Union of Oregon, Young People's Society of Christian Endeavor of the Presbyterian Church, the First Baptist Church, and Harsalo Street Congregational Church, all of Portland, Oreg., favoring the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

By Mr. VAN VOORHIS: Petition of Malvina Travis, praying for the passage of an act granting her a pension—to the Committee on Invalid Pensions.

Also, petitions of Henry Whitstone, A. G. Hoffman, and others, of Wade, and W. Goddard and others, of Murphy, all in Washington County, Ohio, in favor of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. WADSWORTH: Petitions of the Woman's Christian Temperance unions of Elba and Batavia, N. Y., for the passage of a bill to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

SENATE.

MONDAY, February 23, 1898.

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

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

SILVER BULLION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of the 16th instant, certain information relative to the total quantity and coining value in standard silver dollars of silver bullion purchased under the provisions of the act of July 14, 1890, consumed in coinage operations from August 13, 1890, to February 1, 1898, etc.; which, with the accompanying papers, was referred to the Committee on Finance, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. H. L. OVERSTREET, one of its clerks, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (H. R. 7555) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1899;

A bill (H. R. 4934) permitting the building of a dam between Coon Rapids and the north limits of the city of Minneapolis, Minn., across the Mississippi River; and

A joint resolution (H. Res. 120) providing for estimate of cost of certain improvements at the mouth of Double Bayou and Galveston Bay, Texas.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of sundry citizens of Galveston, Tex., praying Congress to recognize the independence of Cuba; which was referred to the Committee on Foreign Relations.

Mr. GEAR presented a petition of the congregation of the

United Presbyterian Church of Brighton, Iowa, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which was referred to the Committee on Public Buildings and Grounds.

Mr. FAIRBANKS presented a petition of the Vanderburg County Medical Society, of Evansville, Ind., remonstrating against the passage of Senate bill No. 1063, for the further prevention of cruelty to animals in the District of Columbia; which was ordered to lie on the table.

He also presented a petition of Local Union No. 134, Cigar Makers' International Union of America, of La Porte, Ind., praying for the passage of the so-called eight-hour bill and the prison-labor bill; which was referred to the Committee on Education and Labor.

He also presented a petition of Division No. 11, Brotherhood of Locomotive Engineers, of Indianapolis, Ind., and a petition of Wayne Division, No. 119, Order of Railway Conductors, of Fort Wayne, Ind., praying for the passage of Senate bill No. 3662, concerning carriers engaged in interstate commerce and their employees; which were referred to the Committee on Interstate Commerce.

Mr. HOAR presented resolutions adopted by the Commonwealth of Massachusetts, favoring the enactment of legislation for protecting the insignia of the Red Cross; which were read, and referred to the Committee on the Judiciary, as follows:

[Commonwealth of Massachusetts. In the year 1898.]

Resolutions favoring national legislation for protecting the insignia of the Red Cross.

Resolved, That the senators and representatives of the Commonwealth of Massachusetts, in general court assembled, hereby request the Senators and Representatives of the Commonwealth in Congress to secure, if possible, the passage of an act to protect from unauthorized or improper use the insignia of the Red Cross, adopted at Geneva in the year 1864 by convention for the amelioration of the condition of soldiers wounded in battle, and acceded to by the United States on the 1st day of March, in the year 1882.

Resolved, That properly attested copies of these resolutions be forwarded by the secretary of the Commonwealth to each of the Senators and Representatives in Congress from this Commonwealth.

In senate adopted February 14, 1898.

In house of representatives adopted in concurrence February 17, 1898.

A true copy. Attest:

WILLIAM M. OLIN,
Secretary of the Commonwealth.

Mr. HOAR presented a petition of the congregation of the Congregational Church of Natick, Mass., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol and all Government buildings; which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the congregation of the Congregational Church of Natick, Mass., and a petition of the Sunday school of the First Baptist Church of Dighton, Mass., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which were referred to the Committee on Interstate Commerce.

He also presented a petition of Mrs. Louise A. Lindsley and 28 other citizens of Menominee, Mich., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; to prohibit the interstate transmission of lottery messages and other gambling matter by telegraph, and to raise the age of protection for girls to 18 years in the District of Columbia and the Territories; which was referred to the Committee on Public Buildings and Grounds.

Mr. NELSON presented a petition of the Board of Trade of Minneapolis, Minn., praying for the improvement of Benton Harbor and St. Joseph Harbor, in that State; which was referred to the Committee on Commerce.

He also presented a petition of the Woman's Christian Temperance Union of Minnesota, praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which was referred to the Committee on Interstate Commerce.

He also presented petitions of the Endeavor Society of the Pacific Congregational Church of St. Paul, Minn.; of the council of the Keller Memorial Lutheran Church and of the council of the Luther Place Memorial Church, of the city of Washington, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

Mr. CHILTON presented petitions of the congregations of the First Baptist Church, the Methodist Episcopal Church South, and the First Presbyterian Church; of the Epworth League of the First Methodist Church, and of the Baptist Young People's Union, all of Austin, Tex., praying for the enactment of legislation to prohibit the interstate and mail circulation of extended newspaper descriptions of prize fights; which were referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the Methodist Episcopal Church South, of Austin, Tex., and a petition of the Epworth League of the Methodist Episcopal Church of Austin, Tex., praying for the enactment of legislation to prohibit the sale

of intoxicating liquors in the Capitol and all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

He also presented petitions of the Woman's Christian Temperance Union of Marshall, and of the Epworth League of the Methodist Episcopal Church and of the congregation of the Methodist Episcopal Church South, of Autsin, Tex., praying for the enactment of legislation to raise the age of protection for girls to 18 years in the District of Columbia and the Territories; which were referred to the Committee on the District of Columbia.

He also presented a petition of the Woman's Christian Temperance Union of Marshall, Tex., praying for the appointment of an industrial commission to investigate the problems of labor and capital; which was referred to the Committee on Education and Labor.

He also presented a petition of the Epworth League of the First Methodist Episcopal Church of Austin, Tex., and a petition of the congregation of the Methodist Episcopal Church South of Austin, Tex., praying for the enactment of legislation to prohibit interstate gambling by telegraph, telephone, or otherwise; which were referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union of Marshall, Tex., praying for the enactment of legislation to prohibit the interstate transmission of lottery messages and other gambling matter by telegraph; which was referred to the Committee on the Judiciary.

He also presented a petition of the congregation of the Methodist Episcopal Church South of Austin, Tex., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Woman's Christian Temperance Union of Marshall, Tex., praying for the enactment of legislation to substitute voluntary arbitration for railway strikes; which was referred to the Committee on Education and Labor.

Mr. ALLEN presented a memorial of the Building Trades Council of Omaha, Nebr., and a memorial of the Lathers' Protective Union of Omaha, Nebr., remonstrating against the passage of the so-called anti-scalping ticket bill; which were ordered to lie on the table.

Mr. PLATT of Connecticut presented petitions of the congregations of the Baptist, the Congregational, and the Methodist Episcopal churches, all of Essex, in the State of Connecticut, praying for the enactment of legislation to prohibit the interstate transmission of lottery messages and other gambling matter by telegraph; which were referred to the Committee on the Judiciary.

He also presented petitions of the congregations of the Baptist, the Congregational, and the Methodist Episcopal churches, all of Essex, in the State of Connecticut, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee of Public Buildings and Grounds.

Mr. MASON presented a petition of the Chicago Shipbuilding Company, the Iroquois Furnace Company, the Illinois Steel Company, and sundry other shipbuilding firms in the State of Illinois, praying that an appropriation be made for straightening and improving the channel of the Calumet River at Chicago, in that State; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

*To the honorable the Senate and the House of Representatives
of the United States in Congress assembled:*

Your petitioners, the owners of property abutting upon the Calumet River at Chicago, in Cook County, State of Illinois, and interested in shipbuilding and navigation upon said river, respectfully represent to your honorable body that the channel of the Calumet River between Ninety-fifth street in Chicago and the south line of the right of way of the Pittsburg and Fort Wayne Railway, where the same crosses said Calumet River, is at present in such a condition, owing to the width and course of channel, and obstructions therein, as to render navigation for large boats impractical, by reason of which condition so existing the business of your petitioners and others interested in manufacturing along said river and shipping over said river is seriously interfered with.

Your petitioners therefore petition your honorable body to take such steps in the premises as may be necessary to straighten and otherwise improve said channel to the extent necessary to render the same practical for navigation purposes.

And your petitioners will ever pray, etc.

Chicago Shipbuilding Company, W. J. Babcock, manager; Iroquois Furnace Company, by Charles F. Foute, secretary; Illinois Steel Company, by J. W. Gates, president; C. W. Elyshinde, & Co., vessel owners; P. H. Fleming & Co., vessel owners; J. G. Keith & Co., vessel agents; J. A. Calbeck & Co., vessel agents; The A. E. Beck Lumber Company, by William McLaren, treasurer, Ninety-second Street Bridge, South Chicago Ship Chandlery Company, by James Charmon, manager, 100 Ninety-second street; South Chicago Brewing Company, J. H. Hildreth, president; South Chicago and Calumet Lumber Company, William C. Beutel, secretary; Calumet Steamship Express Company, Frank B. Williams, secretary and treasurer; Western Plaster Works, B. W. McCausland, vice-president; Joy Morton & Co., salt dealers; Lackawanna Transportation Company, William Dickenson, agent; The Cleveland Linseed and Oil Company, by Sun'd Wylie; Calumet Elevator Company, by William H. Bartlett, president; Bartlett, Frazier & Co.; The Philadelphia and Reading Coal and Iron Company, E. B. Clesley, resident manager.

Mr. ALDRICH presented the memorial of William F. Knight and 42 other citizens of Providence, R. I., remonstrating against the passage of the so-called anti-scalping ticket bill or any similar measure; which was ordered to lie on the table.

Mr. PENROSE presented a petition of the Baptist Young People's Union of Philadelphia, Pa., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which was referred to the Committee on Interstate Commerce.

He also presented a petition of 106 citizens of Warren, Pa., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol and all Government buildings; which was referred to the Committee on Public Buildings and Grounds.

Mr. WETMORE presented resolutions adopted by the general assembly of the State of Rhode Island, favoring the increase of the artillery arm of the United States service; which were ordered to lie on the table, and to be printed in the RECORD, as follows:

RESOLUTION RELATIVE TO COAST DEFENSES.

STATE OF RHODE ISLAND, ETC., IN GENERAL ASSEMBLY,
January Session, A. D. 1898.

Whereas the Congress of the United States has appropriated several millions of dollars for fortifications for the necessary defense of the coast against the attack of foreign fleets; and

Whereas the fortifications so projected are nearing completion and are, in some ports, nearly or quite ready for the installation of the elaborate and expensive high-power guns and mortars, steam and electrical appliances, including search lights, dynamos, and motors for the effective service of the several batteries; and

Whereas the present artillery force of the Army includes only five regiments, which force is pronounced by the Secretary of War and the Major-General Commanding the Army to be altogether too small for the safeguarding and care of the new works and their armament even in time of peace; Therefore,

Be it resolved, That the President and Congress of the United States are earnestly requested and urged to take such immediate action as shall provide, without unnecessary delay, such additional force of trained artillerymen as will adequately provide for effectual service for the new coast defenses.

Resolved, That the secretary of state be, and is hereby, directed to forward copies of these resolutions to each of our members of Congress and to the President of the United States.

STATE OF RHODE ISLAND,
OFFICE OF THE SECRETARY OF STATE,
Providence, February 23, 1898.

I hereby certify the foregoing to be a true copy of a resolution passed by the general assembly of said State on the 23d day of February, A. D. 1898. In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the date and year first above written.

[SEAL.]

CHARLES P. BENNETT,
Secretary of State.

Mr. TURPIE presented a petition of Company A, Fourth Infantry, Indiana National Guard, of Marion, Ind., praying that House bill No. 2876, to promote the efficiency of the militia, be amended so that the annual appropriation for the National Guard will be not less than \$1,000,000; which was referred to the Committee on Military Affairs.

He also presented a petition of Clark Lodge, No. 297, Brotherhood of Locomotive Firemen, of Jeffersonville, Ind., praying for the passage of the so-called anti-scalping ticket bill; which was ordered to lie on the table.

He also presented a petition of Local Union No. 14, United Mine Workers of America, of Linton, Iowa, praying for the passage of the so-called eight-hour bill and the prison-labor bill; which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Seymour, Ind., praying for the enactment of legislation to secure protection against adulteration of pure wheat flour as now conducted; which was referred to the Committee on Agriculture and Forestry.

Mr. CULLOM presented a petition of the superintendent of anti-narcotics of the Woman's Christian Temperance Union of Warrensburg, Ill., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which was referred to the Committee on Interstate Commerce.

He also presented petitions of Division No. 97, Order of Railway Conductors, of Roodhouse, Ill.; of the Jobbers' Transportation Bureau of St. Joseph, Mo., and of the Commercial Club of St. Joseph, Mo., praying for the passage of the so-called anti-scalping ticket bill; which were ordered to lie on the table.

He also presented petitions of the Young People's Christian Union of the United Presbyterian Church of Coal Valley, of the Young People's Union of the First United Presbyterian Church of Monmouth, of the Christian Endeavor Society of Berlin, and of the Hopewell Woman's Christian Temperance Union, of Rivola, all in the State of Illinois, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the Trades and Labor Union of Quincy, Ill., and a petition of the Tri-City Labor Congress of Rock Island, Ill., praying for the passage of the so-called eight-hour bill, the prison-labor bill, the anti-injunction bill, and the bill for

the relief of American seamen; which were referred to the Committee on Commerce.

He also presented a petition of Watch Workers' Union, No. 6961, American Federation of Labor, of Elgin, Ill., praying for the passage of the so-called eight-hour bill; which was referred to the Committee on Education and Labor.

He also presented a petition of the Municipal Voters' League of Chicago, Ill., praying for the enactment of legislation to promote the cause of civil-service reform; which was referred to the Committee on Civil Service and Retrenchment.

He also presented the petition of Rev. J. G. Butler, D. D., and 9 other pastors of Lutheran churches in the city of Washington, praying for the enactment of legislation to limit absolute divorces in the District of Columbia and the Territories; which was referred to the Committee on the District of Columbia.

Mr. GALLINGER presented a petition of the Free Baptist Congregation of Rochester, N. H., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Woman's Christian Temperance Union of New Market, N. H., praying for the enactment of legislation to prohibit, so far as the power of Congress extends, the reproduction of prize fights by the kinetoscope or other kindred devices; which was ordered to lie on the table.

He also presented a petition of the Free Baptist Congregation of Rochester, N. H., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol and all Government buildings; which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the Woman's Christian Temperance Union of New Market, N. H., praying for the enactment of legislation to prohibit interstate gambling by telegraph, telephone, or otherwise; which was referred to the Committee on the Judiciary.

Mr. PETTIGREW presented a petition of the Equal Suffrage Club of Pierre, S. Dak., praying for the enactment of legislation to prohibit interstate gambling by telegraph, telephone, or otherwise; which was referred to the Committee on the Judiciary.

He also presented a petition of the Equal Suffrage Club of Pierre, S. Dak., praying for the enactment of legislation to substitute voluntary arbitration for railway strikes; which was referred to the Committee on Education and Labor.

He also presented a petition of the Equal Suffrage Club of Pierre, S. Dak., praying for the enactment of legislation to raise the age of protection for girls to 18 years in the District of Columbia and the Territories; which was ordered to lie on the table.

He also presented a petition of the Equal Suffrage Club of Pierre, S. Dak., praying for the enactment of legislation to prohibit, so far as the power of Congress extends, the reproduction of prize fights by the kinetoscope or other kindred devices; which was ordered to lie on the table.

He also presented a petition of the Equal Suffrage Club of Pierre, S. Dak., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which was referred to the Committee on Interstate Commerce.

He also presented sundry petitions of the Equal Suffrage Club of Pierre, S. Dak., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Capitol and all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

Mr. PASCO presented a petition of the Board of Trade of Jacksonville, Fla., praying for the passage of the so-called anti-scalping ticket bill; which was ordered to lie on the table.

Mr. LODGE presented a petition of the Boston Associated Board of Trade, of Boston, Mass., praying for the adoption of a system of pneumatic tubes for the transmission of mails in the large cities; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Mule Spinners' Association of Lawrence, Mass., and a petition of the Carpenters and Joiners' Union of Newton, Mass., praying for the passage of the so-called eight-hour bill, the prison-labor bill, the anti-injunction bill, and the bill for the relief of American seamen; which were referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. GRAY, from the Committee on the Judiciary, to whom was referred the bill (S. 3380) to amend section 5498 of the Revised Statutes of the United States, reported it without amendment.

Mr. FAIRBANKS, from the Committee on Claims, to whom was referred the bill (S. 910) for the payment of the claim of M. M. Defrees for the construction of a sewer adjacent to the lands of the United States known as the "Arsenal grounds," in

the city of Indianapolis, Ind., reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 2263) for the relief of Thomas F. Ryan, reported it without amendment, and submitted a report thereon.

Mr. THURSTON, from the Committee on the Judiciary, to whom was referred the bill (S. 3684) for the relief of Joseph Tousaint, alias Touzin, reported it with an amendment, and submitted a report thereon.

Mr. PETTIGREW, from the Committee on Indian Affairs, to whom was referred the bill (S. 3904) authorizing the Secretary of the Treasury to pay to the State of Nebraska certain moneys in liquidation of its claims on account of suppressing Indian hostilities from 1861 to 1868, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

QUARANTINE STATION AT SHIP ISLAND, MISSISSIPPI.

Mr. VEST. From the Committee on Public Health and National Quarantine, which was instructed by a resolution of the Senate adopted January 20, 1898, to investigate and report whether it is advisable that the quarantine station be removed from Ship Island to some other point in the Gulf of Mexico, I submit a report, with the testimony taken by the subcommittee. I ask that an order be made for printing the report and testimony taken, and that the committee be discharged from the further consideration of the subject.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from Missouri to print the report and the testimony connected therewith? The Chair hears none, and the order is made. The committee is discharged from the further consideration of the subject.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 3998) to correct the military record of Christopher McDonald; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 3999) granting a pension to Agnes Cook; which was read twice by its title, and referred to the Committee on Pensions.

Mr. LODGE introduced a bill (S. 4000) for the relief of Mrs. Louisa E. McLean, of Stoughton, Mass.; which was read twice by its title, and referred to the Committee on Claims.

Mr. MONEY introduced a bill (S. 4001) to authorize the purchase of the manuscript of William Vans Murray; which was read twice by its title, and referred to the Committee on the Library.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. GRAY submitted two amendments intended to be proposed by him to the sundry civil appropriation bill; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. MANTLE submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

Mr. SHOUP submitted an amendment intended to be proposed by him to the sundry civil appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

KILLING OF POSTMASTER AT LAKE CITY, S. C.

Mr. MASON submitted the following resolution; which was referred to the Committee on Post-Offices and Post-Roads:

Whereas the United States postmaster at Lake City, S. C., has been murdered and his wife and children shot and his home burned by a mob who alleged that they were protesting against his appointment as a postmaster; Therefore,

Be it resolved, That a joint committee consisting of six members of Congress, three from the Senate and three from the House, be appointed to investigate this most disgraceful crime and report same to Congress and recommend some plan to assist the regular authorities in bringing the criminals to justice.

DISTRICT TELEPHONE SERVICE.

Mr. ALLISON submitted the following resolution; which was read:

Resolved, That the Committee on the District of Columbia be authorized and empowered to investigate as to telephone service in the District of Columbia and all facts connected therewith, and be authorized to send for persons and papers, and particularly to procure such information which in their judgment is necessary and proper to determine what ought to be fair and sufficient rates for furnishing telephone service in the District of Columbia, and what ought to be fair and reasonable use of telephones by the persons and corporations renting telephones, and those associated with them in business or otherwise, and report their conclusions to the Senate as early as practicable; and that the necessary expenses attending said investigation shall be paid out of the contingent fund of the Senate upon vouchers approved by the chairman of said committee.

The VICE-PRESIDENT. Does the Senator from Iowa ask to have the resolution referred to the Committee to Audit and Control the Contingent Expenses of the Senate?

Mr. ALLISON. No; I will modify the resolution by striking out the last clause, and I ask for its adoption.

The VICE-PRESIDENT. If there is no objection, the last clause will be stricken out. Is there objection to the present consideration of the resolution?

The resolution as modified was considered by unanimous consent, and agreed to.

FOREST RESERVES.

Mr. CLARK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to furnish for the use of the Senate all information relating to the surveys of public lands since June 4, 1897, that have been designated as forest reserves under Executive proclamation, together with the amount of land surveyed in each of said reserves under authority of the act of Congress approved June 4, 1897, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes."

MISSOURI RIVER BRIDGE.

Mr. PETTIGREW. If the morning business is closed, I ask unanimous consent for the present consideration of Senate bill 3368.

Mr. HALE rose.

Mr. PETTIGREW. It is simply a bill to extend the time for building a bridge.

Mr. HALE. Has the morning business been concluded?

The VICE-PRESIDENT. The morning business is apparently closed. The Senator from South Dakota asks unanimous consent for the present consideration of the bill (S. 3368) extending the time for the construction of a bridge across the Missouri River at Yankton, S. Dak. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment, in line 10, before the word "years," to strike out "four" and insert "two;" so as to make the bill read:

Be it enacted, etc., That section 6 of the act of June 22, 1892, entitled "An act to authorize the construction of a bridge across the Missouri River at the city of Yankton, S. Dak.," and the act of May 28, 1894, amendatory thereof, are hereby amended so as to read as follows:

"SEC. 6. That this act shall be null and void if the bridge herein authorized is not completed within two years from the 22d day of June, 1898."

The amendment was agreed to.

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

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

UNIFORM SYSTEM OF BANKRUPTCY.

Mr. HOAR. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. 1035) to establish a uniform system of bankruptcy throughout the United States, with the amendment of the House of Representatives thereto, to report it with a recommendation that the Senate nonconcur in the House amendment and ask for a committee of conference on the disagreeing votes of the two Houses.

Mr. STEWART. What is the motion?

The VICE-PRESIDENT. The question is on the motion that the Senate disagree to the amendment of the House and request a conference.

Mr. STEWART. I hope there will be no conference on the bill immediately. I think the bill ought not to go into conference. I believe the motion is debatable. If it is going to be called up now, I have some remarks to make.

Mr. HOAR. I suppose it is a privileged motion.

Mr. STEWART. I object to its being considered without debate. I desire to make remarks at some length upon the bill before it is referred to a conference.

The VICE-PRESIDENT. The report of the committee is before the Senate, and the motion is that the Senate nonconcur in the amendment made by the House, and that a conference be requested. The question is before the Senate.

Mr. STEWART. Mr. President, a bill passed the House some time ago for involuntary bankruptcy. We sent them a bill for voluntary bankruptcy, leaving out the involuntary feature; and now they have—

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

Mr. STEWART. Certainly.

Mr. HOAR. If the Senator desires to debate the bill, as the vote on the election case is to be taken at a fixed hour to-day, he would hardly want to deprive the Senators who desire to speak upon that subject of the opportunity to be heard.

Mr. STEWART. I certainly do desire to debate the question before any action whatever is taken. I desire to debate it at considerable length, but I am willing—

Mr. HOAR. Will the Senator allow me to finish my suggestion?

Mr. STEWART. Certainly.

Mr. HOAR. If it is desired to debate the bill, in order not to deprive Senators who are to speak on the election case of that opportunity I suggest that the matter go over until to-morrow at the conclusion of the routine morning business.

Mr. STEWART. All right.

The VICE-PRESIDENT. Is there objection?

Mr. HALE. What is the request?

The VICE-PRESIDENT. That the consideration of the report be laid over until to-morrow morning immediately after the morning business.

Mr. ALLEN. I think the report ought to be printed before it is taken up, so that we can have it before us.

Mr. HOAR. It is only a verbal report, in two lines.

The VICE-PRESIDENT. The Chair suggests that the bill is in print.

Mr. HOAR. The motion is that the Senate nonconcur in the House amendment and ask a conference with the House. It is the usual motion. It can be stated by the Chair. There is no report.

Mr. ALLEN. The bill in its present form ought to be printed.

Mr. GRAY. The bill is in print.

Mr. HOAR. It has been printed.

The VICE-PRESIDENT. It is in print. The Chair hears no objection to the request of the Senator from Massachusetts, and that is the order.

LIEUT. COMMANDER RAYMOND P. RODGERS.

Mr. GRAY. I ask unanimous consent for the present consideration of the bill (S. 3640) authorizing Lieut. Commander Raymond P. Rodgers, United States Navy, to accept a decoration of the Cross of the Legion of Honor from the Republic of France.

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

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

SENATOR FROM OREGON.

Mr. HOAR. I move that the Senate proceed to the consideration of the Oregon case.

There being no objection, the Senate resumed the consideration of the following resolution, reported by Mr. CAFFERY from the Committee on Privileges and Elections on the 26th ultimo:

Resolved, That the Hon. Henry W. Corbett is not entitled to take his seat in this body as a Senator from the State of Oregon.

Mr. BACON. Mr. President, I do not propose to occupy very much of the time of the Senate—only a very few minutes—it not being designed by me to make anything like an extended argument upon this question. I desire simply to occupy a few minutes before the Senator from Michigan [Mr. BURROWS] will take the floor, as the representative of the committee, to make some comment upon the conclusion reached by the Senator from Wisconsin [Mr. SPOONER] in the very able argument which he presented to the Senate on this subject. In order that the particular point to which I desire to call the attention of the Senate may be understood, I will ask that the Secretary read the part of the speech made by the Senator from Wisconsin as marked in the copy which I send to the desk.

The Secretary read from the CONGRESSIONAL RECORD proceedings of the 26th instant, as follows:

Mr. BACON. * * * If I have followed the Senator correctly, the conclusion which I think he intends to be understood as reaching is that, regardless of circumstances, wherever there is an existing vacancy, and the legislature is not in session, the governor has the right to fill the vacancy by appointment. Am I correct in that understanding?

Mr. SPOONER. I limit it, for the purposes of this case, to an anticipated vacancy.

Mr. BACON. Limited to an anticipated vacancy?

Mr. SPOONER. Yes. I have excluded the question whether, if the governor has once appointed to fill temporarily a vacancy and the legislature meets it fails to fill it then, as the constitution says it must, the governor has still the power to appoint. Again, I have confined my argument to the class of cases where the failure has been a failure to fill an anticipated vacancy.

Mr. BACON. I have not risen for the purpose of antagonizing the Senator, but to ascertain definitely what his position is. As I understand it, then, it is this: That wherever there is a failure in anticipation of the beginning of the term to elect by the legislature, and that term begins without anyone holding a commission from the legislature—

Mr. SPOONER. During the recess of the legislature.

Mr. BACON. The legislature not being in session, regardless of the circumstances or of the causes, the bare fact of the existence of that vacancy gives the governor a right to appoint.

Mr. SPOONER. That is my position.

Mr. BACON. Mr. President, if I may have the attention of the Senate for a moment, I suppose it will be conceded that the principal argument in favor of seating Mr. Corbett has been made here by the Senator from Wisconsin [Mr. SPOONER], and all will agree that it was a very learned and a very able argument, most forcibly put. But those who heard it and those who have read it will see that the entire strength of the argument is directed to one point, and that is the conclusion which is stated by him in the part of the RECORD which I have had read from the desk this morning, to wit, that under the Constitution, wherever there is a vacancy, regardless of the circumstances under which that vacancy occurs, the appointment of the governor is not to be questioned when the appointee presents himself here with the commission, if the vacancy occurs subsequent to the time when the legislature has been in session. He also excludes the case where

the governor has once appointed to fill a vacancy and the legislature, when it subsequently meets, fails to fill it; but that phase of the question need not now be considered. Those are the sole limitations made by the Senator from Wisconsin.

I asked him the question which has been read by the Secretary in order that there might be no doubt as to the conclusion reached by him. He states, subject to the above exceptions, that if it is during the recess of the legislature, if the vacancy occurs after the meeting of the legislature, whether it is by death, resignation, or by the beginning of a term, the appointment is good and not to be questioned when the appointee presents himself here. I asked the question distinctly, if the circumstances were in no manner to be inquired into, and the Senator said no, they were not. In other words, he lays down an ironclad rule, subject to no exceptions other than those stated by him in that colloquy, under which the Senate is bound to accept an appointment by a governor if made at such time and under such circumstances as indicated by him.

The Senator stated with much force that it might be so that corrupt influences were at work in a legislature, and that legislators might prefer that there should be no election rather than that there should be an election the result of such corrupt influences. I asked the Senator this question: "Suppose that those corrupt influences were on the other side, and that they were designed to prevent an election in order that the governor might make an appointment which would be in favor of some one who could not otherwise be elected by the legislature," and the Senator replied that under those circumstances we would be bound to accept the appointee.

The very able argument of the Senator from Wisconsin could only be answered by one equally elaborate, if it were taken up step by step. But sometimes a conclusion may be tested without going through the detail of the argument, and I desire to present to the Senate (and it is for this purpose mainly that I rise) some illustrations in order that the Senate may determine whether the conclusion of law reached by the Senator from Wisconsin is a sound conclusion.

The Senator from Wisconsin said it might so happen that a mob would disperse a legislature and not permit it to make an election, and he asks, in that case could it be possible that the State should remain unrepresented and that we should refuse to accept the appointment of the governor? Suppose that the mob to which the Senator from Wisconsin alluded designed, not simply to prevent the election of any Senator, but that the design was to defeat the purpose of the Constitution and prevent the legislature from electing in order that the governor might have the opportunity to appoint, which the Constitution, under such circumstances, did not contemplate. Suppose it be conceded—because it must be conceded for the argument—that the proof here was beyond dispute that a mob had dispersed a legislature for the distinct purpose, the avowed purpose, the unconcealed purpose of enabling the governor to appoint a man who could not be elected by that legislature. Would it be said that the Constitution would prohibit us from saying that that was an illegal appointment? And yet, according to the rule laid down by the Senator from Wisconsin, that would necessarily be the consequence. It would be a case which would undoubtedly fall within the rule as made by the honorable Senator.

But that, Mr. President, may be considered to be a very improbable case, and therefore I suggest another illustration, which is not improbable. I take the case as arising in the State of Oregon, where by the peculiar feature of that constitution a minority can prevent an organization, as contended for by Senators who take the opposite side of this question. Suppose there were a Democratic governor of Oregon; that a majority of the legislature were Republicans and a minority Democrats, and that the minority should openly and avowedly absent themselves from that legislature, and thus prevent an organization for the purpose of enabling the Democratic governor to appoint a Democratic Senator when the majority of the legislature were Republicans. Suppose they avowed the purpose.

The Senator from Delaware [Mr. GRAY] suggests to me that Democrats should have a majority in one house to do that. I am simply speaking of it generally. Say in one house, if you please, a minority, less than a majority, but more than one-third, absent themselves, and in doing so they say openly and defiantly to the world, our object is to prevent the election of a Republican Senator from Oregon; we will not permit the use of our names in order to give the two-thirds required by the State constitution of Oregon for an organization, and our purpose in so doing is that there shall be no legislature sit during this entire constitutional term, and that there shall be no election of Senator by the legislature, in order that the Democratic governor may appoint a Democrat to go to Washington and take his seat as a Senator of the United States. Would it be contended by any Senator here, I care not on which side he sat, that under those circumstances we

would be compelled to have the commission of that Senator recognized here? Yet, if the conclusion reached by the Senator from Wisconsin is correct, we would be compelled so to do. I do not believe there is a single Republican Senator who would hold under those circumstances that that Democratic appointee should be recognized as a Senator, and I trust I am not overconfident in saying that I do not believe any Democrat would claim that he could be rightfully seated.

Mr. President, if the contention of the learned Senator from Wisconsin is correct, or if I am incorrect, the case which I have supposed would be one in which we would be called upon without question to seat a Senator as the holder of a legal commission. If the conclusion reached is not a correct conclusion, then the Senate is not controlled by the view presented in his argument by the learned Senator from Wisconsin.

I think it extremely fortunate that this case is one where there are no partisan influences at work. If Mr. Corbett is seated, it will not change the political complexion of the Senate. If he is not seated, it does not give to one of any other party the seat in his stead. If he is not seated, the almost absolute certainty is that another Republican will come here in his place. So there is no partisan feature in it; there is no partisan advantage to be gained.

I believe it was also true in the case of the present Senator from Montana [Mr. MANTLE] that it was not a partisan decision. I think that these two decisions will relieve the country from great doubt in the future, and also this body from an unsettled rule. Hereafter it will be known that legislators are clothed by the Constitution with the duty of electing Senators, and that if they do not perform that duty the State must see to it in one way or another that it is done in order that they may have proper representation in this body.

It has been said here several times that this case and the Mantle case were identical, but I think this is a far more extreme case than the Mantle case. I did not have a seat in this body at the time the Mantle case was under discussion, but if I understand it correctly there was a bona fide effort made by the Montana legislature to elect a Senator, and there was no charge or suspicion of bad faith. There was no possible suspicion that there was the intention that there should be no Senator elected in order that the governor of the State might make an appointment.

How is it in this case? A minority of one house, where a two-thirds majority is required to constitute a quorum, deliberately absents itself from that body not only for a day but for the whole constitutional term during which the legislature could sit. I want to ask if there was any concealment by that minority as to the object which they had in thus absenting themselves? Is there any Senator here who can make the suggestion that there is any possible doubt that the purpose was to prevent an election by the legislature in order that the gentleman who was known to have a majority of that body should not be elected, in order that the legislature should not perform its constitutional function, and in order that the governor, under circumstances never contemplated by the Constitution, should have the opportunity to appoint one who could not be elected by that legislature?

Mr. President, we are to deal with this question in the same manner as if it were avowed in this Chamber that that was the object. It is not possible that we can consent to recognize the legality of action so absolutely violative and subversive of the design of the Constitution.

Mr. TURPIE. Will the Senator from Georgia allow me to make a suggestion?

Mr. BACON. Certainly.

Mr. TURPIE. I wish to state an additional fact which differentiates this case from the Mantle case. In the case of Mantle the governor of the State appointed the nominee of his party, whom, for reasons, the legislature failed to elect.

Mr. BACON. Yes, sir; there was the evidence of good faith. In this case—there is no doubt about it; at least, I presume it will not be disputed here—Mr. Mitchell was the choice of the majority of each house of that legislature. It was known that if they went into an election, he would be elected; it was known that if they went into an election, Mr. Corbett would not be elected; and the design and purpose was to defeat the object of the Constitution in clothing the legislature with the elective function, and confer it upon the governor under circumstances never designed by the Constitution.

Mr. President, I promised that I would not go into this case. I find that as I proceed it opens to me and I have a temptation to do so, but the Senator from Michigan [Mr. BURROWS] is prepared this morning to represent his committee, and I feel that I should not trespass upon his time. I desire simply to say that if Mr. Corbett were, in my opinion, the holder of a legitimate commission, it would give me very great pleasure to vote for him; but I believe that to seat him under such circumstances would be to set the most dangerous precedent that has ever been set by the Senate relative to the right of a Senator to hold a seat on this floor.

Mr. HOAR. Will the Senator allow me to say that as to the statement he has made I understand that it is most absolutely denied and rejected?

Mr. BACON. I do not hear the Senator.

Mr. HOAR. The statement which the Senator has made, I understand, is a statement most absolutely denied by the persons in Oregon who are supporting Mr. Corbett and by Mr. Corbett himself.

Mr. BACON. Which statement, if the Senator will allow me?

Mr. HOAR. The statement that a majority of the legislature were in favor of another candidate and would have voted for him if there had been an election.

Mr. BACON. I may be in error about that. That has been my understanding. I do not think I am in error about this, however—certainly no Senator has heretofore suggested to the contrary on this floor—that the purpose of the minority of the house in absenting itself from the meetings of that house was to prevent an election of Senator by that legislature.

Mr. PETTUS. Mr. President—

Mr. HOAR. I know nothing whatever about these facts personally, of course. It is not necessary for me to say that. And I do not wish to undertake to deal with those things for the purpose of forming a judgment between the contending factions. I have a great respect for Mr. Mitchell, who is a man of great industry, ability, and fidelity.

Mr. BACON. I used Mr. Mitchell's name only incidentally. He is not a party here.

Mr. HOAR. On the other hand, Mr. Corbett has been known to me for a great many years as a man of the highest personal character, of great personal worth, and incapable either of indirection or intrigue, as I suppose.

Mr. BACON. The Senator will understand that the illustration I put did not include the question of the participation of the appointee, but I left him out altogether.

Mr. HOAR. Leaving out the personal qualities—

Mr. BACON. I feel, Mr. President—

Mr. HOAR. I wish merely to say, once for all, and I will not interrupt the Senator further, I understand the statements which he has made in regard to the particular condition of things in Oregon are statements in issue between these parties; that they are not agreed to either by Mr. Corbett or the men who act with him.

Mr. BACON. I should like to have time to answer the Senator, but I feel that I would trespass on the time of the Senator from Michigan. Therefore I shall not do so.

Mr. BURROWS. Mr. President—

Mr. PETTUS. If the Senator from Georgia will yield, I should like simply to make a statement.

Mr. BACON. I have yielded the floor. The Senator will have to ask the Senator from Michigan to yield.

The VICE-PRESIDENT. Does the Senator from Michigan yield to the Senator from Alabama?

Mr. BURROWS. Not at this moment.

The VICE-PRESIDENT. The Senator from Michigan is entitled to the floor, and will proceed.

Mr. BURROWS. Mr. President, were it not for the fact that, as a member of the Committee on Privileges and Elections, I felt constrained in the consideration of this case to disagree with my party associates in the conclusions to which they have arrived, I would not at this late hour in the debate presume to trespass a moment upon the time of the Senate. Under the circumstances, however, it is due to my colleagues on the committee, to the Senate, and to myself that I should state briefly the reasons which impelled me to this determination.

Personally and politically my inclinations would have prompted me to support Mr. Corbett in his claim to a seat in this Chamber, for he is not only a Republican, but, as I understand, in full accord with the principles of the Republican party on all questions of vital concern. But in the examination of a question of this character party considerations must give way to the higher demands of the Constitution and the law.

By the Constitution of the United States—

Each House shall be the judge of the elections, returns, and qualifications of its own members.

We sit, therefore, in this case as a judicial tribunal, oath bound, to determine this controversy wholly freed from political considerations and moved only by a desire to have our final judgment in accord with the Constitution and laws which we are obligated to support. If I know my own mind and heart, I approach the consideration of this question in no other spirit and with no other determination.

What, then, is this controversy? Henry W. Corbett, a citizen of the State of Oregon, appears at the door of the Senate and asks to be seated as a member of this body, as a Senator from the State of Oregon, by virtue of an appointment made by the governor of that State. His credentials were received and referred to the Committee on Privileges and Elections, the majority of which commit-

tee, after full and careful examination, report to the Senate "that the Hon. Henry W. Corbett is not entitled to take his seat in this body as a Senator from the State of Oregon." The minority of the committee dissent from this conclusion and offer as a substitute for the resolution of the majority a resolution declaratory of his right to membership.

This issue thus made up is submitted to the final and considerate judgment of the Senate. It will be observed that the controversy on its face is circumscribed within very narrow limits. Had the governor of the State of Oregon on the 6th day of March, 1897, the constitutional right and power to appoint a Senator to represent the State of Oregon in this body? If the executive of that State had such power, then Mr. Corbett is entitled to take his seat in the membership of this body. On the contrary, if the governor of that State had no such power, then Mr. Corbett has no more right to take his seat in this Chamber than the veriest stranger on earth.

The Senator from Wisconsin suggests that it is only a temporary appointment at most; but to admit Mr. Corbett even temporarily without authority, would be as much a violation of the Constitution of the United States as though his term were indefinitely protracted.

The only authority conferred upon the executive of a State to appoint a Senator, even temporarily, is derived from that provision of the Constitution which declares:

If vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature.

Under this provision of the Constitution it is presumed the governor of the State of Oregon justifies his assumption of power. Was there, therefore, such a vacancy in the office of United States Senator from the State of Oregon on the 6th of March, 1897, as the governor was authorized temporarily to supply?

In determining this question it becomes necessary to understand how the vacancy came about.

In 1891 John H. Mitchell was duly elected a Senator from the State of Oregon by the legislature thereof for the full term of six years, beginning March 4, 1891, and ending March 3, 1897. At the general election in the State of Oregon in the month of June, 1896, immediately preceding the expiration of Senator Mitchell's term, there were chosen, among other officials, a full membership of the State legislature, consisting of 60 members of the house and 30 senators, except 15 senators holding over, constituting the Nineteenth general assembly of the State of Oregon.

In conformity to the constitution and laws of that State, the members of this legislature so elected convened at the capitol of the State and assembled in their respective chambers, 60 members-elect of the house being in attendance and 29 senators. Thereupon and thereafter certain proceedings were had—to which I shall have occasion to refer later on—which resulted in a failure to elect a Senator to succeed Senator Mitchell for the term of six years commencing March 4, 1897, and ending March 3, 1893.

The Nineteenth general assembly adjourned before the 4th of March, 1897, and on that day, therefore, the office of United States Senator from the State of Oregon became vacant. On the 6th day of March thereafter the governor of the State designated and appointed Mr. Corbett to temporarily fill such vacancy. We have, therefore, a case where, the legislature of a State having failed to elect a Senator at the beginning of a term for the period of six years, the governor of such State assumes to make temporary appointment to such vacancy under the provision of the Constitution to which I have already referred.

The case presents, therefore, the old question which has been considered almost from the foundation of the Government, whether the executive of a State has the constitutional power and authority to make a temporary appointment of a Senator at the beginning of a term where the legislature, upon which devolved the duty and responsibility under the Constitution and laws of the United States of electing a Senator for the full term of six years, has failed to discharge its duty in this regard.

I had supposed, and the people and the legislatures of all the States had a right to believe, that this question was finally settled in the Montana, Wyoming, and Washington cases in 1893, when the Senate of the United States, after full and exhaustive discussion, determined and recorded their judgment that, the legislatures of those States having met and failed to elect Senators for the full term of six years, the executives thereof had no constitutional power to make a temporary appointment, and declined to receive into the membership of this body the persons commissioned by such executives.

Indeed, I had supposed that this question had been settled by the Senate long ago, even as early as 1794, in the Kensey Johns case. In that case George Reid, a Senator from the State of Delaware, resigned his seat in the United States Senate on the 18th day of December, 1793. The legislature of the State met in January, 1794, and adjourned in February thereafter without filling the vacancy.

On the 19th of March, 1794, the governor appointed Kensey Johns. His credentials were referred to the Committee on Elections of the Senate, consisting of seven members, which committee reported, with only one dissenting vote, that the governor had no power to make the appointment, and Mr. Johns was rejected. True, that was not an appointment by the governor at the beginning of a term, but the same principle was involved, namely, that where the legislature has the opportunity to fill a vacancy happening in the representation of the State in the Senate of the United States, and fails to perform its duty in this regard for any reason, the governor has no power to appoint.

If the executive of a State has no power under the Constitution to make temporary appointment where the legislature has failed to fill a vacancy, then, for the same reason, he would have no power to make appointment at the beginning of a term where the legislature had failed to make an election. Under the Constitution of the United States the same injunction is laid upon the legislature in the one case as in the other:

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof.

And when vacancies happen, in the manner pointed out in the Constitution—

The next meeting of the legislature shall fill such vacancies.

The language of the Constitution is as mandatory in the one case as in the other. When the Senate of the United States, therefore, decided that the governor of Delaware had no power to appoint Kensey Johns, because in the language of the report in that case—

A session of the legislature having intervened between the resignation of said George Reid and the appointment of said Kensey Johns—they decided the very principle involved in this case.

The determination of the Senate in that case ought to appeal to us with very great force. It came up and was decided within five years after the inauguration of the Government, when Washington was in the Executive chair and the men who had participated in the Constitutional Convention were still alive, and whose opinions were undoubtedly sought and must have been potential in shaping the judgment of the Senate. More than that, in that very Senate there sat seven Senators who were members of the Constitutional Convention which considered and framed these provisions of the Constitution which are now in controversy, and certainly they ought to have known, and unquestionably did know, just what these provisions meant.

There was Pierce Butler, of South Carolina, who was a Delegate in the old Congress and the first Senator from that State. There was Oliver Ellsworth, of Connecticut, who had served in the old Congress, had been a judge of the superior court, was elected a Senator from that State, and was afterwards appointed Chief Justice of the Supreme Court of the United States by President Washington, and subsequently became minister to France. There was Rufus King, of Massachusetts, a Delegate in the old Congress, member of the State legislature, who, having moved to New York, became a Senator from the Empire State and subsequently minister to England. There was John Langdon, of New Hampshire, of legislative experience in the old Congress, who was elected to the Senate in 1789 and became President pro tempore of that body, and Alexander Martin, of North Carolina, speaker of the State senate and governor of the State.

All these Senators who participated in the work of framing the Constitution of the United States voted that Mr. Johns was not entitled to a seat, and admission was refused him by a vote of 20 to 7. It is no violent presumption to assume that these Senators, who were members of the Constitutional Convention and participated in its formation, knew what they were doing when they voted that the governor had no power to appoint Kensey Johns.

But it is not my purpose to dwell on the numerous adjudicated cases arising in the history of the Senate. I think the Senator from Missouri [Mr. VEST] stated the exact truth of history when, in the debate in the Mantle case, he said:

Nine cases besides the Tracy case were decided between 1801 and 1825, every one of them without debate. So far as I have been able to find by diligent search, not one word was said in discussion until we come to 1825, to the Lanman case, when the Senate took up the question and debated it for three days. The result of that debate was that the Senate deliberately determined that the governor did not have the right to fill an original term by appointment. In other words, the Senate of the United States declared the doctrine about which I have not the slightest doubt, and the more I examine it the more confirmed I am in the opinion that the men who made the Constitution intended that the legislature alone could fill a full term, and commence it. From 1825, in the Lanman case, up to 1879, more than fifty years, the doctrine for which I contend to-day was never questioned. * * *

In eight other cases during the fifty-four years from 1825 to 1879 States were represented in this body by but one Senator because the legislature had not elected, and nobody dreamed until 1879 that the doctrine in the Lanman case was to be disturbed and the contention made which is made here to-day in this body.

The Senator from Missouri then quotes from Benton's Thirty Years' View, in which Thomas Benton says, speaking of the Lanman case:

And with this decision the subsequent practice of the Senate has conformed, leaving States in part, or in whole, unrepresented, when the legislature fails to fill a regular vacancy.

The distinguished Senator from Florida [Mr. PASCO] seemed to have been under the impression that this question had been settled when he said:

In the Lanman case, after the report of the committee and after consideration and discussion by the Senate, a motion to seat him failed on a yeand-nay vote, there being 23 yeas and 18 nays. The power of a governor to make an appointment at the commencement of a Senatorial term under any ordinary circumstances was never claimed or recognized after the decision in the Lanman case until the New Hampshire cases arose in 1879 and subsequent years.

The decision in the New Hampshire cases, I understand, turned upon the fact that the legislature had had no opportunity to elect.

Senator David Davis, of Illinois, the ex-associate justice of the Supreme Bench of the United States, seemed to have been under the impression, from what he said in the debate in the Bell case, that this question has been settled. He said:

I arose, however, to consider a little the precedents of this body which I have not stated at any length. There is no doubt that prior to 1825 the Senate did admit any person who was appointed where the legislature had not elected, whether the vacancy occurred at the expiration of the regular term or during the term.

The first case was Tracy's case, and that was decided in high party times, 13 Federalists voting one way and 10 National Republicans the other. Every other case between that and Lanman's case passed sub silentio. In 1825, upon the presentation of Mr. Lanman's credentials, the Senate of the United States made a halt. That interpretation has been followed ever since. There has been no debate in the Senate from that time to this in which that interpretation was not followed.

Speaking of the debate in the Phelps case in 1854, it was treated in the same way upon Mr. Phelps's case. There the question was again submitted to the Senate as to the extent of the power of appointment confided to the State executive in regard to vacancies in this body. The question was then presented, as it is now, whether it is proper and right to overrule what had been done since 1825 and the views of the great men who have been our predecessors in this body, and resort to the rule which was adopted in Tracy's case and followed until 1825. In a court of law if the latter decision had been a wrong one, overruling the former decision, it would have been followed and obeyed, no matter what might have been the opinion of the dissenting judges in the case.

It also appears from the report of the Judiciary Committee in the Sevier case that the doctrine established in the Lanman case was not only not overruled, but expressly affirmed. The report says, speaking of the Lanman case:

That decision seems to have been generally acquiesced in since that time, nor is it intended by the committee to call its correctness in question. The principle asserted in that case is that the legislature of a State, by making elections themselves, shall provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution.

Senator Hill, of Georgia, whose opinion will be respected by everybody, in the debate on the Bell case seemed to have been laboring under the same impression, that this question was settled, when he said, speaking of the Sevier case:

The committee and the Senate of 1837 recognized the principle of the Lanman case. They did not reopen it. They reaffirmed it distinctly, and said it was a correct decision. And what did they say was the correct decision? The correct decision was that the governor had no authority to appoint a Senator to fill a vacancy at the beginning of a term, because that was not one that happened by casualty. So far, then, from that case being a repeal or overruling of the decision in Lanman's case, it was a reaffirmation of it.

I have made these citations solely for the purpose of showing that the decision in the Lanman case in 1825 has been followed from that time until 1879, and was reaffirmed and reestablished in the Mantle case in 1893 by a vote of 35 to 30. Those voting against Mr. Mantle were:

Berry,	Gray,	Murphy,	Vest,
Blackburn,	Harris,	Palmer,	Vilas,
Caffery,	Kyle,	Pasco,	Washburn,
Coke,	Lindsay,	Pfeffer,	White, Cal.
Cullom,	McMillan,	Platt, Conn.	White, La. (now on
Dixon,	McPherson,	Proctor,	Supreme Bench
Faulkner,	Manderson,	Ransom,	of the United
Gallinger,	Mills,	Smith,	States).
George,	Mitchell, Oreg.	Stockbridge,	
Gibson,	Mitchell, Wis.	Vance,	

So, I repeat, I had reason to believe that this question had been settled, if anything can be regarded as settled in the Senate. Senator Hill, in the debate in 1879, well said:

It was settled over fifty years ago, and that settlement has been acted upon ever since. If we shall unsettle it again after fifty years, the world can justly say that nothing is ever to be considered settled here, except that nothing is settled.

States and legislatures have acted upon it, have conformed their proceedings to it, and it is too late now, after nearly three-quarters of a century, to unsettle the practice of the Senate and reverse its judgment, least of all in such a case as this, for the only distinction between the Mantle case and the Corbett case, in my judgment, is that in the Mantle case the legislature made an honest and determined effort to elect a Senator and failed, but in this case the legislature made—I will not say honest—but a determined effort not to elect a Senator, and succeeded. What will be said of us if we hold that the governor had no power to appoint in the former case, but is clothed with power to act in this case?

I might let this question rest right here on the established rule of the Senate, if it were not for the effort now being made to overturn this whole line of precedents, reverse the judgment of the Senate, and enter upon a new policy by declaring that the

governor of a State is commissioned and empowered by the Constitution of the United States to appoint a Senator at the beginning of a term where the legislature has failed to elect, either through inability or design. And this leads me to say, and it is the contention of the majority, that the decision in the Mantle case was, in my judgment, based upon the soundest principles and in entire conformity with the letter and spirit of the Constitution. We of the majority of the Committee on Privileges and Election hold that the failure of a legislature at the beginning of a term to elect a Senator for the full term of six years does not create such a vacancy as the governor of the State is empowered to supply by a temporary appointment.

The consideration of this question involves a construction of section 3, Article I of the Constitution of the United States, which prescribes the method of choosing and maintaining the membership of this body.

The framers of the Constitution having determined upon a general plan of government, which should include a legislative branch, or a Congress, composed of two Houses, a Senate and a House of Representatives, the next necessary step was to provide a method for selecting the membership of such Congress. In the scheme of government finally adopted, it was provided that the House of Representatives, the membership of which emanated directly from the people, should be chosen by a direct vote, without the intervention of any intermediate body, in the following express terms:

The House of Representatives shall be composed of members chosen every second year by the people of the several States.

The Senate was to represent the States, and the members of the Senate selected in conformity with the following provision of the Constitution:

The Senate of the United States shall be composed of two Senators from each State chosen by the legislature thereof for six years.

Here, then, we have the constituency of the two bodies composing the Congress. The House of Representatives has for its constituency the entire body of the people, and the members thereof are chosen by direct vote of the people.

The constituency of the Senate is the legislature of the several States, by and through whom Senators are chosen. The power to elect a member of the House of Representatives resides exclusively with the people. Their election can be secured in no other way. On the contrary, with the legislature of the State resides the full and exclusive power of the election of members of the Senate, either for a full term or any portion thereof. The legislature of the State is the only power authorized to elect a Senator.

Had the framers of the Constitution stopped here, simply providing that the members of the House should be elected for a term of two years and the members of the Senate for a period of six years, the instrument would have been glaringly defective. In such case neither the Senate nor the House would be always full. With no provision for supplying vacancies happening in the term after election, by death, resignation, or some other event removing or disqualifying the incumbent, a Congressional district might be left without representation for two years, and a State without a Senator for six years. The framers of the Constitution, therefore, very wisely made provision for supplying vacancies which might happen during the term. The method adopted for securing this end in the House of Representatives is expressly provided for in the following terms:

When vacancies happen in the representation from any State the executive authority thereof shall issue writs of election to fill such vacancies.

It will be observed, therefore, that the power to fill vacancies in the House is vested exclusively in the people, the same source of power which in the first instance elected to the full term, and this power is to be invoked whenever, and as often, as vacancies happen. Nor is it left optional with the executive to issue such writs of election, but it is imperatively enjoined upon him that "he shall issue writs of election to fill such vacancies." The same constituency which is authorized to elect for the full term, and that constituency alone, is summoned to fill the vacancy.

Turning to the provision of the Constitution in relation to filling vacancies in the Senate, we find precisely the same principle and method adopted. The provision, omitting that portion relating to another question, is as follows:

If vacancies happen by resignation or otherwise during the recess of the legislature of any State, the next meeting of the legislature shall fill such vacancies.

Here the constituency of the Senate, namely, the legislature, is summoned to fill the vacancy, at its next meeting after the vacancy happens, and this meeting of the legislature may be the regular meeting after the happening of the vacancy, or a special session called to fill such vacancy. So we have in the Senate, as in the House, the power to fill a vacancy lodged exclusively with the constituency which is empowered in the first instance to elect for the full term. This, I believe, is conceded. So it will be observed that provision is made, ample and complete, for filling vacancies which may happen, either in the Senate or in the House, by summoning the constituency which filled the original term.

By this method there is no difficulty in keeping the House always full. The people are never "in recess," and can be summoned in special session at any time to fill vacancies which may happen.

But the legislatures of the States are not in continual session, many of them meeting only biennially, and the framers of the Constitution sought to meet the contingency of a vacancy happening in the Senate when the legislature was not in session, and could not, therefore, promptly respond to the exigency. True, whenever and as often as a vacancy happens in the Senate the legislature may be called in extraordinary session to fill such vacancy, yet this might be attended with inconvenience to the membership of the legislature and needless expenditure to the State. It was, therefore, wisely provided that:

If vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointment until the next meeting of the legislature.

The executive can not fill the vacancy. That is left to the legislature. He can only make temporary appointment until the legislature has an opportunity to act, and when that time comes the legislature "shall fill the vacancy," and the appointing power of the governor ceases.

I am aware it is contended by some that the power of the governor to make temporary appointment to a vacancy does not cease with the meeting of the legislature upon which rests the injunction to fill such vacancy; but if such legislature fails for any reason to discharge its constitutional obligation in this regard, and adjourns, the executive of the State may make a further temporary appointment until the next meeting of the legislature, and so continue the process until the end of the six years' term, and by this simple method transfer the selection of a Senator from the legislature of the State, where the framers of the Constitution intended to land it, to its executive.

If the contention is sound that the executive of a State may make temporary appointment at the beginning of a term where the legislature has failed, for any reason, to elect, until the next meeting of the legislature, then I do not see why, if such legislature fails to fill such vacancy, the governor may not again make a temporary appointment until the next meeting of the legislature. The injunction upon the legislature to fill the vacancy is no more imperative than the command to elect in the first instance for the full term of six years. If the governor has the power to appoint in one instance, I do not see why he has not the same power in the other. Any other construction is fatal to the theory contended for by the Senator from Massachusetts [Mr. HOAR] that the object of conferring upon the executive of a State the power to make temporary appointment was to insure a full Senate at all times.

Now let us inquire a moment into the character of the vacancy which the executive of a State is permitted to supply by temporary appointment. First, it must be a vacancy happening during the recess of the legislature. If the vacancy occurs when the legislature is in session, I suppose it is incumbent upon that legislature to fill such vacancy. If that be not so, there would be no propriety in restricting the power of the governor to make temporary appointment to only such vacancies as might happen when the legislature is in recess. I think Senator Kernan, of New York, in the debate in 1879, gave a correct construction of this provision when he said:

The vacancies which the governor can fill temporarily by appointment must occur during the recess of the legislature. If the vacancy occurs when the legislature is in session, although it is the last day of the session, the governor can not appoint. It is conceded that such a vacancy must occur during the recess.

I do not subscribe to the doctrine that if a vacancy happens when the legislature is in session, and such legislature adjourns without filling such vacancy, that it then becomes a vacancy "happening during the recess" of the legislature, and that it keeps on happening every hour, every day, and every week, and every month, a continual happening, until the legislature fills the same. In such case the vacancy does not happen during the recess of the legislature, but happens when the legislature of the State is in session, and therefore competent to fill such vacancy.

In the case now under consideration, the members of the Oregon legislature, or that portion of them desiring to defeat an election of a Senator from that State in 1897, brought themselves within the express language of the Constitution by compelling an adjournment of the two bodies before the 4th day of March, 1897, so that when the vacancy actually occurred, by the expiration of Senator Mitchell's term on the 3d of March, the legislature was in recess. This case therefore, so far as the time when the vacancy occurred, is within the express language of the Constitution. So the vacancy in this case transpired when the legislature was not in session; and so far as that point is concerned, the governor would have the power to make temporary appointment until the next meeting of the legislature if the vacancy is of such a character as the governor is authorized to temporarily supply. And this brings me to the very gist of the controversy.

The vacancy which the executive of a State is authorized to supply by temporary appointment must be a vacancy not only

happening during the recess of a legislature, but it must be a vacancy happening in a particular manner, namely, "by resignation or otherwise." It is conceded that this was a vacancy brought about by the expiration of a full term, and that the State of Oregon was entitled to choose a Senator for the full term of six years from the 4th of March, 1897, to March 3, 1903.

Was that vacancy which occurred on the 4th of March, 1897, a happening within the meaning of the Constitution? Now, I am not going over the almost endless discussion as to the meaning of the word "happen," for I do not lay so much stress upon it as upon the balance of the provision, although I am frank to say that I do not believe that a vacancy in the office of Senator from the State of Oregon, fixed and known to take place at a certain time and on a certain day, which was sure to occur if the world stands and time endures, can in any true sense be called a "happening" within the meaning of this provision of the Constitution.

I think Hamilton was right where, in the Federalist, he speaks of this very clause and says:

I mean the power of filling casual vacancies in the Senate. Here is an express power given in clear and unambiguous terms to the State executive to fill the casual vacancy in the Senate by temporary appointment.

But, as I said, I do not propose to spend any time in giving the definition of the word "happen."

You may examine all the dictionaries extant, and gather all the definitions of the meaning of this word under all conceivable circumstances, and when you are through it will be found that it has served but little purpose in determining the true meaning of the word as used in this section of the Constitution. I think Senator Carpenter, of Wisconsin, who was a man of high legal attainments, in the discussion of the Bell case in 1879, gave the correct definition of the word "happen" as used in this connection when he said:

The framers of the Constitution had here used the word "happen" with felicity. They knew the difference between a vacancy happening by casualty in the recess of the legislature and a term that had never been filled. This word "happen" in its proper definition involves the element of chance. It can not with propriety—that is, considering the strictness of the language in the Constitution—apply to a term that has never been filled. To illustrate: Suppose that when the Constitution was adopted by the States, and the President of the United States had taken the oath of office, the States had not elected Senators to this body. The office of Senator was created when the Constitution was adopted. Does anybody suppose that before a single legislature had elected Senators the governors of the respective States could have filled this Chamber by temporary appointment? I believe no one will assert this, and yet what is the reason? It is because the word "vacancy" as used here in the Constitution does not mean the expiration of a full term, nor that the full term has never been filled. A vacancy happens. The language of the Constitution is not "if there shall at any time be a vacancy the governor may appoint, to have effect until the next meeting of the legislature," but it must be a vacancy "happening in the recess of the legislature," a vacancy happening upon what the legislature has done, a vacancy occurring in a term which the legislature has filled.

I think this statement of Senator Carpenter is very forcible and comprehensive, and the present Senator from Wisconsin, whom, it will be conceded, is the peer of his illustrious predecessor, frankly admits, or at least expresses grave doubts, whether the governor of the State can, in the case of the admission of a new State into this Union, appoint the Senators from such State before an election by the legislature.

If the governor has no power to appoint in such case at the beginning of a term, before an election is made by the legislature, upon what theory can it be maintained that the executive can appoint at the beginning of a Senatorial term which the legislature has failed to fill? It seems to me the cases are exactly parallel; and when you concede that in the case of a new State coming into the Union the governor of such State can not start in the term of Senator before the legislature has elected by making temporary appointment, it must be admitted that the same principle applies to the case now under consideration. But it seems to me that the words "resignation or otherwise" fix and determine the power of the executive.

The vacancy which he is authorized to fill is one caused by "resignation or otherwise." It is conceded, of course, in this case that the present vacancy in the office of Senator from the State of Oregon did not occur by resignation. It occurred by reason of the expiration of a term. The effort is made to justify the appointment of the governor in this case by claiming that the word "otherwise," as used in that connection, covers every conceivable vacancy, whether such vacancy occur during the term by some unforeseen event, or whether it is brought about by the failure, neglect, or refusal of the legislature to elect. In other words, we are asked to change the language of this provision of the Constitution and make it read:

If vacancies happen during the recess of a legislature by the failure of the legislature to elect, by resignation, or otherwise, the governor may make temporary appointment.

Where do you find the warrant for presuming that the framers of the Constitution, in using the word "otherwise," intended to cover a case such as this? If they intended to confer upon the governor the right of temporary appointment in the case where the legislature for any reason failed to fill the office at the beginning of a term, why did they not say so? As important a matter as that would not have been left open to the uncertainties of construction.

Having provided in express terms that the legislature of a State shall elect Senators for the term of six years, if they intended to discredit their own system of government and assume that the legislature would fail, refuse, or decline to perform that duty, which they were specially enjoined to perform, they were bold enough to have said so and have provided that the legislature shall elect if it can, and, if it failed, the governor may appoint. Now, who believes that they ever intended such a system of government?

Who believes that they intended to lodge with the legislature and the executive the duty of selecting a Senator at the beginning of a full term? Who believes that they intended by this word "otherwise" to clothe the governor of a State with power and authority to stand in the place of the legislature at the beginning of a term and start that term in by naming a Senator where the legislature has failed to elect? That would have been a most remarkable provision, saying to the legislature, "Elect if you can, but if you can not, the governor may appoint until you do." I think it was a significant inquiry by Senator Vance in the Mantle case, and shows the fallacy of such an assumption, where that Senator said:

Can the Senator point out any case in the Constitution where, a duty being primarily imposed upon an officer therein named, the performance of that duty is conferred upon another officer contingent upon the failure of the first officer to perform his duty?

And as Senator Garland, the ex-Attorney-General of the United States, said in the debate in 1879:

It is a well-established principle of jurisprudence that when one tribunal has jurisdiction and fails to exercise it, no other tribunal can assume it.

I do not believe, therefore, that it was the intention of the framers of the Constitution to invest the governor with power to make temporary appointment at the beginning of a term upon the assumption that the legislature would fail to do its duty. Then there was nothing in the debate in the Constitutional Convention which shows that any member of the Convention, or that the body as a whole, ever entertained any such idea. Every proposition made in that Convention, every suggestion submitted looking to conferring upon the executive of a State the right to make temporary appointments, presupposed and took for granted that the office had been filled and a vacancy might occur by something happening to the incumbent of the office.

The very term used in the Constitution, "resignation," presupposes that the office has been filled. A man can not resign an office he does not hold, and the suggestion of Mr. Madison that the Senator-elect might decline to accept the office presupposes that he had been elected by the constitutional authority. How could a man decline that which had never been tendered him? And so in every suggestion that was made from first to last they all looked to something happening to the person holding the office which created a vacancy and would justify the governor in exercising the power of temporary appointment.

I challenge anyone to find a single suggestion or expression, direct or remote, from any member of that Constitutional Convention, that it was the purpose by the use of the word "otherwise" to invest the governor with power to take the place of the legislature and appoint a Senator, even temporarily, at the beginning of a term. It was suggested over and over again, and it was the basis of this provision giving the governor the power of making temporary appointment, that something might happen to the incumbent of the office, such as resignation, death, failure to accept, or expulsion, but nowhere from beginning to end was it ever suggested that the legislature might fail to perform its duty and provision must be made for such exigency.

The framers of that Constitution were not discrediting their work and pronouncing it a failure at the very outset. I submit, therefore, that the plain, clear, and unquestioned construction of this provision restricts it only to such vacancies as happen by some event disqualifying the incumbent of the office from holding it. To my mind it is quite absurd to ask the Senate to hold in this case that the vacancy existing in the office of Senator from the State of Oregon, brought about by the expiration of the term and the failure of the legislature to fill the succeeding term, is a vacancy happening by resignation or otherwise within the meaning of the Constitution, and that because the Oregon legislature was so manipulated as to prevent the election of a Senator that was the "otherwise" contemplated by the framers of the Constitution; that in using the word "otherwise" they intended to cover a case of that kind.

Besides all this in relation to the word "otherwise," I believe it to be a well-settled rule of construction that where specific words are used as in this case, the word "resignation" followed by more general words, the general words are qualified by the specific ones. In speaking of this view of the case Senator Hill, in the debate in 1879, said:

Now the word "otherwise" there, as the Senator well knows, under the legal decisions, has a meaning; it has a very definite and well-settled meaning; and that is this: A vacancy that happens otherwise is one that is similar to those enumerated. For instance, a vacancy may happen by death, resignation, or otherwise. Otherwise how? In some similar method upon the incumbent. The vacancy occurs by death upon the incumbent; the vacancy occurs by resignation—the act of the incumbent; and if so it occurs

in any other wise the word means "any vacancy occurring otherwise;" that is, in a similar manner upon the incumbent; that is, if the incumbent shall be expelled; that is, if the incumbent should not take his seat after he has been elected. The word "otherwise" there evidently means a vacancy happening in a similar manner by casualty to those specified.

Mr. Black, a very learned legal author of this city, and a writer especially on constitutional law, in his late work on Construction and Interpretation of Laws (see page 185), says:

Associated words explain and limit each other. When a word used is ambiguous or vague in its meaning, it may be made clear and specific by considering the company in which it is found, and the meaning of the terms which are associated with it.

It is a principle of statutory construction as old as the statutes themselves, that where particular words are followed by words of general import, the general words have no meaning except a meaning kindred to the particular words which they follow. Judge Sutherland, a Michigan author and jurist, says in his admirable work on Statutory Construction, section 279:

In cases coming within the reach of the principle just illustrated, general words are read not according to their natural and usual sense, but are restricted to persons and things of the same kind or genus as those just enumerated; they are construed according to the more explicit context.

This has been the law in England from the earliest times.

Likewise in the case of *Reg. vs. Edmundson* (38 L. J. M. C., 215), it was held that an act which imposed a penalty on the person hauling any timber or stone or "other thing" otherwise than upon wheeled carriages did not apply to straw, but was applied to things as weighty and likely to cause injury as timber or stones. This was held despite the generality of the words "or other things."

The companies act in England provided for the winding up of a company if the business of the company was not commenced within a year, or if the number of members was reduced below seven, or if the company was unable to pay its debts, or if the court thought it just and equitable that the company should be wound up. It was held that a court could not wind up a company except on grounds similar to those enumerated. *Ex parte Spackman, Mchn. & J.*, 170. A statute authorized distraint of all sorts of corn and grass, hops, roots, fruits, pulse, "or other product whatsoever which shall be growing on any part of the estates demised." It was held that these last words did not include trees, shrubs, or plants growing in a nursery ground, because they were not of the same kind, and this in despite of the generality of the words of the statute. (*Clarke vs. Gaskarth*, 8 Taunt., 431.)

The charter of a company stated that it was formed for carrying on the business of "mechanical engineers and general contractors." In construing the words "general contractors" Lord Cairns says:

Upon all ordinary principles of construction these words must be referred to the part of the sentence which immediately precedes them; therefore the term "general contractors" would be referred to that which goes immediately before, and would indicate the making generally of all contracts connected with the business of mechanical engineers. If these words were not to be interpreted as I have suggested, the consequence would be that they would stand absolutely without any limit of any kind. (*Ashbury Company vs. Rich*, L. R. 7, H. L. 653.)

An English statute provided that "no tradesman, artificer, workman, laborer, or other person whatsoever" should exercise his calling on Sunday. In several cases it was held that this statute did not include farmers, stage drivers, and attorneys, upon the ground that they were not of the same class, and this despite the generality of the words quoted. (*Reg. vs. Cleworth*, 4 B. & S., 927; *Sandman vs. Breach*, 7 B. & C., 96; *Plate vs. Dicken*, L. C. M. & R., 422.) It was likewise held that the words "parochial relief or other alms" did not include anything except other parochial alms. (*Reg. vs. Litchfield*, 2 Q. B., 693.)

In a late English case, decided in the House of Lords in 1887, an insurance policy was involved which insured against perils of the sea, specifying a number of them, and then continued to specify "all other perils, losses, and misfortunes" that might happen to said ship. An accident happened to one of the engines of the ship, but was not due to the perils of the sea. It was held that despite the words "other perils, losses, and misfortunes" this accident was not within the protection of the policy. (*Thames, etc., Ins. Co. vs. Hamilton*, L. R., 12 App. Cas., 484.)

A statute provided for a month's notice before a writ could issue against any district surveyor "or other person" under certain circumstances. It was held that a contract was not included within the words "other persons." (*Williams vs. Golden*, L. R. to C. P., 69.)

A Michigan statute gave a wife, child, parent, guardian, husband, "or other person" a right of action against a liquor seller under certain circumstances. Upon the principle contended for, it was held that the right was not given to the person who bought the liquor. (*Brooks vs. Cooke*, 44 Mich., 614.)

The case of *McDade vs. People* (29 Mich., 50) applies the same principle specifically with the following effect: A statute provided that every person who should set fire to certain buildings, "or who should by any other means attempt to cause any building to be burned," should be punished, etc. The respondent attempted to

procure another person to burn certain buildings included within the statute, but it was held that the words quoted only meant means of the same sort as those previously enumerated; that is, the burning must be by direct physical application in order to come within the statute. This case reviews the cases and cites many to the same effect.

A New York statute exempted from taxation buildings erected for the use of a college, incorporated academy, "or other seminary of learning." Inasmuch as the institutions specifically enumerated were corporate institutions, it was held that the words "other seminary of learning" could only mean such as were incorporated. (*Chegaray vs. Mayor*, 13 N. Y., 220.)

A Wisconsin statute provided that where a husband neglected to support his wife from drunkenness, profligacy, "or any other cause," she might transact business in her own name. It was held that the words "any other cause" must be understood to be a cause of the same sort, and that they would not include mere mental or physical incapacity. (*Edson vs. Haden*, 20 Wis., 682.)

In *The People vs. New York* (84 N. Y., 565) it was held that a statute providing for an action to recover "money, funds, credits, and property" converted by corporations only included in the term "property" personal property, that being the nature of the property enumerated specifically. The same is the law in Missouri. A city charter empowered the city to license auctioneers, grocers, merchants, and all other businesses, trades, avocations, and professions whatever. The legal profession was not included, as not being of the same character. (*St. Louis vs. Laughlin*, 49 Mo., 599.)

The principle to be deduced from these cases and many more is that where in a statute certain things are specifically enumerated, and such enumeration is followed by words of general import, the latter can only mean things of the same general character as those specifically enumerated in case the things enumerated have any distinctive characteristic. Applying this principle to the clause of the Constitution in hand, it would seem that the words "or otherwise" must mean and meant only a vacancy which happened by some contingency of the same sort, as a resignation. The main quality of a resignation in its relation to a Senatorial term is its uncertainty in point of time.

In fact, this is about the only peculiar characteristic of such an ending of a term. This being so, under the rules in the cases above decided, a vacancy to be included within the words "or otherwise" must be one that happens by an unexpected contingency. Giving the words this construction by no means deprives them of meaning, for there are other contingencies of that sort besides resignations; for instance, death or expulsion. But if the words are to be given their usual broad significance, they would include every possible vacancy, and consequently would be absolutely unnecessary. The same purpose would be accomplished by saying that if vacancies happen, the State executive can fill them. Consequently we can invoke a further maxim of statutory construction, viz, that all parts of a statute must be given effect if possible.

It is to be observed, too, that the filling of vacancies in the case of Representatives and of Senators is provided for in different language. Representatives may be chosen "when vacancies happen in the representation from any State." But vacancies in the Senate can only be filled "if vacancies happen by resignation or otherwise." This difference in language in an instrument drawn up with the care with which the Constitution was framed can not have been accidental. If not accidental, there must be some distinction in meaning between these two phrases, and if it is not the one suggested, what can it be?

I beg to quote again from Senator Hill upon the very point of the construction of this word. Speaking of the word "otherwise" he said:

What do those words mean? They were not inserted idly. The framers of the Constitution were not in the habit of inserting idle words in the Constitution. Gentlemen construe the word "otherwise" strangely. They say that the word "otherwise" means any vacancy; that is, they say that the framers of the Constitution put in a qualification by the word "happen" and by the words "by resignation," and then destroy those qualifications by putting in the additional words "or otherwise."

In other words, you use the word "otherwise" so as to leave the power without any qualification, as though it read, "If vacancies should happen to occur during the recess of the legislature, the governor may fill them by temporary appointment." That is your meaning.

I submit to Senators that the very position itself is absurd, for there are well-settled rules of law for the construction of this sentence. You can not take a sentence that way and use one word to destroy the meaning of other words.

You can not take a general phrase and use it to destroy the meaning of a specific phrase. On the contrary, you must restrain and qualify the general phrase by the meaning of the specific phrase. That is a well-settled rule. Why? Because it is your duty in construing to give effect to every word and to give a meaning and sense to every word. You are not at liberty to say that the framers of the Constitution not only used idle words, but used words of significance if standing by themselves, and then destroyed the significance of those words by using a general term afterwards.

It is a sound principle of construction that in every instrument you must give sense and meaning to every word if possible.

If the construction contended for by gentlemen who oppose this resolution be true, the words "that may happen" are useless; and, surely, if the Constitution intended to convey the power like that exercised by the President

in the present case, it might and would have said "the President shall have power to fill up all vacancies during the recess of the Senate." This is precisely the construction contended for, and thus it is insisted that the special power contains a general grant which renders the special nature of the delegation useless at the same time that it renders null and void the authority contained in the general grant of the President and Senate, and authorizes the President to annihilate all the privileges of the Senate in respect to the power of appointment. I may surely return the question, and ask the honorable gentleman whence he obtained authority for such a construction.

Again he says:
"All general phrases are defined and limited by the particular enumeration of powers which would otherwise have been embraced by the general phrases."

In the twelfth volume of Georgia Reports I find this very strongly stated by Chief Justice Lumpkin, who was for over twenty-five years the chief justice of our State, and who has a national reputation as a jurist. On this very point he says:

"I would take occasion to remark that the rule of construction applicable to all writings, constitutions, statutes, contracts, and charters, public or private, and even to ordinary conversation, is this: That general and unlimited terms are restrained and limited by particular recitals when used in connection with them. Not that I would reject the general terms altogether, but I would restrict them to cases of the same kind as those expressly enumerated." (12 Georgia Reports, 530.)

That is the rule. You must restrict the word "otherwise" here. Do not destroy the word "otherwise;" do not let the word "otherwise" destroy the word "resignation;" but you must use the word "otherwise" as applicable to cases like "resignation;" that is, cases of casualty. Therefore, what does the word "otherwise" mean in this connection? It means death, removal, expulsion, failure to accept, or a vacancy happening by any other casualty. Instead of saying "vacancies which happen by resignation, death, removal, promotion," or anything else, the framers used the words "by resignation or otherwise," intending the one word "resignation" to show you that the word "otherwise" was to be applicable only to cases like that governed by "resignation;" that is, cases of casualty which might happen.

I will not multiply authorities upon a point about which there can be no controversy and thoroughly embedded in judicial decisions covering questions of constitutional and statutory interpretation. It may be said, however, that this rule does not apply in this case, because the word "resignation" was employed upon the theory that without it a Senator could not resign. Whatever merit there may be in that suggestion, it in no way affects the construction to be given to the word "otherwise," and I submit, therefore, that upon principle and authority the vacancies happening otherwise are such vacancies as occur by some act, voluntary or involuntary, affecting the incumbent of the office.

I can not better close what I have to say on this branch of the case, touching the power of the governor to make temporary appointment of a Senator at the beginning of a term, than by citing the opinions not only of eminent lawyers and jurists outside this body, but the opinion of some of the most illustrious men who have ever occupied seats in this Chamber. Senator Carpenter, in the discussion of the Bell case in 1879, said:

I am equally anxious to preserve the Union and to preserve the prosperity of the people and the integrity of the Constitution, and for that reason I can not vote to seat Mr. Bell, believing that to do so would be to violate the Constitution. I maintain and believe that the construction which has been put upon the act of 1866 caused the evil in this case. The old legislature had the power, in my judgment, to elect a Senator, and ought to have elected one at its session in June last.

As it did not, the State must take the consequences and be partially represented until the legislature shall be in session to elect a Senator. In this matter the legislature represents the State; and when the legislature at the last session previous to the expiration of a Senatorial term, having power to make an election, refuses or neglects to do so, then, until an election can be made in conformity with the Constitution of the Union, the State, by its legislature, has consented to waive its right of equal representation in this Chamber.

Senator David Davis, of Illinois, whose long service on the bench of the Supreme Court of the United States gives to his opinion peculiar force and emphasis, said:

The whole question is in a narrow compass, and the view of the Constitution which has been presented by different gentlemen who have discussed the subject, especially by the Senator from Georgia [Mr. Hill] and last by the Senator from Wisconsin [Mr. Carpenter], in my judgment presents the proper construction of that instrument.

The opinion of Judge Davis ought to be entitled to some weight.

I do not believe—

Says Judge Davis—

that the vacancy mentioned in that clause of the Constitution is anything else than a portion of the six years' term where there is no person qualified to discharge the functions of the office. The principle asserted in the Lanman decision is that the legislature of a State shall provide for all vacancies which must occur at stated and known periods, and that the expiration of a regular term of service is not such a contingency as is embraced in the governor's power under the Constitution; that where opportunity is given to the legislature to choose a Senator the governor can not appoint. A vacancy within the meaning of the constitutional provision does not arise by the failure of a legislature to elect.

I think that the decision in Lanman's case, as I understand it, gives the true interpretation of the Constitution, that when the legislature had the opportunity of providing a Senator but failed, the governor can not appoint.

Is the opinion of Senator Garland worth anything in this case as a lawyer and distinguished member of this body, a lawyer of recognized ability, and subsequently Attorney-General? In the debate on the Bell case in 1879 he used this language:

Mr. President, the position that I take in reference to this matter from my reading of the Constitution is that legislatures of the States, being the original constituency of the United States, must themselves by election place a Senator in this body at the beginning of a new term; or, to state the proposition somewhat differently, it is not within the meaning of the Con-

stitution that the governor of a State can put upon the floor of the Senate a Senator at the commencement of a new term of six years, or a new term that might be by the meeting of the legislature afterwards for a shorter period. Before the governor of a State can appoint a Senator to fill what he may consider a vacancy in the Senate, there must not only be an unfilled seat but a broken term previously held by some one else.

According to the interpretation of the Senator from Delaware, if the legislature of any State of the eleven that first ratified the Constitution had failed to send two Senators here to compose the Senate, the governor of the State could have sent two to compose the body. There is no halfway ground, because we have heard it enunciated here by the Senator from Delaware and by the minority report that if the vacancy exists, by a robust and athletic construction of the Constitution, somebody must fill it—it must not go unfilled.

Now, we have the vacation of these seats by law. When that is done, according to the fair interpretation of this instrument, the legislature alone can step in. Then:

"And if vacancies happen by resignation or otherwise."
"That is, 'if vacancies happen' after the seats have been filled, after the legislature has chosen 'by resignation or otherwise,' meaning by expulsion or by death. These three are the only cases. The word 'happen,' whether you enlarge it or whether you narrow it in its construction, affects at last the incumbent in the seat by some accident or by some casualty. Hence the word 'happen' is used, referring to something which takes him out of the seat, leaving both an unfilled seat and a broken term.

Senator Garland says, further:

That is the fair and proper construction of this instrument, and when you give it that construction, you obey the first rule of construing written instruments, which is that every word in the instrument must live and speak; you can not throttle it and take one word out and put in another.

I say, then, on this point, that the legislature being the original constituency, that constituency must first act; and if the person thus chosen falls out of his seat by any accident, any happening of an unforeseen event, then the governor steps in and supplies the place temporarily; says the Constitution, by "temporary appointments until the next meeting of the legislature."

In my humble opinion, the theory that the Senate must be full, and that where the legislature fails for any cause to fill a seat, the governor, therefore, must do it or somebody must do it, finds no support in the Constitution.

In this same debate Senator Hill, of Georgia, who was certainly, as I have said, recognized as a lawyer of great ability, said, after quoting the words of the Constitution:

I entered upon the investigation of the question involved in this case with a sincere desire to vote for the admission of Mr. Bell; but after giving the case full and fair consideration, after an investigation of its history and the legal import of the words involved, I have been unable to come to but one conclusion, and that is that we can not admit Mr. Bell, for the simple reason that an appointment made by the governor is void under the Constitution.

He further said:

The primary object of the Constitution is to put in the State legislature the power to fill this office, and nobody else; but casualties may occur, death may come, resignation may come, Senators may be expelled, there may be divers casualties by which the term thus filled by the legislature may become vacant, and vacant during the recess of the legislature when Congress may be in session. It is important, therefore, as was said by Mr. Randolph, to allow the governor power to fill chasms, but not to fill an original term.

The object of the framers of the instrument—

Referring to the Constitution—

was to close the door—

And I call attention to what Senator Hill says about this—

The object of the framers of the instrument was to close the door to the possibility of the frauds to which the Senator from New York has alluded—

Referring to Senator Conkling—

and yet provide for the filling of casual vacancies; and therefore they put in the words of limitation which restrain the executive power to fill vacancies to cases of pure casualty that can not be anticipated, that can not be foreseen, and therefore where there can be no conspiracy or combinations to usurp the power on the part of the executive.

May I quote a word from Stephen A. Douglas on this question?

Where a Senatorial term has expired by its own limitation under the Constitution, and an absence of representation results from that cause, it is not a vacancy within the meaning of the Constitution. Vacancies happening in the representation in the Senate during a recess of the legislature may be filled by the governor of a State.

But I presume no man ever contended—certainly not since the Lanman case—that a governor, under the power to fill vacancies, could make an appointment to an original term of office.

Therefore, when we speak of vacancies happening in the constitutional sense, we must be understood as meaning cases where the term has once been filled and subsequently becomes vacant by resignation or otherwise.

Senator Douglas, in the Dixon-Meriwether case from Kentucky, said:

I apprehend that I will go as far as he or any other man in advocating the true rights of the States. What is the right of a State, then, as connected with representation in this body? It is a right derived from the Constitution of the United States to be represented in this body in pursuance of the Constitution. It is not a right to be represented as Kentucky pleases or as any other State pleases, but it is a right to be represented as the Constitution provides. She has no right to any other representation or mode of appointment than that authorized and prescribed by the Constitution. To allow her or to compel her to be represented here, then, in any other mode than that appointed in the Constitution is a violation of State rights and of State sovereignty, too. The question here is, What is the mode of representation to which Kentucky is entitled in this case?

Why, sir, the Constitution provides that in the election of Senators generally it shall be done by the legislature of each State; it provides by implication that in case of vacancies which occur during the session of the legislature, the legislature shall elect; but it also provides that if the vacancy occurs during the recess of the legislature, the legislature shall not elect in the first instance, but that the governor shall appoint, and that the appointment shall continue until the next meeting of the legislature, and that the legislature shall then elect.

Senator Cass, of my own State, a man of recognized ability, said:

How, then, stands this case, sir? The third clause of the first article of the Constitution provides for the composition of the Senate by fixing the term of service and the mode of selecting the Senators, permanent and temporary. It declares that "if vacancies happen, by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies." The regular terms of Senators are for six years, and the "vacancies" herein provided for are the unexpired portions of such terms, which are to be "filled" by the legislature when it can act, and when it can not act to be occupied by temporary executive appointments. If, therefore, a Senator resign, or his seat is otherwise vacated, *except by the expiration of his term*, the "vacancy" is for his original period of service, to be temporarily appointed to by the governor or "filled" by the legislature.

Senator Underwood, of Kentucky, in the Rantoul case, said:

The Constitution shows that it was never intended by its framers that a person should represent a State in this body if it could be avoided unless he came here by an election on the part of the legislature of his State. The Constitution shows that an election is to be preferred to an executive appointment, and you ought to put such construction on the legislation of the country as will give authority to those appointed according to the provisions of that instrument, by the very fountain of power, the legislature elected by the people, and if you were to continue Mr. Winthrop after being officially informed by the great seal of the State that the legislature of the State had made such an election and appointed an officer to discharge the duties of the Senator, we would be going in violation of the spirit of our institutions by continuing in office an individual appointed by one man and allowing him to exercise powers, when the persons possessing the original fountains of power had showed their determination that he should not be continued. It is well known that from political associations I would much prefer the continuance of the present and sitting member to the admission of the other, but still the great principles of the Government are much more dear to me than men. And these are the principles which in the time to come I think ought to be carried out as they are proposed to be carried out by the report of the committee.

Senator James A. Bayard held to the same doctrine.

You find that in reference to the full term of a Senator the provision is that he shall hold his office for six years and be chosen by the legislature. The executive has no authority there. And you find further that if the legislature is not in session at the time a vacancy occurs by resignation or otherwise, though it may not even be known to them, yet no authority in such a case is confided to the executive to appoint.

You find, in other words, that within the intent of the Constitution no authority over the subject is meant to be intrusted to the executive whenever the primary power—the legislature—is in existence as an organized body. I am aware that at one time it was decided that even in reference to the full term the executive of a State might make an appointment until the legislature met; but that construction was subsequently overruled by the Senate in the case of Mr. Lanman in the year 1825, and ever since the practice has been uniformly in accordance with the decision in that case.

In reference to the full term it can not be doubted that no authority whatever is confided to the executive.

Senator Mason, of Virginia, said:

The Constitution has created Senatorial terms and has declared that those terms shall last for six years; they are so arranged by another provision of the Constitution that one-third of the Senate go out biennially. What is the language of the Constitution as affecting the duration of the term? The Constitution declares that the seats of the Senators of the first class shall be vacated at the end of two years; of the second class at the end of four; and of the third at the end of six years, thus creating the terms. The language of the Constitution is that the seat "shall be vacated" by the lapse of time, and then new terms commence.

A few words now as to the precedents. Until Lanman's case, according to my recollection, it was considered by the Senate, or rather it was decided by the Senate, manifestly without consideration, that it was competent for the State executive when a term expired in the recess of the legislature to treat that as a vacancy and to fill it accordingly. Such a practice was common until the decision in Lanman's case. I confess that on looking at the Constitution my first impression was that the practice was correct, but on examining the Constitution and weighing it carefully and deliberately I can not entertain a doubt that the decision of Lanman's case was correct, and that when a term expires by constitutional limitation it is not a "vacancy" which the executive can fill.

Senator Butler, in the Phelps case in 1854, said:

It must be conceded that the authority to choose a Senator to commence a new term of six years, after the efflux of a regular term, is exclusively vested in the State legislature.

And referring to the Lanman case, he said:

In 1825 Lanman's case came up for consideration involving both questions. In that case, after a very full debate, it was solemnly decided that it was not competent for the governor of a State to put a member on this floor at the commencement of a term. In other words, it was decided that his power of appointment could not be substituted for the election of the State legislature. Even if such had not been the decision in the case of Lanman, I take it for granted that such would be, and must necessarily be, the decision now.

In the great debate of 1852, Jefferson Davis, then a Senator from the State of Mississippi, said:

Sir, there are two modes of electing Senators—the one by the legislature of a State, the other by executive appointment. And how comes it, Mr. President, that there are two modes? It is well to understand the reason. It was foreseen by the framers of the Constitution that vacancies would occur—would "happen," as the Constitution expresses it—during the "recess" of the legislature of a State, and consequently that a State would be deprived of its representation, for a time at least, unless that vacancy could be supplied. Hence it gives to the executive of a State the power of a temporary appointment, as the Constitution expresses it, a temporary appointment to hold until the legislature, as I shall show you, has had an opportunity to appoint; and when the legislature has once had that opportunity and declined or omitted to exercise its power, the executive no longer has any power over the subject. It has been justly enough observed here that the word "until," in the clause of the Constitution, qualifies the word "power;" that is, he shall appoint to hold until the legislature discharges that duty or has an opportunity to discharge it.

I will not stop to quote the opinion of Senators in the Mantle case

in 1893 who are now members of this body in support of the doctrine that a governor can not appoint at the beginning of a term, but I do desire to make a brief extract from the speech of Senator Vance in the course of the debate:

If there be any duty specially imposed as to keeping the Senate full, it is imposed upon those who are charged with the creation of Senators by the Constitution and not upon us. We sit here only to judge of the election and qualification of those who come to us claiming to be Senators; it is in no sense our duty to supply the defects and cure the failures of constitutional Senator-makers to perform their sworn functions.

This was the programme for establishing a complete continuous body called the Senate of the United States. With a single exception, no provision had been made so far for the casual interruption of a term, such as by death or resignation or expulsion, or any other change in the condition of a Senator which rendered his service impossible. Naturally these accidental and unlooked-for circumstances were considered. The question was asked, Should any of these things happen to a Senator when the legislature of his State was not in session, what then? Should that State have no representation in that body for no fault of its own?

Surely not; and so they provided that in such a case the governor of such a State may appoint temporarily until the legislature meets, which shall then fill the vacancy. In all these contingencies it will be observed that the legislature was treated as the primary source of power in reference to the selection of Senators. The appointing power conferred upon the governor was only in case of accident or some mischance happening to the occupant of a term once filled which would deprive the State of a representative in the Senate.

The Constitution provides—

He says—

that each State shall have the right to be fully represented in the Senate, and it is the business of this body as a part of the lawmaking power to see that that right is jealously preserved to each State. Whether that State shall in fact have its full representation here or not depends upon the State itself. If it sees proper to withhold a Senator by failing to select him in the constitutional way, it is the sole business and outlook of the State, and to speak of depriving the State of her representative in the Senate because she does not see proper to comply with the Constitution in choosing him is an abuse of terms.

To base an argument that it was the intention of the Constitution makers to confer such power upon the executives of the States, in the face of the absence of any attempt to do so in any enumeration of possible vacancies, seems to me absurd. The lawyers of that convention must have known all the principles of law which qualified their general word "otherwise" after their particular enumerations, and as men of common sense, to say nothing of legal knowledge, they would not have left their intention so obscure as to be groped after by strained construction and overruling of the principles of law.

Mr. President, I have but one other brief quotation and that is from the speech of George E. Badger, of North Carolina, delivered in the Phelps case in 1854, but it is so forceful that Senator Vance speaks of him as the greatest lawyer his State ever produced, and was possessed of an intellect profound as that of Bacon, analytic as that of Fearn, and acute as that of Pascal:

The vacancies—

This Senator says—

which the executive of a State is authorized to fill are never vacancies that happen by the efflux of time. They are not foreseen vacancies. They are vacancies that happen by resignation or otherwise. Mr. President, from an exceeding desire to give this clause of the Constitution such a construction as would keep the Senate always full, I labored hard a year or two ago, when we had questions of this kind before us, to find out some method of supporting in my own mind a construction that a vacancy happening by efflux of time, and not filled beforehand by the legislature, might be brought within this limited power conferred on the executive.

But, sir, I have been obliged to abandon it. "By resignation or otherwise" is the language. We must expound the word "otherwise" to apply to vacancies happening by similar events, that is, unforeseen events—death, resignation, appointment to an office which disqualifies—but it can not be applied to the expiration of a term of a Senator which leaves a seat vacant on this floor. My opinion, therefore, is that the governor of a State has no power to fill a vacancy in this body which is brought about by the expiration or efflux of the time for which the Senator was elected; in other words, at the termination of his term in the Senate. It must be a vacancy in the term happening during the recess of the legislature. It must be a vacancy in the term happening by resignation or other casualty. That I understand to have been the express and solemn decision of the Senate in Lanman's case in 1825, overruling one or two earlier decisions, which had passed, perhaps, without full consideration.

These citations are sufficient to show that if the Senate of the United States shall now determine that the governor of a State may make temporary appointment at the beginning of a term where the legislature has failed to elect it will overthrow a long line of established precedents and run counter to the opinion of some of the foremost men of the nation who have given this subject consideration. Of course the Senate has the power to do it, but the moment that is the settled doctrine of this body and the legislatures of the several States are advised by the Senate that they are at liberty to disregard their constitutional obligation to elect a Senator for the full term of six years, and thereby transfer to the executive of the State the power to inaugurate the term by temporary appointment, you have not only sown the seeds of discord in every legislature, but you have opened a Pandora box of evil, whose baleful influence no man can foretell.

One result will surely follow, and that is the number of persons applying for admission into this Chamber upon appointment by the executive authority of the State will be greatly augmented. I think Senator Conkling, in 1879, in protesting against

this interpretation of the Constitution, spoke the words of prophecy when he said:

If it should be the established law that wherever a legislature decided not to elect the power to fill the vacancy should revert to the executive of the State, the Senate and all of us must see how exposed the whole process of filling seats in the Senate would become, because the governor and his friends by cabal, intrigue, maneuver, might so arrange that the legislature would decide not to elect, or would fail to elect, in order that the governor might gather to himself the power to fill the vacancy.

The very suggestion made by the distinguished Senator from Georgia [Mr. BACON].

The next legislature might decide not to elect, and so indefinitely within the six years the executive power of a State might usurp that which the Constitution deposits with the legislative power.

Senator Hill, of Georgia, said:

If you by any interpretation of these words allow the governor to appoint at the beginning of a term simply because the legislature for any cause has not filled the seat, do you not see that schemes may be resorted to to prevent the legislature from filling the seat? Whenever you admit that the governor can fill a vacancy which is brought about by the failure of the legislature to do its duty for any cause you open the door to conspiracy and fraud to prevent the legislature from filling that vacancy. There is but one escape from that result, and that is to say that the language of the Constitution intended to confine the power of the governor to cases of casualty that the governor could not foresee, that schemers in the legislature could not foresee, that conspirators could not foresee, that nobody could foresee, and therefore nobody could conspire to bring about.

Senator Vance, in 1893, well said:

The danger or the inconvenience supposed to arise from the Senate not being "always full" is not to be compared for a moment with the dangers which would ensue if the practice were followed of filling the Senate with members who are not entitled by the prescriptions of the Constitution to sit here. Into this temple of our liberties no man should be permitted to enter except by the door of the Constitution.

There should be no politics in the decision of this question. No other consideration should enter into it but that of a sincere desire to maintain the letter and spirit of the Constitution. Doubtless many of the complicated decisions which this body has made have arisen from the pressure of temporary circumstances of one kind or another. It is a great question, which should be decided with proper solemnity. The ambition of men which leads them often to the obstruction of the proper and legal election of Senators to this body in the hope of securing favor from a single man—the executive—should be rebuked, and they should be taught to know that this great tribunal will not make itself an accomplice in their schemes and combinations, if we wish to avoid scandals and to preserve the character and dignity of the United States Senate.

In the debate of 1893 the Senator from New Hampshire [Mr. GALLINGER], the Senator from Connecticut [Mr. PLATT], the Senator from Florida [Mr. PASCO], and many other Senators pointed out the danger in establishing such a doctrine and the disastrous consequences that would be sure to follow.

A word more and I am done.

The case now before the Senate is unlike the Mantle case in at least one particular. As I said before, in the Mantle and the other cases examined with it the legislatures made a determined and persistent effort to elect a Senator, but failed.

In this case they made a determined and persistent effort not to elect a Senator, and succeeded. In the former case you have held that the governor had no power to appoint. You are now asked to hold that if the legislature is prevented by the schemes of a factious minority from electing a Senator, then the governor has the power to appoint. I wonder if that is an invitation to revolution and anarchy? That body of men elected at the general election in the State of Oregon in 1896 to the Nineteenth general assembly of the State of Oregon, consisting of 30 senators and 60 representatives, were bound by the Constitution and laws of the United States to elect a Senator.

The Constitution enjoins it in most positive terms, and the act of 1866 imposed upon this legislature the duty of electing a Senator by providing that—

The legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected to represent said State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress, etc.

Yet what did the gentlemen elected to this assembly do? They convened at the capitol on the 11th day of January, 1897, in obedience to the constitution and laws of the State of Oregon. It is conceded that on that day, at the hour fixed for meeting, all the members of the general assembly, both of the house and the senate, with the exception of one senator, were present in their respective chambers. It is also conceded that on that day, January 11, the senate completed a permanent organization, and was ready for business.

It also appears that every member elected to the house of representatives was present in the chamber—sixty in number—and proceeded to a temporary organization by the election of a temporary speaker and a temporary chief clerk. This being done, the temporary speaker appointed a committee of five on credentials, and thereupon a recess was taken until 4 o'clock in the afternoon of the same day. At 4 o'clock the body reconvened, and the committee on credentials not being ready to report, the members present remained until the hour of 6 o'clock, waiting for the report of the committee, which not being made, they took a further recess until half past 7 of the same evening.

This body reconvened at 7.30 and the roll of members-elect was called, which disclosed the presence of only 34 members out of the 60—26 failing to answer to their names. There had been no epidemic, suddenly wiping out a large portion of the membership of that body; there had been no invasion of an army or a mob; there had been no earthquake, swallowing up these members. They simply absented themselves from this meeting without any reason known to the public.

Even the majority of the committee on credentials failed to appear, and when a motion was made to discharge the committee from a further consideration of that subject, and that the published list of members-elect furnished by the secretary of state, which is declared to be a true list of the members of the house, the temporary speaker, Mr. Davis, ruled this motion out of order, giving as a reason that the constitution of the State required two-thirds of the members elect to organize the house or adopt any motion.

From January 11 until January 21 the house met in daily session with never less than thirty members and never more than thirty-four at any sitting, during all of which time the temporary speaker declined to put any motion other than a motion to adjourn, for the reason before stated. On the 21st of January, thirty-three members of the house being present, a resolution was adopted deposing the temporary speaker, Davis, and electing Mr. Smith as temporary speaker. Temporary Speaker Davis refused to put the motion, whereupon the mover of it submitted it to the body, and Smith was declared elected, was thereupon conducted to the chair, and entered upon the discharge of his duties.

The temporary chief clerk was also deposed. Two members of the committee on credentials reported that they had examined the credentials of members-elect and submitted a list of sixty persons as duly elected to the Nineteenth general assembly of the State of Oregon. In response to a resolution adopted by the body, the chief justice of the supreme court of the State administered the oath of office to thirty-one of the accredited members and two other members subsequently appeared and took the oath. Thereupon the body proceeded to make a permanent organization.

On the 2d of February the house thus constituted voted for Senator, 30 members being present, Senator Mitchell receiving 29 votes and Williams 1. The next day, February 3, a joint convention met with 40 members present, being 6 less than a majority of the entire membership of the legislature, and adjourned from day to day, the highest number present at any one session being 43, and finally on the 24th day of February adjourned without day, and the election of United States Senator was thus defeated.

I have merely recited these facts, not for the purpose of discussing the question whether there was a legal or permanent organization of the house, but only for the purpose of showing the methods adopted by a minority to prevent the election of a Senator.

Every possible effort was made to secure the attendance of the absentees, but without avail. After the final adjournment the recalcitrant members came in and took the oath of office and then dispersed to their homes.

Now, what was the occasion on the part of the minority for holding up this legislature? There was but one purpose, as appears from the evidence before your Committee on Privileges and Elections.

Senator John H. Mitchell was a candidate for reelection before that legislature. In the campaign of 1896, with unflinching courage and unwavering fidelity, he carried his party flag to victory, and it was expected he would be chosen his own successor. A call for a caucus had been signed by forty-eight Republican members, more than a majority of the entire membership of the body, and at that caucus Mitchell was nominated as his own successor without a dissenting vote. It was perfectly apparent, therefore, if the legislature were ever permitted to vote upon the question, Mr. Mitchell would be elected as the Senator for the full term of six years from March 4, 1897.

It became necessary, therefore, on the part of a small minority, to prevent a vote on that question. I would not be harsh in anything I may say in this case, but it seems to me that there was a conspiracy from the beginning to prevent the election of the nominee of the caucus at all hazards and at whatever cost. It was well planned.

With no premonition of the revolt at the time of the assembling of the members of the house, the entire membership of sixty being present, a temporary speaker was elected, who subsequently identified himself with the forces of the opposition and declined to take the oath of office, and appointed a committee on credentials, three of whom, as it turned out afterwards, were identified with the opposition, and who from the time of their appointment never answered to a roll call in the house of representatives until that body was broken up.

Of the thirty-three members absenting themselves from the House only nine were of the Republican party, and these, together with nineteen of the opposition, were able to consummate this work. I hold in my hand a letter addressed to the chairman of

the Committee on Privileges and Elections, signed by George C. Brownell, president of the joint convention, from which I desire to read a single extract. It seems that when Mr. Mitchell became satisfied of the determination of the fractious minority to defeat him at all hazards, he wrote a letter withdrawing from the contest in favor of some other candidate. Mr. Brownell says:

In this connection Mr. Mitchell named the following leading Republicans in different parts of the State, any one of whom he would cheerfully support: Hon. George H. Williams, late Attorney-General of the United States; Hon. Sol. Hirsch, chairman of the Republican State central committee of the State of Oregon; Hon. Charles W. Fulton, late State senator, late Presidential elector during the Harrison campaign, and one of the prominent Republicans of the State; Hon. E. B. Watson, late justice of the supreme court of the State; Hon. F. A. Moore, present chief justice of the supreme court of the State; Hon. Binger Hermann, late Representative in Congress; Hon. J. C. Fullerton, circuit judge; Judge Aiken, circuit judge; Judge Fee, late circuit judge; Lionel J. Webster, late circuit judge, and others.

To my certain knowledge, also, Mr. Mitchell communicated with Mr. Simon and other leaders of the opposition his willingness to unite with them, if they would come in, on any one of these gentlemen, but was met with the answer *they would support no one but Henry W. Corbett.*

The facts of history in connection with this legislature require that it should be further stated that the present governor of the State, Governor Lord, was understood from the beginning to the end to be in direct sympathy with and supported all this combination. The facts of history further require it should be stated that this combination was held together by the cohesive power of what seemed to be an unlimited amount of money.

If it be possible that this transaction can meet with the approval of the Senate of the United States, then the prophetic words of Senator Conkling have come true, "that the governor of a State and his friends, by cabal, intrigue, maneuver, may so arrange that the legislature will decide not to elect or would fail to elect in order that the governor might gather to himself the power to fill the vacancy." If this doctrine is established in this case, it is, as suggested by the Senator from Georgia [Mr. BACON], within the power of 11 senators of the legislature of the State of Oregon to at any time prevent the election of a Senator, either for a full or the part of a term.

Upon the theory that it takes two-thirds of each house under the constitution of the State of Oregon to constitute a quorum, 11 members-elect to the senate can absent themselves from that body, destroy its quorum, and thereby thwart the purpose of the other 79 members and the will of the people of the State. Suppose at a general election in that State there shall be a complete revolution, and every member of the house, 60 in number, should be Democratic, and every senator-elect of the same political faith; but among the hold-over senators there are 11 Republicans, and there is a Republican executive. These 11 Republican senators, for the purpose of bringing to a Republican governor the power to appoint a Senator, could hold up the legislature and thus prevent an election.

I do not believe the Senate will sanction such a doctrine or put its stamp of approval upon this transaction. If it shall, the disaster, appalling as it will be, will bear its bitter fruits not many years, for the people of this country, without regard to party, will then demand that the Constitution of the United States shall be so amended as to take from the legislature the power to elect Senators and place it in the hands of the people, where, in my judgment, it rightfully belongs, and thus thwart the machinations of designing men and preserve the principles of representative government in this body.

I can not better conclude what I have to say than by repeating the injunction of Senator Vance, which, it seems to me, is specially applicable in this case. "Though dead, he yet speaketh."

The ambition of men which leads them often to the obstruction of the proper and legal election of Senators to this body in the hope of securing favors from a single man—the executive—should be rebuked, and they should be taught to know that this great tribunal will not make itself an accomplice in their schemes and combinations, if we wish to avoid scandals and to preserve the character and dignity of the United States Senate.

Mr. MORGAN. Mr. President, as a member of the Senate sitting in judgment upon the right of Mr. Corbett to a seat in the Senate, I do not find that the issue to which my judgment is to respond includes any question as to the legality or morality of the action of the legislature of Oregon in refusing to elect a Senator to fill the existing vacancy; neither do I conceive that I am under any duty to protect Oregon against any frauds in the election of Senators or in their appointment hereafter by governors. My duty is to protect the rights of a sovereign State, so far as I can; and there my duty ends.

I believe, Mr. President, that I am not fully in accord with the majority of opinion amongst my brother Democrats in this Chamber in the vote that I shall give upon this subject, but I am quite sure that they will pardon me in whatever error I may commit in that direction or in giving that vote, because it will be in the direction of attempting to preserve the rights of the sovereign States of the American Union and to enable them to perform their duties to the Government of the United States.

In the exercise of those original and inherent powers of sovereignty accorded to the States, in express terms, in the Constitution, through which the relations of the States with the Government of the United States are provided for, it is for the State to

determine whether its sovereign will is truly expressed through the medium of either of the two agencies named in the Constitution for declaring that will, and to determine whether the agencies employed for that purpose are then lawfully empowered to act.

Granting, for the sake of the argument, that the legislature of a State is required by the Constitution of the United States to take the initiative in choosing a Senator for a full term, if the legislature fails to perform that duty at the proper session, as provided by the constitution of the State and the laws of the United States, it does not follow that thereby the State shall be deprived of her equal suffrage in the Senate. These powers are not dependent upon each other, except as to the time of their exercise.

If the time of their exercise is that which is stated in the Constitution, the action of the legislature when it is in session is valid, and the action of the governor when the legislature is not in session is valid.

I will read Article V of the Constitution as the basis of all that I have to say as to the powers of the Senate in this case to deprive Oregon of her equal suffrage in this body.

This right is so sacred that it is placed beyond the power of amendment. To change it or to impair it is to revolutionize the Government of the United States.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

There that subject was taken up in the closing article of the original Constitution and dealt with out of the most extreme caution by that great convention for the purpose of preserving to the States of this Union their equal rights of suffrage in the Senate, and in order that no amendment might ever be framed which would deny or impair that right it was stated in this fifth article that the power of amendment should not extend to it. That is enough, Mr. President, to show the imminence, the force, the impressiveness, and the mandatory nature of that right and of all of the injunctions of the Constitution imposed upon us, in its preservation, in all of our action.

I must respect that right of Oregon, whatever may have been done by her legislature, or her governor, or by any political party in that State, to deprive her of two Senators in this body.

My record on the subject now presented for the action of the Senate has not been, apparently, entirely consistent. I voted against the claims of Messrs. Bell and Blair, of New Hampshire, and afterwards in favor of the claim of Mr. MANTLE and others to seats in the Senate, all of them asserting their rights under certificates of appointment issued by the governors of their respective States.

In the cases of Messrs. Bell and Blair, of New Hampshire, the vacancies to be filled were occasioned by the fact that two sets of legislators were brought into apparent conflict as to which of them represented the supreme political power of the State in the right to choose a Senator. If this was a fault, it was a fault of the constitution of the State or its laws as to the time of the meeting of the legislature which could elect a Senator.

This difficulty was overcome by the State at a later date, since when no further conflict of authority between a legislature-elect and a legislature in organization has arisen.

The consent of the State to a loss of equal suffrage in the Senate was, as I then thought, to be justly inferred from its refusal to amend a constitution that denied to it the power to elect a Senator in accordance with the laws of the United States on that subject enacted in 1866.

I inferred the consent of New Hampshire in those cases to the loss of power in the Senate, from her refusal to conform to the requirements of that act of Congress. Further reflection has satisfied me that New Hampshire was not justly held bound to such an intendment, and if I had now a vote to cast on that question I would vote that the Senate could impose no penalty on her for not altering her constitution so as to conform to the act of Congress of 1866.

That event and one of like kind in Florida, besides other experiences, show that these States have been and may again be compelled to change their constitutions to meet the will of Congress, from time to time, as to the designation of the legislative bodies that may choose Senators.

That law of 1866, which confines the power of the State in the election of Senators to the legislature that is chosen next prior to happening of a vacancy in the Senate by the expiration of a term, is of very doubtful constitutionality.

If that act has forced upon any State the loss of its equal suffrage in the Senate by creating a hiatus in a Senatorial term that could not be filled by an election under its constitution, it was

certainly an unconstitutional abuse of the sovereignty of such State, unless the power of the governor to appoint a Senator to fill the vacancy remained to the State. In such case it is clear that the State is deprived of its equal suffrage in the Senate by an act of Congress and without its consent.

That was in effect the state of case that existed in New Hampshire, unless the legislature that was in organization next before the vacancy occurred in the Senate, instead of the legislature that was chosen next before that event, but could not sit until after the vacancy had occurred, was the body entitled to elect a Senator. The Senate met this plain invasion of the sovereign rights of New Hampshire by voting that those rights could be exercised by the governor in the interim, so as to give the State full representation in the Senate.

Before the passage of the act of 1866 New Hampshire could fill a vacancy to occur in the Senate by an election in its legislature that was in organization before that event, although another legislature had been chosen that could not be organized until after that event. The whole of the difficulty came from the act of 1866, which was a needless, if not a mischievous, act that trenching upon the sovereign rights of the States.

In my view of the Constitution of the United States, it was intended that the States should designate the legislature that should elect a Senator to fill a full term not then commenced.

If a State chooses to have biennial or quadrennial terms of its legislature, it can easily avoid the purpose of the act of 1866, which was to have the choice of Senators take place at a period shortly before expiry of a term in the Senate.

I am extremely loath to accept any intrusion of Congress upon the rights of the States, as they are expressed in the Constitution, which belong to the class of supreme rights of sovereignty. Among the rights to which the Constitution accords this supreme sovereignty in the States is the right to prescribe the qualifications of voters in all the elective offices, the right to prescribe the method of choosing electors for President and Vice-President, and the right to issue writs of election for members of the House of Representatives.

There were also sovereign powers confirmed to the States in the Constitution which are protective in their nature and are equally supreme and beyond the power of any department of the Government of the United States to deny or abridge them. Among these are the right to have two Senators in this body at all times, and to choose them by the exercise of the political power of the State, which, for the purpose of choosing Senators, is vested in the States as sovereign powers.

The legislature of a State and the governor of a State are agents of the State to represent these sovereign powers and to exercise them, and they are empowered to act alternately in choosing Senators. The governor, being in commission all the time, to represent the sovereign power of the State, is designated as the authorized agent of the State to appoint a Senator to fill a vacancy in the Senate whenever it happens, unless the legislature is in session at that time. The plain purpose of this authority given to the governor to represent the State is to have a Senator always authorized to sit in this body, and thus to secure to each State its equal suffrage in the Senate, to the extent of the power of man to execute this high purpose and this important national duty.

To deny to a State this right, upon a technical construction of the powers of its agents, is derogatory to its sovereignty as a government and is not even a proper rule for construing the most ordinary relations of principal and agent.

The great purpose to be preserved in the representation of the States in the Senate is the preservation of the Union of the States and the equal power of the States in the Union by the constant presence at all the sessions of the Senate (which is the only continuous body in the Government with fixed numbers) of all the Senators from all the States.

The constant necessity for keeping this body in full membership is very conspicuous in the light of its powers in making treaties, in the confirmation of appointments to office, in the trial of all impeachments, and of its powers of legislation jointly with the House of Representatives. In view of these great functions of the Senate, the purpose to keep every State represented at all times can not be properly subordinated to the question, of far less importance, whether its agents, to express its sovereign will, have acted in the manner prescribed in their letter of authority.

The Senate can only seat a man in this body in conformity to the will of a State lawfully expressed. As no man is entitled to a seat here except through the sovereign will of a State, and as the law provides a method of expressing that will by a certificate issued by authority of a State, and as that State is the supreme sovereign power in the choice of a Senator, the will of the State and of all its constituent powers and departments, whether legislative, executive, or judicial, must be held as being expressed in that certificate until it has been revoked by the State, or until the Senate holds that it is null and void for fraud or that it is ultra vires.

Mr. Corbett comes here with a certificate, in due form of law, stating that in a recess of the legislature of Oregon the governor of that State has appointed him to fill a vacancy in the Senate. The legislature does not contest that certificate, and no contestant appears to claim the seat. Beyond question that certificate expresses the sovereign will of the State. It is the State, speaking through that certificate, that is here demanding its sovereign right of representation. In such cases the Senate has always held that the person holding the certificate, being otherwise qualified, shall be seated, subject to the rights of any lawful contestant.

The only fact that is stated to impeach the validity of this certificate is that the legislature of Oregon, having had the opportunity to meet, organize, and elect a Senator to fill the vacancy, failed to accomplish that duty. The legislature did not desire to elect a Senator, preferring to relegate that duty to the governor of the State. If this was done in the execution of the will of a sovereign State, we must assume that it was done lawfully and that it expresses the will of the State.

If it was done against the will of the State, or to defeat the will of the State or the people, was the State thereby left helpless as to its equal suffrage in the Senate?

This is one of the emergencies for which a dual power of selection was provided in the Constitution of the United States. Two agencies are provided for in the Constitution of the United States for filling vacancies in the Senate, and all who may be such agents are alike sworn to support the Constitution. The sole object in this dual and alternative provision, and in the oaths by which they are bound, is to secure to the State the certainty of representation in the Senate, and the only restraint upon the power of the governor to act as the agent of the State is that when he acts the legislature should not be in session.

Neither of these agents of the State can be compelled to act if they choose to violate their oaths, but if they do even that gross injustice to the people, they still represent the sovereignty of the State and must continue to do so until the people call the legislature to account at the ballot box or remove the governor by impeachment.

The Senate can never assume that the will of the State is declared in the failure of the State to send a Senator to this body. Even in case of its refusal, by some resolution of the legislature or law regular on its face, to be represented in the Senate of the United States, the Supreme Court would hold the act void in favor of the power of the governor to appoint Senators; or that court would hold that it was the consent of the State that it would yield its right of equal suffrage in this body and yet remain in the Union.

The Constitution abhors a vacancy in the Senate as much as nature abhors a vacuum, and it was to provide against such an event, which is in the nature of a dissolution of the Union, that the supreme sovereign power was declared to exist in the States to choose Senators and that they could signify that choice by an election by the legislature of the State when it is in session or by the appointment of the governor when the legislature is not in session. This is the plain reason for this alternative method of declaring the sovereign will of the State.

The fact of such an election, or such an appointment, may be inquired into by the Senate, and its validity as to the time, place, and manner of an election and as to the time of appointment by the governor, but his right to appoint is the right of the sovereign State to fill a vacancy in the Senate through his agency; and it is not the right of the governor to make an appointment in virtue of a power delegated to him by the Constitution of the United States.

When the legislature of a State chooses a Senator, or when a governor of a State appoints a Senator, the act is so far an act of sovereign power and is so entitled to respect that no actual fraud or baseness of intrigue on the part of the agent of the State, whether legislature or governor, will invalidate it, unless the person chosen has some criminal connection with the corrupt choice.

Such facts only raise the question of the moral qualification of the person selected as a Senator, and if an appointment is corruptly made by a governor, or if he is corruptly elected by the legislature, and the appointee is innocent, he can not be rejected for that cause. If an honest governor comes into office after a corrupt legislature has refused to elect, and appoints an honest man to the Senate of the United States, the construction we are asked to place upon the Constitution of the United States for the purpose of excluding Mr. Corbett from the Senate requires us to hold that the honest governor could not make any appointment, and that the State shall lose her equal suffrage in the Senate until the next legislature meets, even if it is four years afterwards. This would bind the sovereignty of the State in chains and subordinate it to the supremacy of fraud.

The VICE-PRESIDENT. The Senator from Alabama will suspend. The hour of 3 o'clock has arrived. Under the unanimous consent agreement made February 17, the vote on the pending resolution is to be taken at 3 o'clock to-day.

Mr. CAFFERY. I ask unanimous consent that the Senator from Alabama be allowed to finish his remarks.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Louisiana?

Mr. BURROWS. What is the request?

The VICE-PRESIDENT. That the Senator from Alabama be permitted to continue his remarks until he concludes. The Chair hears no objection. The Senator from Alabama will proceed.

Mr. MORGAN. The governor of a State is authorized by the Constitution to call upon the President to protect a State against domestic violence when the legislature is not in session.

If the violence had begun while the legislature was in session, but no provision was made for calling on the President for military aid, it would scarcely be held that society must be made to suffer, without remedy, because the legislature, having the exclusive right while it was in session to call on the President for aid, had omitted or refused to do so.

Those sovereign rights of the States that are expressly enumerated in the Constitution are rights that were inherent in the "free, sovereign, and independent States," as they are described in Article II of the articles of confederation, and were retained by them when the more perfect Union was formed under the Constitution.

Such of them as pertain to the election of members in the Houses of Congress, and to Presidential electors, and to the preservation of the States against domestic violence, and some others are all intended to aid and facilitate the States in the assistance they, in turn, are required to give to the Federal Union, and, in favor of the States, they are to be liberally construed, so as to secure to the States at all times their full powers in the great duties they are to perform.

These rights preservative of government are to be liberally construed in favor of all concerned in maintaining them. We are asked to deny to Oregon this original and essential right of sovereignty—to be represented in the Senate—only because Mr. Corbett was not elected by the legislature when it met, or when it refused to organize, or because it met and organized and failed to elect him or any other person to the Senate. If this same alleged delinquency is repeated when the legislature again meets, it will deprive Oregon of the presence and vote of a Senator in this body during all of the vacant term. Unless this position is made imperative upon the Senate by the unmistakable mandate of the Constitution, it is a terrible risk we will take upon ourselves in making such a decision.

Not only does it require the State to force the election of a Senator by the legislature before her governor can make an appointment, but it virtually forces her out of her normal position in the Union if her legislature should continue to refuse to elect Senators to the Congress of the United States.

This is a double thrust at the sovereignty of both the governments of Oregon and the United States.

The Senate, in judging the election, returns, and qualifications of its members, whether we act in a judicial or legislative capacity, must remember that we must so judge as to give full effect to all the provisions of the Constitution of the United States, without cutting away or ignoring any of them, for we are sworn to preserve it in all its parts and to give effect to every provision it embraces.

We can pass no decree that will settle the rights, duties, or policy of Oregon in the future, nor in the present can we lawfully deprive her of her equal suffrage in the Senate without her consent. Our power of adjudication is restrained by these higher rights of the sovereign States. If we say to Oregon and to all the States, "You shall never have a voice in the Senate unless your legislatures first choose Senators for a full term," we annul the sovereign rights that were accorded to them when they entered the Union, which includes both the powers of election and of appointment of Senators, and sit in judgment upon those powers and prohibit their exercise, instead of passing upon the men to whom they give credentials as Senators.

Mr. Corbett is here with full and regular credentials from the State of Oregon, issued by her governor under the great seal of the State, in accordance with the laws of the United States and the practice of the Senate. No man questions his certificate or his qualifications. If he had been chosen by the legislature, his credentials would have come from the same governor. The only question, then, that can be tried by the Senate is, whether Oregon is entitled or can be entitled to fill the vacant seat in the Senate until such time as her legislature shall meet and elect a Senator; for if they fail to elect this vote will decide that her right is lost until an election is first had by the legislature.

The question, then, in the only form in which the Senate can present and vote upon it, is an issue directly with the State of Oregon, for the only contention is that no man can represent Oregon in the Senate, under existing circumstances, unless he is chosen by the legislature, or until an election has been made by

the legislature. Even a tie vote in the general assembly would be fatal to her right of representation.

I feel great concern and apprehension that we are about to disfranchise a sovereign State without even hearing her excuses for her alleged recalcitrant legislature. It is only this dread that has led me to participate in this debate.

The VICE-PRESIDENT. The resolution is before the Senate. The Secretary will read it.

The Secretary read the resolution reported by Mr. CAFFERY from the Committee on Privileges and Elections January 26, as follows:

Resolved, That the Hon. Henry W. Corbett is not entitled to take his seat in this body as a Senator from the State of Oregon.

Mr. HOAR. I move to amend the resolution by striking out the word "not."

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. In the first line it is proposed to strike out the word "not," so as to make the resolution read:

Resolved, That the Hon. Henry W. Corbett is entitled to take his seat in this body as a Senator from the State of Oregon.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Massachusetts.

Mr. PETTUS. On that I call for the yeas and nays.

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

Mr. GALLINGER (when Mr. CHANDLER's name was called). My colleague [Mr. CHANDLER] is unavoidably absent from the city. He has a general pair with the Senator from Louisiana [Mr. MCENERY]. If my colleague were here, he would vote in favor of seating Mr. Corbett.

Mr. GEAR (when his name was called). I have a general pair with the Senator from New Jersey [Mr. SMITH]. If he were present, I should vote "yea."

Mr. HANSBROUGH (when his name was called). I have a pair with the Senator from Virginia [Mr. DANIEL]. I understand that if he were present, he would vote "yea" on this proposition. That leaves me at liberty to vote. I vote "yea."

Mr. KYLE (when his name was called). I wish to announce that upon this question I am paired with the Senator from Kansas [Mr. HARRIS]. Were he present, he would vote "nay" and I should vote "yea" upon this proposition.

Mr. McLAURIN (when his name was called). I am paired with the Senator from North Carolina [Mr. PRITCHARD]. If he were present, I should vote "nay."

Mr. MALLORY (when his name was called). I have a general pair with the junior Senator from Vermont [Mr. PROCTOR]. I transfer my pair to the Senator from California [Mr. WHITE], who I understand is not paired on this question, and I will vote. I vote "nay."

Mr. MORGAN (when his name was called). I am paired with the Senator from Pennsylvania [Mr. QUAY]. If he were present, I should vote "yea."

Mr. MURPHY (when his name was called). I have a general pair with the junior Senator from New York [Mr. PLATT]. If he were present, I should vote "nay."

Mr. SHOUP (when his name was called). I have a regular pair with the senior Senator from California [Mr. WHITE]. In an interview with the Senator before leaving here he said that in his judgment and discretion he would vote "nay." I will therefore record my vote. I vote "nay."

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Mississippi [Mr. WALTHALL], who, I presume, would vote "nay." Can his colleague tell me how he would vote?

Mr. MONEY. He would vote "nay."

Mr. SPOONER. I understand the Senator from Louisiana [Mr. MCENERY] would vote "yea" if he were present.

Mr. FAULKNER. On what authority does the Senator make that statement?

Mr. SPOONER. I have been told that a telegram has been received from him stating that to be the fact. That is all I know.

Mr. BERRY. Who has the telegram?

Mr. FAULKNER. We on this side of the Chamber have no information of that sort.

Mr. HANSBROUGH. I was advised a few moments ago that a telegram had been received from the Senator from Louisiana to the effect that he would vote "yea" on this question.

Mr. FAULKNER. If the Senator from North Dakota will state that he has seen the telegram, I shall be willing to admit it.

Mr. HANSBROUGH. No; I have not.

Mr. SPOONER. If there is any doubt whatever about it, of course that ends it, and I withhold my vote. If I were at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. MONEY. My colleague [Mr. WALTHALL], who is absent

sick, is paired with the Senator from Wisconsin [Mr. SPOONER]. If present, my colleague would vote "nay."

Mr. FAULKNER. I desire to announce a pair between the Senator from Virginia [Mr. DANIEL] and the Senator from Utah [Mr. CANNON]. I understand from a telegram received by me that if the Senator from Virginia were here, he would vote "yea" on this question, and the Senator from Utah, if present, would vote "nay."

The result was announced—yeas 19, nays 50; as follows:

YEAS—19.			
Aldrich, Allison, Baker, Fairbanks, Foraker,	Frye, Hanna, Hansbrough, Hawley, Hoar,	Lodge, Mantle, Mason, Morrill, Perkins,	Sewell, Turner, Wetmore, Wilson.
NAYS—50.			
Allen, Bacon, Bate, Berry, Burrows, Butler, Caffery, Carter, Chilton, Clark, Clay, Cockrell, Cullom,	Davis, Deboe, Faulkner, Gallinger, Gorman, Gray, Hale, Heitfeld, Jones, Ark. Jones, Nev. Kenney, Lindsay, McBride,	McMillan, Mallory, Martin, Mills, Mitchell, Money, Nelson, Pasco, Penrose, Pettigrew, Pettus, Platt, Conn. Rawlins,	Roach, Shoup, Stewart, Teller, Thurston, Tillman, Turley, Turpie, Vest, Warren, Wellington.
NOT VOTING—20.			
Cannon, Chandler, Daniel, Elkins, Gear,	Harris, Kyle, McEnery, McLaurin, Morgan,	Murphy, Platt, N. Y. Pritchard, Proctor, Quay,	Smith, Spooner, Walthall, White, Wolcott.

So the amendment was rejected.

The VICE-PRESIDENT. The resolution reported from the Committee on Privileges and Elections is before the Senate. The question is on agreeing to the resolution.

Mr. CAFFERY. On that question I ask for the yeas and nays. The yeas and nays were ordered.

Mr. ALLISON. Let the resolution be read.

The Secretary read the resolution, as follows:

Resolved, That the Hon. Henry W. Corbett is not entitled to take his seat in this body as a Senator from the State of Oregon.

The VICE-PRESIDENT. The Secretary will call the roll on agreeing to the resolution.

The Secretary proceeded to call the roll.

Mr. GEAR (when his name was called). I am paired with the Senator from New Jersey [Mr. SMITH]. If he were present, I should vote "nay."

Mr. KYLE (when his name was called). As previously announced, I am paired with the Senator from Kansas [Mr. HARRIS] on all propositions connected with this question.

Mr. McLAURIN (when his name was called). I again announce my pair with the Senator from North Carolina [Mr. PRITCHARD].

Mr. MALLORY (when his name was called). I again announce my pair with the junior Senator from Vermont [Mr. PROCTOR]. I transfer that pair to the Senator from California [Mr. WHITE], and vote "yea."

Mr. MORGAN (when his name was called). I am paired with the Senator from Pennsylvania [Mr. QUAY].

Mr. MURPHY (when his name was called). I am paired with the junior Senator from New York [Mr. PLATT]. If he were present, I should vote "yea."

Mr. SPOONER (when his name was called). I announce again my pair with the Senator from Mississippi [Mr. WALTHALL]. If I were at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. PETTIGREW. The Senator from Utah [Mr. CANNON] is paired with the Senator from Virginia [Mr. DANIEL]. If the Senator from Utah were present, he would vote "yea."

Mr. PASCO. I have been requested to state that the Senator from New Jersey [Mr. SMITH] is necessarily absent from the city. He is paired with the Senator from Iowa [Mr. GEAR]. If the Senator from New Jersey were present, he would vote "yea."

Mr. MONEY. My colleague [Mr. WALTHALL] is absent sick, and is paired with the Senator from Wisconsin [Mr. SPOONER]. If my colleague were here, he would vote "yea."

The result was announced—yeas 50, nays 19; as follows:

YEAS—50.			
Allen, Bacon, Bate, Berry, Burrows, Butler, Caffery, Carter, Chilton, Clark, Clay, Cockrell, Cullom,	Davis, Deboe, Faulkner, Gallinger, Gorman, Gray, Hale, Heitfeld, Jones, Ark. Jones, Nev. Kenney, Lindsay, McBride,	McMillan, Mallory, Martin, Mills, Mitchell, Money, Nelson, Pasco, Penrose, Pettigrew, Pettus, Platt, Conn. Rawlins,	Roach, Shoup, Stewart, Teller, Thurston, Tillman, Turley, Turpie, Vest, Warren, Wellington.

NAYS—19.

Aldrich, Allison, Baker, Fairbanks, Foraker,	Frye, Hanna, Hansbrough, Hawley, Hoar,	Lodge, Mantle, Mason, Morrill, Perkins,	Sewell, Turner, Wetmore, Wilson.
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NOT VOTING—20.

Cannon, Chandler, Daniel, Elkins, Gear,	Harris, Kyle, McEnery, McLaurin, Morgan,	Murphy, Platt, N. Y. Pritchard, Proctor, Quay,	Smith, Spooner, Walthall, White, Wolcott.
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So the resolution was agreed to.

Mr. TELLER. Mr. President, it has been the custom of the Senate for many years and in the interest of the public business to fix a time to vote. It has always been understood, since I have been in the Senate, that when that time came we should vote and that it would be no disrespect to any Senator who might be on the floor to say that the vote should be then taken. I think every Senator will see that unless we adhere strictly to that rule it will be quite impossible to make the custom of fixing a time at all valuable, because if a Senator on the floor is entitled to go on, some other Senator may ask the same courtesy, which we could hardly decline.

I think the only safe way is to vote when the time comes for voting. I did not myself feel inclined to object at the time when the suggestion was made, but I want to say now, so that it may not appear that it is in the interest of anybody or against anybody, that hereafter I shall feel at entire liberty whenever a case of the kind occurs again to make an objection.

Mr. HALE. Mr. President, I agree most fully with the position of the Senator from Colorado. The method that has become crystallized into the Senatorial way of doing business is that after debate has run for a reasonable time, and sometimes some of us think for an unreasonable time, there has never been on any great question any great difficulty in getting the unanimous consent of the Senate to take the vote at a given hour. It is the answer to the continued attacks that are made upon the Senate's rules and the Senate's traditions that we do business in that way. One of the reasons why by unanimous consent a particular hour is fixed to take a vote is that everybody understands that it will be then so taken, and every Senator is in his seat.

I think, out of deference personally to the venerable Senator from Alabama, who had almost completed his remarks this morning, no objection was made to his finishing. It was a general testimonial to him personally. But I shall join with the Senator from Colorado hereafter, under any circumstances, in enforcing the unanimous-consent agreement. Otherwise we are all afloat and nothing can be done.

Mr. HOAR. Mr. President, I think the Senators are putting more emphasis on this particular incident than it deserves. The Senator from Alabama had a little more than a page of a written argument in his hand, and it was to complete that that the unanimous consent was given. He did not occupy a time which would be more than would be found covered by a difference in clocks or watches. I do not believe that the watch which I have in my pocket, which is a minute or two slower than the Senate clock, had marked 3 o'clock when the Senator had actually finished. I should hope that whenever a like condition occurs again every Senator will do exactly what he did to-day, consent to the completion of the reading of the paper. It is not really anything more than allowing a Senator to finish a sentence, a privilege which is always accorded.

HOMESTEADS AND RIGHT OF WAY IN ALASKA.

Mr. HANSBROUGH. I move that the Senate proceed to the consideration of the bill (H. R. 5975) extending the homestead laws and providing for right of way for railroads in the District of Alaska.

The motion was agreed to.

Mr. VEST. Will the Senator from South Dakota allow me to make a report from a committee?

Mr. HANSBROUGH. I will yield for that purpose.

BAYOU BARTHOLOMEW BRIDGE.

Mr. VEST. I am directed by the Committee on Commerce, to whom was referred the bill (S. 2839) authorizing the Mississippi River, Hamburg and Western Railway Company to construct and maintain a bridge across the Bayou Bartholomew, in Arkansas, to report it with an amendment.

Mr. JONES of Arkansas. I ask the Senator from North Dakota to yield to me for a moment to ask the unanimous consent of the Senate to proceed to the consideration of the bill just reported by the Senator from Missouri. It will take but a few minutes to pass the bill. It is reported on favorably from the Department. The company has constructed the road up to the bayou, and the work is absolutely suspended for want of permission for the construction of the bridge. I hope the Senator will allow the bill to be passed.

Mr. HANSBROUGH. If the bill does not lead to debate, I will yield to the Senator from Arkansas.

Mr. JONES of Arkansas. It will not lead to debate.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Arkansas to consider the bill just reported by the Senator from Missouri?

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

The amendment of the Committee on Commerce was, in section 1, line 10, to strike out "river" and insert "bayou."

The amendment was agreed to.

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

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

SEIZURE OF BRITISH SHIPS IN BERING SEA.

The VICE-PRESIDENT laid before the Senate the following message of the President of the United States; which was read:

To the Senate:

I transmit herewith, in response to the resolution of the Senate of February 1, 1896, a report from the Secretary of State, with accompanying papers, relating to the work of the commission appointed pursuant to the convention of February 8, 1896, between the United States and Great Britain, for the settlement of claims presented by the latter against the former in virtue of the convention of February 29, 1892.

EXECUTIVE MANSION,

Washington, February 28, 1896.

WILLIAM MCKINLEY.

Mr. VEST. I move that the message and accompanying papers be printed and referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. FRYE. I hope the order to print will not include the very voluminous evidence which has been filed with the message.

The VICE-PRESIDENT. There has been no order made to print it. The motion was made to refer the message to the Committee on Foreign Relations.

Mr. FRYE. Then the order should be made to print the accompanying documents and not the evidence contained in the packages.

The VICE-PRESIDENT. Is there any objection to that request? The Chair hears none. Shall the accompanying testimony be referred to the Committee on Printing to determine the question of printing?

Mr. FRYE. No; let the testimony be referred to the Committee on Foreign Relations with the other papers, but not printed.

The VICE-PRESIDENT. It will not be printed.

Mr. FRYE. There is no need of printing it all.

The VICE-PRESIDENT. The Chair understands.

HOMESTEADS AND RIGHT OF WAY IN ALASKA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 5975) extending the homestead laws and providing for right of way for railroads in the District of Alaska, which had been reported from the Committee on Public Lands with amendments.

The VICE-PRESIDENT. The bill will be read.

The Secretary proceeded to read the bill.

Mr. TELLER. I do not know whether or not the Senator in charge of the bill desires to have amendments made as we proceed with the reading or to first have the bill read through. If in order, I desire to move to amend it, in line 12, on page 1, after the word "Interior," by striking out the words "and approved by the President."

Mr. ALLEN. I desire to suggest the propriety of dispensing with the formal reading of the bill, and let the amendments be considered as the bill is read.

The VICE-PRESIDENT. Is there objection to that request? The Chair hears none, and that will be the order.

The first amendment of the Committee on Public Lands was, in section 1, line 3, after the enacting clause, to strike out:

That the homestead land laws of the United States and the rights incident thereto are hereby extended to the District of Alaska, subject to such regulations as may be made by the Secretary of the Interior and approved by the President.

And to insert:

That the homestead land laws, and the right to enter unsurveyed lands under the provisions of the law relating to the acquisition of title through soldiers' additional homestead rights, are hereby extended to the District of Alaska, subject to such regulations as have been, or may be, made by the Secretary of the Interior and approved by the President; and no indemnity, deficiency, or lien lands pertaining to any land grant whatsoever originating outside of said District of Alaska shall be located within or taken from lands in said District: *Provided*, That nothing herein contained shall be so construed as to authorize entries to be made, or title to be acquired, so as to limit or abridge the right of free navigation or free access to the shore of any navigable water within said District: *And it is further provided*, That no homestead shall exceed 40 acres in extent, unless it be located on meadow land or land chiefly valuable for grazing or agricultural purposes, of which 160 acres may be entered as a homestead under the general land laws of the United States.

Mr. TELLER. Now I ask that the amendment which I have suggested may be stated.

The VICE-PRESIDENT. The amendment proposed by the Senator from Colorado to the amendment will be stated.

The SECRETARY. It is proposed to amend the amendment reported by the committee in line 12, after the word "Interior," by striking out the words "and approved by the President."

Mr. TELLER. I simply want to say that that is an innovation upon the present law, and there is no reason for troubling the President with such matters. They should be left with the Secretary of the Interior, where the law now leaves them.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Colorado to the amendment reported by the committee.

Mr. RAWLINS. Do I understand that the question now is on the adoption of the amendment reported by the committee?

The VICE-PRESIDENT. No; on the amendment of the Senator from Colorado [Mr. TELLER] to the amendment of the committee.

The amendment to the amendment was agreed to.

The VICE-PRESIDENT. The question now is on the amendment reported by the Committee on Public Lands as amended.

Mr. STEWART. I desire to offer an amendment to the first proviso and also one to the second proviso. I move to amend the first proviso of the amendment, in line 18, after the word "made," by striking out the words "or title to be acquired, so as to limit or abridge the right of free navigation or free access to" and insert the words "within 1,000 feet of."

The law can be subsequently modified if it be deemed necessary, but I would not have homesteads located on bays or navigable waters. I would keep them within a distance of a thousand feet, to be afterwards disposed of. I think that would be better than to say that homesteads shall not be so located "so as to limit or abridge the right of free navigation or free access." How are you going to determine that? It seems very indefinite.

The VICE-PRESIDENT. The amendment submitted by the Senator from Nevada to the amendment of the committee will be stated.

The SECRETARY. In line 18 of the amendment, after the word "made," it is proposed to strike out "or title to be acquired, so as to limit or abridge the right of free navigation or free access to" and insert "within 1,000 feet of;" so as to read:

That nothing herein contained shall be so construed as to authorize entries to be made within 1,000 feet of the shore of any navigable waters within said District.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Nevada to the amendment of the committee.

Mr. ALLEN. I should like to know why the Senator from Nevada wants that amendment.

Mr. STEWART. I think the provision that entries should not be so located as to limit or abridge free navigation would be a very difficult matter to determine, involving in all cases investigation. I suggest that homesteads should be kept a thousand feet from the shore. The disposition of the shore property can be afterwards considered in some well-digested bill. Undoubtedly there will be many places in Alaska where the water property will be very valuable, and homesteads should be kept a thousand feet from the shore until that question shall have been determined. It seems to me the adoption of such a provision will avoid a good deal of trouble.

Mr. ALLEN. This bill was carefully considered by the Committee on Public Lands. I think this copy is the fifth revised edition of it. Our purpose was to guard every point.

This proviso leaves the matter somewhat to the discretion of the Secretary of the Interior to determine what would limit or abridge the right of free navigation or free access to the shore of any navigable waters. There may be cases, and doubtless will be, where a homestead located exactly on navigable waters would be proper where no landing exists or is desired. There may be other cases where the location of the homestead within 2,000 feet of the water would be improper.

Mr. STEWART. If the Senator will allow me, I would suggest that the homestead law allows homesteaders to acquire title upon unsurveyed land, and whether they might stay there or not would involve a good deal of litigation and trouble. If you keep them, in the first instance, a thousand feet from the shore of navigable waters, the disposition of the water property can afterwards be considered in a well-digested bill. You will find some of the water fronts there very valuable. I have seen so much of this thing that I should not like to have it involved in vague language like this. The Secretary of the Interior will not be able to make regulations in particular cases, because the land has not been surveyed and there is nothing to guide him in making regulations. So his action will be entirely arbitrary, as he must act without information.

After the land has been surveyed and copies of the plats, etc., have been filed, it may be years before it will be known whether there will be a landing at a particular place or not so far as there is any official information in the Department. If the Secretary

had the maps before him, the language of the bill would be entirely admissible and there would be no criticism about it, for he could then properly make regulations.

Mr. ALLEN. But he will have power to make regulations under this proviso.

Mr. STEWART. I know he can make regulations, but he can not know the circumstances of any particular case until the land shall have been surveyed, and, as I have said, the homestead laws allow entries before surveys are made.

Mr. ALLEN. I submit to the Senator that this bill would not permit the homesteading of a piece of land along navigable waters without the consent of the Secretary of the Interior. The Senator can readily understand that in some cases a homestead on the shores of a navigable stream would be proper, while in a great many other cases a homestead within two or three thousand feet of the water would be improper. There must be some latitude on the part of the Secretary of the Interior to determine whether a given case is proper or improper. That was the view of the committee in passing upon this question. I submit that the Senator's amendment makes it a procrustean bed; it is inelastic where it ought to be elastic. There ought to be some elasticity in the provision which would authorize the exercise of discretion.

Mr. WILSON. I should like to ask the Senator from Nevada why he limits the homesteading to 1,000 feet of tide water? Does he intend to limit it to the shore line of Alaska at Skagway, where, I suppose, there are already 2,500 people? They have already occupied that property, and there ought to be some way by which and through which they can get title and own the property.

I think the whole manner of dealing with this question of public lands in the District of Alaska is very peculiar. We are trying to deal with Alaska as if it were an agricultural district, which is very far removed from the fact.

Mr. GEAR. Does the Senator think that the riparian title would pass to the party taking the lands?

Mr. WILSON. The riparian rights always go to the owner of the land along the shore, but beyond that, to the center of a lake, a river, or anything of that kind, the right would go to the State absolutely and unconditionally.

Mr. STEWART. The lands between low and high tide?

Mr. WILSON. Yes; between low and high tide.

Mr. STEWART. All the lands between low and high tide under the decision of the Supreme Court are State lands.

Mr. WILSON. They are State lands, but how are the people who have already located on the land to secure title? There are 2,500 people in Skagway now. They are right on the shore line, and some provision must be made to enable them to acquire title.

Mr. STEWART. There is no difficulty in entering lands under the town-site law. If they are in a town, the town-site law applies.

Mr. CARTER. The town-site law now extends to the District of Alaska.

Mr. STEWART. So far as town sites are concerned, this bill will have no operation.

Mr. CARTER. Mr. President, it seems proper to state at this time that in the framing of this bill the committee had in view the conditions to be met and contended with in that District so far as the information at the command of the committee tended to enlighten them.

First, it is obvious, in so far as general information extends, that the country is chiefly valuable for its mining possibilities and for the fishing interests there centered. It also became quite evident to the committee, from information of a reliable character gleaned from many sources, that certain portions of the Territory might be made available to a limited extent for agricultural purposes. In extending the agricultural law, however, the committee deemed it wise to be very judicious and prudent not to accord such extensions as would materially interfere with the mining industry or the fishing rights or the navigation of the water either along the Pacific Ocean, the Bering Sea, or the great rivers of the interior.

The proposition contained in the proviso, to which the amendment of the Senator from Nevada [Mr. STEWART] goes, was dictated by extraordinary prudence. I believe the decisions of the courts, the judicial legislation on this subject of riparian rights, would accomplish substantially what this amendment contemplates; but through extraordinary caution it was deemed wise to advise all persons purchasing under this homestead law or acquiring title under soldiers' additional homestead scrip that no title, colorable or otherwise, could be obtained which would interfere with the free navigation of the rivers or of the waters of the ocean contiguous to the shore.

The difficulty with the amendment proposed by the Senator from Nevada is that it in effect would nullify the very purpose the committee had in extending the homestead law to that district. There would be no land in that country to which homestead filings could apply in good faith, except along the river bottoms or the creek bottoms or the limited shore at the foot of the mountains bordering on the sea. If the amendment was adopted

it would prevent the filing of a homestead claim within a thousand feet of the shore of a creek; and as the Senator from Colorado [Mr. TELLER] notices the lapse that came near occurring, I will say that it would be just as well to drive the homesteader a thousand miles from a stream as to drive him back a thousand feet.

Mr. STEWART. The Senator is mistaken about that. It only applies to navigable streams, not to small streams.

Mr. CARTER. I will accept the modification, and still the reason applies. If you exclude the man who enters a homestead from approaching the edge of a navigable stream a thousand feet, you practically nullify the proposition of the bill which extends the homestead law to that country.

I know that the Senator from Nevada presents the amendment in good faith. I am equally confident that if he will reflect upon the subject-matter for a brief time he will be firmly convinced that the amendment is without virtue, and ought to fail.

Mr. STEWART. Mr. President, the more I hear said in regard to the proposition the more I am satisfied that my amendment ought to prevail. It will be borne in mind that this is an extension of the homestead laws to the District of Alaska. It is not necessary to extend those laws all at once. In California there were a dozen extensions made before those laws were finally extended over the entire country with appropriate limitations. Only the valleys were first opened to settlement. The whole mineral region was reserved. We did not extend the homestead or preemption laws to them. In extending them to Alaska we do not know the condition of the harbors along the coast. Extend it to within a thousand feet of the shores of navigable waters and let the facts be developed, when we can make further extensions.

Congress will be in session very soon again, and we can then make the extensions, if necessary. We shall then probably know where the towns are to be located, and we can make some proper provision after they are established which we can not do now. But if locations are to be made on soldiers' scrip and everything of that kind, every bay, every harbor, and every place where a landing may be desirable will be owned by somebody in less than three months. I do not know why we should not go a little slower than that. We have already the town-site laws extended there, so that the settlers can apply under those laws and get title so far as the Government owns the land.

Mr. WILSON. The Senator from Nevada would not, I presume, wish to extend to the District of Alaska the same character of laws that would apply to California?

Mr. STEWART. We have nothing to do with that at all. I have simply suggested that we do not always extend the homestead laws to a whole State or a whole section of country, but we do so by degrees.

Mr. WILSON. If the Senator will permit me, I do not believe that we ought to extend the homestead laws to the District of Alaska at all.

Mr. STEWART. That may be.

Mr. WILSON. I think the climatic conditions in Alaska are such that the homestead laws will hardly be applicable there. I know some people differ with me in that respect, but I think if a man settles upon a piece of land in Alaska under the homestead law and is required to inhabit and cultivate it, to plow it and break it up, and improve it, under such rules and regulations as the Secretary of the Interior may prescribe, he will have an exceedingly difficult task in obtaining title. Therefore it was my judgment that we should create some law which would permit the purchase, possibly under some rules and regulations, of those lands. They are vastly different, except upon tide water upon the Pacific side, from the agricultural lands of California, Washington, Oregon, or even of Nebraska. The same condition which applies to the settlement and development of the public lands in those States, it seems to me, is not applicable to the District of Alaska.

Mr. STEWART. I think the Senator is probably right. All that is necessary now is the town-site law for the towns that may be created along the navigable rivers.

Mr. WILSON. And the mineral-land laws.

Mr. STEWART. And the mineral-land laws. I think that probably is all that will be required.

Mr. PLATT of Connecticut. That has already been done.

Mr. STEWART. That is all we require. I think we ought to leave out the homestead part of this bill, and it would be better to let that go to another session, at which time we may know what the real facts of the case are and whether there is really a chance of bona fide homesteading or not.

Mr. WILSON. There is one thing which has been brought to my attention, I will say to the Senator, and that is that in some of the valleys it is claimed that they can raise rutabagas and cabbages and potatoes, because the sunlight is so strong for three months, night and day, that it equals six months, and therefore they are able to raise something.

Mr. STEWART. If that condition of things exists, the people

will not be disturbed in the meantime, and hereafter we can adopt legislation suited to the condition when we have reports from that District.

Mr. PERKINS. Mr. President, I have great confidence in the judgment of our Committee on Public Lands. Many of its members had great experience in our Territories before they became States of the Union, and they are quite competent to deal with all the various perplexing questions in relation to lands which may arise. But I submit to the committee that the conditions in Alaska are very different from those in any other Territory or State of this Union. We there have a seacoast, following all its meanderings and the indentations of the line of the bayous and inlets and sloughs at the mouths of the navigable rivers, of some 25,000 miles, nearly or quite the circumference of the whole earth.

It is a grave question, therefore, Mr. President, to embody in any bill any provision whereby a homestead may be located upon any land running down to tide water, which may perhaps be suitable for a harbor for the landing of vessels, unless there is some provision inserted whereby the right of way may be condemned or franchises granted for wharves and docks. Otherwise we virtually lay an embargo on the shipping of the great District of Alaska.

I venture to say—and I am somewhat familiar with that coast—that there is not one place, commencing at Fort Wrangel and going to Point Barrow, where anyone will make a homestead location for the purpose of building a home; but there will be thousands upon thousands who will locate homesteads for the purpose of controlling a port, a good site for a wharf, a good site for a fish cannery, a good site for a fishing or oil depot or a coal depot. I know the committee desire to so frame the bill that no one can go into that district and take possession of an eligible site which is only suitable for the landing of a vessel, for the building of a dock, or for the construction of a cannery or some other similar purpose. Therefore, there should be some provision in this bill whereby wharf franchises, fishing franchises, and other rights which will develop with the great mineral resources of that country may not be monopolized.

We have coal lands in Alaska in large quantities. Some one may have a coal mine 2 or 3 miles from the coast, and I may have a homestead and my brother and my brother-in-law and my wife's other relations have other homesteads adjoining, in which case we virtually can dictate to the owner of that mine, who must pay tribute to us for all time before he can have passage or right of way over that land. My friend, however, may say, "We can amend this bill later on; we can correct these evils of which you complain by further legislation;" but those who will have these rights will come in and say, "We have vested rights; they were given to us by the law of Congress authorizing us to go in there and make these improvements." Such improvements, so far as their valuation is concerned, may be merely imaginary; but such rights are of great value. We ought not to permit anyone under this bill to take advantage of an eligible site for a homestead, which would be perhaps worth not five or ten dollars an acre, but a thousand dollars an acre for a canning site, for a wharf, or for some other purpose connected with commerce.

I have only given this bill a cursory reading, because I have such confidence in the judgment of the committee, as I have before said, that they would endeavor to protect it in every respect; but this is a grave question, one of great moment to the interests of that great and growing District, which will, perhaps, in time—it has 578,000 square miles of territory—I think, be capable of making two or three States the size of Texas and California.

There is not, I think, in any of our States—I am sure there is not in California, Oregon, or Washington—a place upon the coast where I can not go and make application for a wharf franchise. I can have the right of way to navigable water condemned for a public purpose. The board of supervisors will fix the rate of tolls which I shall charge for merchandise over that wharf, but such charges must be reasonable and in accordance with public sentiment and public requirements. In glancing over this bill I find no limit to what may be charged; and if I own an eligible site, where there is 20 feet draft of water for a vessel, and perhaps for half a mile or 200 yards to the right or to the left of me there is no landing, I can charge whatever the traffic will bear. I hope, therefore, unless the committee can show that they have guarded this phase of the measure, that it will be so amended that no one can go there and take possession and impose upon commerce arbitrary rates which will be prohibitory.

Mr. RAWLINS. Mr. President, I dislike to feel under the necessity of differing from a committee like that on Public Lands, which has reported this bill with numerous amendments. In the remarks I now propose to submit to the Senate on this question I shall endeavor, as briefly as I can and as clearly as I may, to point out why this legislation as it is proposed by the committee should not be enacted.

If we look at the first section of the bill as it came from the House of Representatives, we will see that it is proposed to extend the homestead laws of the United States to the District of Alaska.

The amendment proposed by the committee is to strike out that provision and permit the extension of the homestead laws to Alaska, limiting the right to 40 acres.

On the other hand, it extends the provisions of the law relating to the acquisition of title through soldiers' additional homestead right. The holder of this scrip, the land speculator, is not limited as to the quantity of land which he may take, except to the number of acres which his scrip will cover. I can not understand why the committee saw fit to limit to 40 acres the actual settler who goes there in good faith to make his home and permits the land speculator to take as many acres as he can procure scrip to cover.

But the Senator from California has pointed out the great danger under existing conditions of making disposition of vested rights and titles in the District of Alaska. We have very little information as to the condition of that vast section of country, as to its possibility in the way of agriculture, as to the contour of the country, as to the necessity pertaining to the disposition of vested rights and titles in that district. What is most important at this juncture is to extend to that district a proper and suitable form of government, and when conditions have become settled, then to undertake the disposition or adjustment of titles.

Mr. President, I have had considerable experience under conditions which are not wholly dissimilar to those which prevail in the District of Alaska. The great section of country in which I have resided all my life was acquired from Mexico in 1847. Citizens of the United States then began first to settle it, but no land law of the United States was extended over that district, it was not possible for anyone to obtain a title to any land there as against the United States for more than twenty years. In the meantime there grew up a common law of possession as against everybody except the United States, which was in the interest of the actual and bona fide possessor. He who was prior in possession had priority of right.

The city in which I live contained a population of about 20,000 before there was any disposition of the title of the United States to its inhabitants. There was then extended over it the equitable and just provisions of the town-site law. Land was entered by trustees in trust for the several use and benefit of the occupants in that town site according to the respective interests. Rules were made for the execution of the trust under which claimants to the tracts of land were required to file their claims within a limited time, and where there was more than one claim to a tract or parcel of land and a contest arose, it was adjudicated by the courts in accordance with the principles of justice. Many of those cases came to the Supreme Court of the United States.

There was no serious inconvenience growing out of that delay in the disposition of titles in that section of the country. On the contrary, the Government became settled, the rights of the bona fide possessor were respected, and when they had thus accrued in small tracts of land the titles were disposed of. In my State the average size of a farm is 27 acres. But I pass from this question.

The pending bill is framed, if I have been able to read it rightly and if I have correctly conceived its purpose and effect, in the interest of the speculator and in disregard of the rights of the actual settler, the man who in good faith goes to Alaska to acquire property for the purpose of legitimate trade and industry. The amendment to the first section, it seems to me, in a way evidences that purpose. But I pass to the subsequent provisions relating to rights of way for railroads.

Under section 2 a number of gentlemen may proceed to organize a corporation under the laws of any State or Territory or under the laws of the United States, as may best suit their purpose.

By filing the articles of incorporation with the Secretary of the Interior and making proof of organization under the same, there is a grant, which takes effect as of date of the filing of articles of incorporation, of very valuable rights which may be held in perpetuity. It grants the right of way 200 feet wide and for such length as the promoters may decide to appropriate in Alaska. It grants to the company the further right to purchase in fee, subject to the reservation of minerals, unappropriated and unoccupied lands for \$1.25 an acre to the extent of 20 acres for each 5 miles of the road and 80 acres for terminals.

By turning to the amendment proposed in section 4 of the bill it will be seen that all that it is necessary to do, if I have read the bill correctly, in order that this railroad company, this paper corporation, may hold these rights indefinitely, is—

That any such company may file in the office of the Secretary of the Interior a plat or map of the general route of its proposed road, as near as may be, and from the filing of such map or plat the right of way hereby granted for said road and the lands and rights appurtenant thereto shall be reserved from other disposition until the map of definite location shall be filed as herein provided for.

The articles are filed, proof of organization made, a grant takes effect of the easement in perpetuity 200 feet wide and for an indefinite length, to be determined at the pleasure of the parties who organize the corporation; also of a right to purchase immediately in fee 20 acres for each 5 miles of the road and 80 acres for terminals. Is there any provision for the forfeiture of any of those

rights? The only other step required is that the company shall file a map and mark out upon that map the line of their proposed railroad, perhaps a hundred or ten thousand miles in length, and thereupon there is reserved the right of way; there are reserved all these tracts of land which they may purchase in fee, until the filing of the map of definite location. It is true that the next section provides—

That any company desiring to secure the benefits of this act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a 20-mile section of its road, as definitely fixed.

But in case it fails to file that map there is no penalty; no forfeiture is provided. It is not made a condition upon the failure to perform which there is any reversion of the right to the Government of the United States. So the company need never file its map of definite location, and if it fails to do so, it suffers nothing in the way of loss of any right which had been previously granted to it. But it is also provided:

That if any section of said road shall not be completed within one year after the definite location of said section so approved the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration.

That forfeiture can never take place unless the company has filed its map of definite location. If it sees fit not to file its map of definite location, it can never be subject to the forfeiture which is provided in the proviso I have read. All it has to do, therefore, in order to acquire its right of way and hold it for an indefinite length of time, is to organize under the laws of any State or Territory, make proof of its organization to some clerk in the Interior Department, and mark upon and file a Government-made map of its line of location. Thereupon it can purchase in fee 20 and 80 acre tracts, to hold without condition. The company may never take another step or expend another dollar indicative of good faith or an honest purpose to construct or put in operation a mile of road.

Mr. CARTER. If it will not interrupt the Senator from Utah, who unquestionably desires to be fair, I should like to make a suggestion.

Mr. RAWLINS. I yield.

Mr. CARTER. I should like to call his attention to very important and conspicuous omissions, in view of the line of argument in which he is indulging.

No land can be purchased under this bill by a railroad company for any purpose whatever other than the purposes specified in the bill. The Committee on Public Lands was confronted by the possibility of a railroad company selling a portion of its land for town lots; and for the purpose of preventing any speculation in the land acquired for depot grounds and turn-outs and station buildings this qualification which the Senator has thoughtlessly, undoubtedly, omitted to read to the Senate or to mention in his remarks was put in the bill to guard against the dreadful calamity which he so glowingly depicts as possible under the terms of the bill. It is provided in the bill—

Mr. BATE. What page?

Mr. RAWLINS. Page 3.

Mr. CARTER. It is provided in the bill on this point:

The right to purchase in fee, subject to the reservation of all minerals and coal therein, unappropriated and unoccupied public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes.

This is a grant of the use of the land for certain specified purposes, and this purpose must be legitimately connected with the work of the railroad corporation.

I will state to the Senator from Utah that the suggestions which he is now making concerning deep-laid schemes were discussed in the committee. They are not new at all, and he will find upon fairly reading and justly considering the provisions of this bill that the very speculative features he now outlines and with just indignation refers to have been especially and critically guarded at each and every point in the bill. All we ask is that in the course of his remarks the Senator shall not be partial in quoting and that he shall not take segments and parts of the bill and hypothecate an argument upon them and leave out the qualifying clauses and sentences connected with it.

Mr. RAWLINS. I have not overlooked the provision, and I apprehended that my attention would be called to that language; but still I repeat my original proposition, namely, that there is granted here a right to purchase in fee, and that right accrues under any proper construction of the bill at the time of the filing of the articles of incorporation and proof of organization with the Secretary of the Interior. It is true that it directs that the land shall be used for certain purposes, which are specified; but suppose when the Government of the United States has parted with its fee (it is not an easement; it has parted with its fee) the company, after obtaining the title—and it is not required to devote its land to railroad purposes before it has obtained the fee—fails to use it for that purpose. What remedy is there? It is not a condition

precedent. It is not a condition subsequent. There is no forfeiture if there is a failure to comply with that provision.

The fact is, as I take it the Senator must be aware if he reflects upon the subject as a lawyer, that that is no limitation upon the power of the company to use or to dispose of lands which it thus acquires in fee. An easement for the right of way over the lands of the United States is granted for railroad purposes. Where an easement for a right of way is granted and the title in fee is disposed of to other persons, and it is not used any longer for the purposes for which it is granted as an easement, there remains the right of the owner of the fee to make such use of the land as may not be inconsistent with the exercise of the easement; but when a grant is made in fee with a subsequent direction that it shall be used for this purpose or that purpose, and the grantee fails to use it for such purpose, there is no remedy by the grantor or anybody else.

So that this language as it is thus employed, notwithstanding the words to which my attention has been invited by the distinguished Senator from Montana, is in legal effect precisely what I stated it was, namely, that the company may acquire an easement of a right of way of indefinite length in the District of Alaska, to be held in perpetuity, without taking any single step indicative of a purpose in good faith to construct or put in operation a mile of road.

It may obtain these tracts of land—20 acres for each 5 miles of road and 80 acres for terminals. While it is directed to make certain use of the land, the fee is disposed of and the grantor is utterly without remedy to restrict or limit the use of that property in any respect or its disposition to other parties. That is palpably true, I take it, to every man who has devoted his attention to the question of titles. If it was a condition precedent that this use should be made of the property before the title in fee was disposed of, there might be something in the proposition advanced by the Senator from Montana.

In this connection it is proper to allude to another provision in the section. It not only grants the right to purchase these 20-acre and 80-acre tracts, but it confers expressly the right to locate this land along the line of navigable waters to the extent of 80 rods along the shore line. It also gives the right to construct and maintain piers and wharves. The bill as it came from the House provided that upon the admission of the District into the Union as a State the State might take possession of these structures, these wharves, and the structures erected on the land along the line of the shore, but the committee has proposed an amendment to that by striking out the clause giving this right of possession to the State, and simply permitting the State in lieu thereof to regulate the use of these littoral rights, if we may so speak—rights of wharfage, maintaining piers abutting upon the line of navigation. The policy, I think, is well established in this country that these rights along navigable waters are reserved to the State and the State may take full possession of them when created.

Now, I submit to the Senator from Montana this question: Provided a railroad is located, a preliminary location made, marked upon a map filed with the Secretary of the Interior, a purchase in fee of 20 acres for each 5 miles of road and 80 acres for terminals, together with these shore rights, these rights along the shore line of navigable waters, and the company fails one year, five years, or ten years after the grant in fee is made to it to devote the land or any part of it to the purposes specified, what remedy is provided in this bill or what remedy under any law is provided for the United States or any grantee of the United States?

Mr. CARTER. The Senator, I think, proceeds upon the erroneous theory that the right to purchase in fee for certain specified purposes obligates the Government of the United States, irrespective of any other condition in the bill, to issue a patent granting the fee specified in this particular section. The bill would be construed as an entirety, and its provisions would each be reconciled as far as practicable with all the other provisions of the instrument. The primary purpose of granting lands at stations and at terminals is to facilitate the operation of the railroad, and the bill so expressly states.

Mr. GRAY. To make a railroad possible.

Mr. CARTER. Yes. In another section of the bill—

Mr. RAWLINS. What section?

Mr. CARTER. I will refer the Senator now to section 5. It is there provided, in the amendment of the committee—

Mr. RAWLINS. Upon what page is that found?

Mr. CARTER. Page 6, section 5, as amended by the committee:

That any company desiring to secure the benefits of this act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore—

The Senator stated erroneously a few moments ago that there was no necessity for filing any map of permanent location, and in that behalf of course overlooked this plain provision—

That any company desiring to secure the benefits of this act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located

a map and profile of at least a 20-mile section of its road, as definitely fixed, and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than 20 miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof—

That is, the definite map, which must be filed within a year after the preliminary map—

by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way.

Mr. RAWLINS. Will the Senator permit a question?

Mr. CARTER. If the Senator will allow me to read the section it will answer many of his questions.

Mr. RAWLINS. No; I have read the section.

Mr. CARTER. It proceeds:

Provided, That if any section of said road shall not be completed within one year after the definite location of said section so approved, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purpose of said right of way shall cease and become null and void without further action.

Mr. RAWLINS. Now will the Senator permit a question? It is true that there is a direction in section 5, or the amendment proposed to section 5, that the company shall, within twelve months after filing the preliminary map of location, which is previously provided for, file a map of definite location of at least 20 miles within one year, 20 miles more next year, and so on. Now, suppose the company fails within those times to file the map. What penalty—what forfeiture is provided?

Mr. CARTER. No penalty except the forfeiture of all the rights attempted to be acquired.

Mr. RAWLINS. Where is the forfeiture?

Mr. CARTER. The party desiring to secure the benefits of this act, as the Senator will observe, must first file a map of preliminary location. Failing to do that, there is no forfeiture because there is no right. Having filed the map of preliminary location, if he desires to avail himself further of the benefits of the act, he must file a map of definite location. Now, the Senator says, "What are you going to do if he does not file that?" You do not do anything about it. He simply does not get any rights.

Mr. RAWLINS. Let us see.

Mr. CARTER. He simply forfeits all further rights.

Mr. RAWLINS. The Senator says he gets no right if he fails to file his map of definite location. Let us see. Going back to the preceding section, the amendment proposed by the committee reads as follows:

That any such company may file in the office of the Secretary of the Interior a plat or map of the general route of its proposed road, as near as may be, and from the filing of such map or plat the right of way hereby granted—

That is, 200 feet wide—

for said road and the lands—

That is, the 20 acres and the 80 acres—

and rights appurtenant thereto shall be reserved from other disposition until the map of definite location shall be filed as herein provided for.

There is no punishment, no penalty, no forfeiture imposed for failure to file a map of definite location. By filing the preliminary map the company has all these rights reserved indefinitely, and it is not under any circumstances subjected to a forfeiture unless it needlessly puts on record the map of definite location. If it puts on file a map of definite location, without necessity, it then may, under the circumstances named here, be subject to forfeiture; that is, if it fails to complete a section within one year after filing the map of definite location, not the preliminary location, it is subjected to these forfeitures.

But the point I am endeavoring to make to the Senate is, first, that these valuable rights are granted in present as of the date of filing the articles of incorporation, to take effect when the land is identified, subsequently identified, and located. Then the title relates back to the time of the filing of the articles, cutting out intervening claimants. Then you provide that all that is necessary to reserve these lands indefinitely, the right of way and the lands, is to file a preliminary map of location. Thereupon the lands and the right of way are reserved until the filing of the map of definite location, and you have made no mandatory requirement, subject to the penalty of forfeiture, that the map of definite location shall ever be filed.

So I say the plain effect of these provisions altogether is to grant these rights to a coterie of gentlemen organizing a paper corporation under the laws of any State or Territory most convenient to subserve their purpose, thereby acquiring rights under which the District of Alaska may be ribboned with rights of way and checkered with these grants in fee, which they may hold forever without taking any step toward the construction of the railroad.

Mr. GEAR. Mr. President—

Mr. RAWLINS. I have not concluded, but I will yield to the Senator from Iowa, who, I understand, wishes to move to proceed to the consideration of executive business.

Mr. CARTER. Will the Senator from Iowa allow me?

The PRESIDING OFFICER (Mr. TURNER in the chair). The Senator from Iowa has been recognized.

Mr. GEAR. I rose to move that the Senate proceed to the consideration of executive business, but pending that I will yield for a moment to the Senator from Montana [Mr. CARTER].

Mr. CARTER. I call the attention of the Senator from Utah briefly, to the end that he may reflect during the hours of adjournment upon the situation, to the fact that the bill here presented, in so far as it relates to railroad rights of way over the public domain, is the reproduction of a law that has been on the statute books, prepared, I believe, by the eminent Senator from Nevada [Mr. STEWART] many, many years ago.

Mr. RAWLINS. Will the Senator from Montana yield for a question?

Mr. CARTER. Yes, sir.

Mr. RAWLINS. I notice in the House bill a provision which the committee has stricken out, proposing to substitute as an amendment the clause which I last read. The bill as it passed the House provided:

That any such company, by filing a preliminary actual survey and plat of its proposed route, shall have the right, at any time within one year thereafter, to file the profile and permanent location hereinbefore provided for, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way.

The difference between the House provision is that under the House bill there was a limitation upon the reservation to one year by filing a map of preliminary location.

Mr. CARTER. And in the Senate committee amendment it is twelve months.

Mr. RAWLINS. The limitation, as I read it, would cease and the lands would no longer be reserved. The committee propose to strike out that limitation.

Mr. CARTER. What is the Senator's question?

Mr. RAWLINS. I asked what was the purpose in striking out that limitation and leaving the matter unlimited.

Mr. CARTER. The Senator unquestionably has not read section 5, which provides twelve months. He says that the bill as it passed the House provided one year. If that is not about six of one and half a dozen of the other, it would be difficult to figure it out according to the ordinary Ray's Arithmetic.

Mr. GRAY. Or Pike's.

Mr. CARTER. If I may go on further to make a suggestion in line with what I stated to the Senator a moment ago, this right-of-way bill is a reproduction substantially of a law that has been on the statute books of the country for a great many years. It has been tested by the action and decisions of the courts and found to be a good law in operation.

However, in so far as the District of Alaska is concerned, it seemed wise and prudent to prevent the very things the Senator from Utah has suggested that the bill allows—that is, to prevent speculators from stretching paper rights of way over that entire section of country. The bill as a whole was framed for the purpose of preventing speculation in rights of way. Hence it is that according to its terms no combination can acquire a right of way in that District and hold it for more than twenty-four months without building at least 20 miles of railroad. This feature did not appear in the law as it was originally framed and as it now stands upon the statute books. Each and every feature of this bill, in so far as it relates to rights of way, was intended to, and in truth and effect does, prevent, circumvent, and render impossible the overreaching advantages which the Senator has imputed to the committee as having attempted to give to the bill.

Mr. RAWLINS. Now, Mr. President—

Mr. GEAR. I renew my motion.

Mr. CARTER. The Senator from Utah would have done much better to have read the bill; and I suggest to him that he will enlighten the Senate more specifically and clearly upon what the bill means by reading it in toto to the Senate, so that Senators may—and they are generally competent to determine for themselves—ascertain from what the bill says rather than from what the Senator excerpts from it what its provisions are.

Mr. RAWLINS. Mr. President—

Mr. GEAR. I renew my motion.

Mr. WILSON. Will the Senator from Iowa yield to me?

The PRESIDING OFFICER. The Chair understands the status to be that the Senator from Utah yielded to the Senator from Iowa to make a motion to go into executive session.

Mr. GEAR. I understood the Senator from Utah to yield.

Mr. RAWLINS. I wish to detain the Senate just a moment.

Mr. GEAR. I will yield, of course.

Mr. RAWLINS. Mr. President, I have not designed to make any assault upon the Committee on Public Lands, and I think the Senator from Montana seems to be a little unduly exercised over my criticisms of the bill.

Mr. CARTER. It is the Senator's failure to read the bill that I objected to.

Mr. RAWLINS. I have read the bill; I have read every provision in the bill; I have carefully studied its provisions; and I am not, I think, speaking unadvisedly when I say that the Senator referred to section 5 as containing a limitation upon the rights of this company, reasserting that it did so, after declining or failing to point out to me anywhere in the bill any consequences of the failure to file a map of definite location; and I think he fails to justify the committee in asking the Senate to enact this legislation unless it is very greatly modified. There are other provisions, I think, which I may call the attention of the Senate to before I conclude my argument which I believe will make clear that my criticism of the bill is justified. I now am willing to yield to the Senator from Iowa for the purpose of moving an executive session.

Mr. GEAR. I yield to the Senator from Washington [Mr. WILSON].

Mr. WILSON. I merely want to give notice that if I do not find anything in the bill to cover it, I shall offer an amendment before the section is passed that will not extend the homestead right to any land now occupied for mission schools or for fisheries, possibly of Indians in Alaska and Indian villages. I think we ought to make some provision to preserve the rights of those Indians and the mission schools, so that they can not be taken away. I shall offer an amendment to-morrow before that section is passed.

EXECUTIVE SESSION.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 27 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, March 1, 1898, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 28, 1898.

UNITED STATES MARSHALS.

John W. Overall, of Tennessee, to be marshal of the United States for the middle district of Tennessee, vice J. N. McKenzie, whose term expired January 28, 1898.

Thomas H. Baker, of Tennessee, to be marshal of the United States for the western district of Tennessee, vice Joseph A. Manson, whose term expired November 1, 1897.

UNITED STATES CONSUL.

Sol. Berliner, of New York, to be consul of the United States at Teneriffe, Canary Islands, vice Harrison B. McKay, deceased.

APPRAISER OF MERCHANDISE.

Charles M. Moses, of Maine, to be appraiser of merchandise in the district of Portland and Falmouth, in the State of Maine, to succeed Alfred S. Kimball, removed.

RECEIVER OF PUBLIC MONEYS.

John C. Martin, of Prescott, Ariz., to be receiver of public moneys at Prescott, Ariz., vice Jake Marks, term expired.

REGISTER OF THE LAND OFFICE.

Charles N. Valentine, of Lamoure, N. Dak., to be register of the land office at Fargo, N. Dak., vice Albert E. Sunderhauf, whose term expired February 23, 1898.

PROMOTIONS IN THE NAVY.

Capt. Henry B. Robeson, to be a commodore in the Navy, from the 1st day of February, 1898, vice Commodore Charles S. Norton, promoted.

Commander Theodore F. Jewell, to be a captain in the Navy, from the 1st day of February, 1898, vice Capt. Henry B. Robeson, promoted.

Lieut. Commander Andrew Dunlap, to be a commander in the Navy, from the 1st day of February, 1898, vice Commander Theodore F. Jewell, promoted.

Capt. Winfield S. Schley, to be a commodore in the Navy, from the 6th day of February, 1898, vice Commodore Francis M. Bunce, promoted.

Commander William M. Folger, to be a captain in the Navy, from the 6th day of February, 1898, vice Capt. Winfield S. Schley, promoted.

Lieut. Commander Richard Rush, to be a commander in the Navy, from the 6th day of February, 1898, vice Commander William M. Folger, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 28, 1898.

CONSUL.

Oliver J. D. Hughes, of Connecticut, to be consul of the United States at Sonneberg, Germany.

APPOINTMENT IN THE MARINE-HOSPITAL SERVICE.

Rudolph H. von Ezdorf, of the District of Columbia, to be an assistant surgeon.

UNITED STATES ATTORNEYS.

William Warner, of Missouri, to be attorney of the United States for the western district of Missouri.

William B. Rodgers, of Montana, to be attorney of the United States for the district of Montana.

HOUSE OF REPRESENTATIVES.

MONDAY, February 28, 1898.

The House met at 12 o'clock noon, and was called to order by the Speaker.

Prayer by the Chaplain, Rev. HENRY N. COUDEN.

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

COMMITTEE TO INVESTIGATE GASLIGHT AND TELEPHONE SERVICE.

Mr. DOCKERY. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The resolution was read, as follows:

Resolved, That the select committee appointed under resolution of the House adopted February 14, 1898, to investigate charges concerning gaslighting and telephone service in the District of Columbia be authorized to have printed and bound all documents for the use of said committee that they shall deem necessary.

The SPEAKER. Is there objection to granting the request of the committee?

There was no objection.

INVESTIGATION OF DISBURSEMENTS IN SAVANNAH RIVER AND HARBOR DISTRICT.

Mr. HULL. Mr. Speaker, I offer the following resolution, and ask that it be read.

Mr. CANNON. Is this a request for unanimous consent?

Mr. DOCKERY. Consent was agreed to, but it was not put to the House.

Mr. SULZER. I ask to have the resolution read.

The SPEAKER. The resolution has already been reported and passed. Or does the gentleman refer to the resolution just presented by the gentleman from Iowa [Mr. HULL]?

Mr. BAILEY. Has the other been disposed of?

The SPEAKER. The other motion was disposed of, the Chair supposing it to be a simple request for printing. The Chair is informed that it was in the form of a resolution. It was put to the House for unanimous consent, but if the gentleman did not understand, the Chair thinks it should be put.

Mr. BAILEY. I have no objection.

The SPEAKER. These matters should not be put through hastily where unanimous consent of the House is required.

Mr. COX. Mr. Speaker, let us have the resolution read.

The SPEAKER. The Clerk will report the resolution offered by the gentleman from Iowa.

Mr. DOCKERY. The first resolution was offered by me.

The SPEAKER. The resolution offered by the gentleman from Missouri was adopted by unanimous consent. The Clerk will report the resolution offered by the gentleman from Iowa.

The resolution was read, as follows:

Concurrent resolution providing for the investigation of certain disbursements of moneys appropriated for river and harbor improvements in the Savannah (Ga.) river and harbor district.

Resolved by the House of Representatives (the Senate concurring), That a committee be appointed, to consist of two Senators appointed by the President of the Senate and three members of the House of Representatives appointed by the Speaker, to investigate the matter of the disbursement of the moneys appropriated for river and harbor improvements in the river and harbor district of Savannah, Ga., since January 1, 1892, and ascertain whether any of the said moneys have been wrongfully paid out, and if so, to whom and under what circumstances and who were the beneficiaries of the wrongful payment.

And that for the purpose of speedily executing this resolution the said committee shall have power to send for persons and papers, to administer oaths, to take testimony, and, at their discretion, to detail subcommittees, with like authority to send for persons and papers, to administer oaths, and to take testimony, and that the said committees and their subcommittees may employ stenographers, clerks, and messengers, and be attended each by a deputy sergeant-at-arms; and said committee shall have leave to report at any time by bill or otherwise; but the said committee shall not proceed so as in any way to interfere with any trial by court-martial which may now be investigating the same matter.

Mr. COX. Mr. Speaker—

Mr. BAILEY. We should like to hear an explanation from the gentleman.

Mr. LIVINGSTON. Mr. Speaker, I want the gentleman from Tennessee—

Mr. BAILEY. I reserve the right to object.

Mr. COX. Mr. Speaker, the matter involved in that resolution is being investigated by a court-martial at the present time. There are citizens who are charged at least with being involved in the matter, and if the evidence is adduced before the court-martial in full, there will be no necessity for this resolution. In order that the matter may proceed in the present shape, I object to the present consideration of the resolution.

Mr. HULL. That is entirely satisfactory to me.

The SPEAKER. Objection is made, and the matter will be referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. CANNON. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering general appropriation bills.

Mr. BABCOCK. Mr. Speaker, will the gentleman withhold that—

The SPEAKER. The gentleman from Wisconsin, chairman of the Committee on the District of Columbia—

Mr. CANNON. What does the gentleman desire?

Mr. BABCOCK. I desire to say that under the rules of the House this is the day set aside for consideration of business reported by the Committee on the District of Columbia.

Mr. CANNON. Well, I will ask my friend if it will not satisfy his purpose and meet the approval of the House if, by unanimous consent, some other day can be fixed in lieu of this? I am very anxious to complete this bill, and it seems to me everybody is interested in its completion.

Mr. LIVINGSTON. Now, Mr. Speaker, I want to say to the gentleman that on last Friday, which was private-bill day, we did not get that much of a promise out of the gentleman in charge of the bill.

Mr. CANNON. Oh, well, anybody can object to anything where unanimous consent is asked. I hope the gentleman from Georgia will not object to this request.

Mr. LIVINGSTON. We had to lose our private bill day, and I guess the gentleman will lose his, if this goes through.

Mr. RICHARDSON. I hope the gentleman will not object to setting aside another day.

Mr. BABCOCK. I understand the importance of the appropriation bill, and under the circumstances, I will ask unanimous consent that next Monday be set aside for the consideration of District business.

The SPEAKER. The gentleman from Wisconsin, chairman of the Committee on the District of Columbia, asks unanimous consent that next Monday be set apart for the consideration of District business which would be in order to-day. Is there objection? There was no objection.

Mr. CANNON. I renew my motion.

The motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 8428) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1899, and for other purposes.

Mr. BAILEY. Mr. Chairman, if the gentleman from Illinois desires to close up some matters that were left pending on Saturday evening, perhaps it would be well enough to do that.

Mr. CANNON. I am quite content.

Mr. BAILEY. I desire to call the attention of the chairman of the Committee on Appropriations to the fact that the gentleman from Mississippi [Mr. LOVE] is now prepared to show that the title to the road, concerning which he offered an amendment, is in the United States, and I suppose there will be no further controversy about it.

Mr. CANNON. Let the amendment be reported.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Mississippi.

The Clerk read as follows:

For the improvement and completion of the road and sidewalks from the city of Natchez, Miss., to the national cemetery near that city, \$4,000.

Mr. CANNON. I will state, Mr. Chairman, that since—

The CHAIRMAN. The gentleman from Mississippi [Mr. LOVE] will give his attention. There is no indication where the amendment would come in in the bill.

Mr. LOVE. I offered it at a certain stage in the bill that provides for national cemeteries.

Mr. CANNON. I will give the line in a minute.

The CHAIRMAN. The Clerk informs the Chair that it should come in after line 10, on page 81.

Mr. CANNON. I will state that since I made the point of order upon this item I have had occasion to make inquiry, in connection with the gentleman from Mississippi [Mr. LOVE], and I am satisfied that the fee of this road is in the United States. I think the amendment is not subject to a point of order.

The CHAIRMAN. The gentleman, then, withdraws his point of order. The question is on the amendment offered by the gentleman from Mississippi—

Mr. LOVE. Mr. Chairman, I presume the committee is ready to vote, as I have produced all the necessary evidence that was demanded on Saturday.

Mr. CANNON. I am ready for a vote.

The amendment of Mr. LOVE was agreed to.

Mr. SMITH of Arizona. Now, Mr. Chairman, I should like to call the attention of the chairman of the Committee on Appropriations—

Mr. CANNON. Suppose the gentleman has his amendment read.

Mr. SMITH of Arizona. I will read it.

Mr. CANNON. It comes in where?

Mr. SMITH of Arizona. On page 2255 of the RECORD is published the amendment which I offer, which is as follows:

End of line 17, page 100, insert:

"Provided, That hereafter the clerks of the district courts in the Territories of Arizona, New Mexico, and Oklahoma shall be required to report in their semiannual-employment reports all fees earned in United States cases only; and that the accounting officers of the Treasury Department are directed to settle all unadjusted emolument accounts of said clerks accordingly."

Mr. CANNON. Now, if my friend will allow me, to that provision I reserve a point of order; and, if my friend will allow me, I shall be glad to have read a letter from the Secretary of the Treasury touching the premises, and then I should like to make one statement.

Mr. SMITH of Arizona. All right; I yield for that purpose.

The CHAIRMAN. The Clerk will read the letter.

The letter was read, as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 28, 1898.

SIR: Replying to request for information touching the former practice of the accounting officers of the Treasury Department in the matter of fees required to be included in the semiannual returns of official emoluments made by clerks of the courts in Territories, I have to advise you that up to March 22, 1897, these clerks, in accordance with the previous existing practice of the accounting officers, were not required to account for fees earned by them in Territorial cases or in cases between private litigants upon the Territorial side of the courts, but were only required to account for fees earned by them in United States cases and those received from private litigants in cases in which the courts were sitting as Federal and not as Territorial courts. On the date referred to above this practice was changed by a decision of the Comptroller of the Treasury. (See 3 Compt. Dec., 441.)

I think the amendment offered by Mr. SMITH of Arizona is just, and I see no objection to the passage of the same.

Respectfully, yours,

L. J. GAGE,
Secretary

Hon. JOSEPH G. CANNON,
House of Representatives.

Mr. CANNON. Now, Mr. Chairman, the amendment is clearly subject to the point of order, and I call attention to that fact, and also to the letter from the Secretary of the Treasury, for the purpose of calling the attention of members who are upon the Committee on the Judiciary. So far as I am concerned, I am not disposed to press the point of order; and if nobody on the Committee on the Judiciary, which, after all, is the committee which has charge of legislation on this matter, makes the point of order, I shall not do so.

Mr. DOCKERY. I think it is a very proper measure.

Mr. BRODERICK. I want to reserve a point of order until an explanation is made.

Mr. SMITH of Arizona. Mr. Chairman, if I can have the attention of the gentleman, I desire to state that we have a court existing in the Territories that is known—one branch of it—as the Federal court, exercising the jurisdiction of district and circuit courts of the United States. These same judges try the rights of property between citizens of the Territory, and is known as the Territorial court. This Territorial court charges certain clerks' fees. The United States district and circuit court jurisdiction allows the clerks to have simply the emoluments from the Government. The Treasury Department has always settled the emolument claims of these clerks. With regard to the cases in litigation between individuals on the Territorial side of the docket, inextricable confusion results from a decision of the Supreme Court, in what is known as the McMillan Case, touching Utah.

The Supreme Court decision has been made to affect Arizona, New Mexico, and Oklahoma, but the difference in the situation of those Territories is so great as to make it a case of pure obiter dictum, as anybody will see by reading. But the effect of this decision being spread over these Territories, the Treasury Department was afraid to return the emolument cases, as they had for the last twenty years. The Secretary of the Treasury says that this ought to be done, and unless it be done these accounts will be kept in a state of inextricable confusion by reason of this Supreme Court decision. This takes the Territorial emolument accounts from the Territorial side of the docket, criminal and civil, and leaves those to be settled as they have heretofore.

Mr. BRODERICK. As I understand, the situation is this: The clerks in Arizona return the emolument accounts, but simply return the fees on the Federal side of the business and not from the Territorial side.

Mr. SMITH of Arizona. That has been the case for thirty years.

Mr. BRODERICK. Under this decision the Department requires them to render accounts of all their fees?

Mr. SMITH of Arizona. By the decision of the Utah case they do, but Utah had an entirely different organic act from the Territory of Arizona and the other Territories. In the Utah decision,

when you take the language of their organic act, that would apply well enough, but in the decision they have spread it in its effects over Arizona. The Department has applied the decision of the Supreme Court not only to Utah, but to these other Territories.

Mr. BRODERICK. What is your proposition?

Mr. SMITH of Arizona. My proposition is that the accounts should be audited, as the Treasury Department has done for the last thirty years. They have nothing more to do with the Territorial business than the Federal court has in your States with your State courts.

Mr. BRODERICK. I have no objection.

The CHAIRMAN. The gentleman withdraws the point of order.

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

Mr. UNDERWOOD. Mr. Chairman, on Saturday last I raised the point of order to that part of the sundry civil bill on page 104, that comes in after the word "Provided," down to the end of line 22. This provision of the sundry civil bill refers to section 715 of the Revised Statutes, that reads as follows:

SEC. 715. The circuit and district courts may appoint criers for their courts, to be allowed the sum of \$2 per day, and the marshals may appoint such a number of persons, not exceeding five, as the judges of their respective courts may determine, to attend upon the grand and other juries, and for other necessary purposes, who shall be allowed for their services the sum of \$2 per day, to be paid by and included in the accounts of the marshal, out of any money of the United States in his hands. Such compensation shall be paid only for actual attendance, and, when both courts are in session at the same time, only for attendance on one court.

Now, this section in the bill very materially changes the provisions of section 715 of the Revised Statutes. In the first place, it provides a compensation of \$10 a day to the district judges during the time they are traveling from their homes to the places where they hold extra courts. The statute already gives them \$10 a day compensation during the time they are holding courts, but this gives them an additional compensation of \$10 a day while traveling back and forth. Now, these judges receive \$5,000 a year salary from the United States, and the law provides for their being paid mileage and traveling expenses. So that I see no reason why their compensation or salary should be increased in this way.

Mr. CANNON. If my friend will allow me.

Mr. UNDERWOOD. Yes.

Mr. CANNON. It seems to me that he has got his point of order to the whole of the section, from line 5 to line 20, inclusive.

Mr. UNDERWOOD. I have made it from page 7 to line 22, inclusive. After the word "Provided," on line 7, down to the end of the paragraph.

Mr. CANNON. Now, from line 7 to 10, it seems to me that has nothing to do with the judges, but it is for the fees of the criers, and in the shape of a limitation.

Mr. UNDERWOOD. I beg my friend's pardon. I do not think it is a limitation anywhere. I think it extends the amount of fees that shall be paid in the United States courts all along the line.

Mr. CANNON. But does not section 715—I want to ask as a question of fact—apply to criers?

Mr. UNDERWOOD. Section 715 applies to criers, and is a limitation. This is an extension.

Mr. CANNON. Lines 7 to 10 provide that "all persons employed under section 715 of the Revised Statutes shall be deemed to be in actual attendance when they attend upon the orders of the court."

Mr. UNDERWOOD. Lines 5, 6, and 7 provide for the pay of the bailiffs and criers, not exceeding 3 bailiffs and 1 crier in each court. I have no objection to that.

Mr. CANNON. I think my friend's point of order should be made from line 10, "And provided further"——

Mr. UNDERWOOD. The language of lines from 7 to 10 is already in the statute. The lines that they shall be paid only when in actual attendance are already in there. There is no necessity for reenacting it.

Mr. CANNON. My friend does not desire to strike out from line 5 to 10, inclusive, down to where the word "courts" occurs in line 10. You make the point of order commencing in line 10 after "Provided further," and how far do you go?

Mr. UNDERWOOD. In stating the case I went down to the end of line 22, but I see that line 23 carries the appropriation, so I have no point of order to strike that out.

Mr. SHAFROTH. Why would it not be well to make the point of order only after line 11, so as to include "no such person shall be employed during vacation?" That is a wise limitation, it seems to me.

Mr. UNDERWOOD. The statute already contemplates that, because the statute says that it shall not be paid only for actual attendance upon the courts, and a judge can not attend on a court in vacation.

Mr. CANNON. My friend from Alabama is after the \$10 a day to cover the expenses of traveling and attendance of the district judges when attending district courts——

Mr. UNDERWOOD. As I understand, the judge gets \$10 a day after he gets to the place where he is going to hold the court.

Mr. CANNON. Not the district judge, but the circuit judges. Mr. UNDERWOOD. When a new district judge is sent to hold court when another judge is sick, he gets, under the law, \$10 a day.

Mr. CANNON. I do not so understand it. Let me give my understanding, so as to get the exact difference between us. I understand the district judge gets his \$5,000 a year, if that is it——

Mr. UNDERWOOD. Yes.

Mr. CANNON. When he goes outside to hold court, he does not get anything.

Mr. UNDERWOOD. My friend from Illinois, I think, is mistaken. When he goes to attend court he gets \$10 a day compensation for holding that court during the days he is there, and I think that is sufficient, for he already gets \$5,000 a year, and to pay him \$10 per day while at court will more than cover his expenses and it is sufficient compensation without giving him the additional amount in this bill.

Mr. CANNON. Commencing on line 16, "expenses of judges of the circuit courts of appeals"——

Mr. UNDERWOOD. That excepts the circuit court judges, and they would not receive it anyway, for it is their duty now.

Mr. CANNON. I understand when the circuit court is held away from the residence of one of the circuit judges—I mean the appellate court—they get \$10 a day.

Mr. UNDERWOOD. I do not so understand it if it is within the circuit of the judge.

Mr. CANNON. Yes; if it is away from the place of his residence. The truth is, if there is any abuse it is as to the judges that perform appellate duty. Two of them always are away from their homes. They get their full salary and then \$10 a day besides, whereas, it seems to me, there is no abuse as to the district judge, because he only goes away on special occasions and ought to have \$10 a day.

Mr. UNDERWOOD. My friend and I do not agree. I insist that the law is that when he gets to the court outside of his district that he is going to hold he gets his \$10 a day. This proposes to give him \$10 a day during the time he is traveling.

Mr. CONNOLLY. This provision in the bill is in precisely the same language as the law stands to-day. There is no change. Here is the law as it was passed by the last Congress:

Provided further, That no such person shall be employed during vacation; of reasonable expenses for travel and attendance of district judges directed to hold court outside of their districts, not to exceed \$10 per day each, to be paid on written certificates of the judges, and such payments shall be allowed the marshal in the settlement of his accounts with the United States; expenses of judges of the circuit courts of appeals; of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court; and of compensation for jury commissioners, \$5 per day, not exceeding three days for any one term of court.

Mr. UNDERWOOD. Does the gentleman say that became a law in the last Congress?

Mr. CONNOLLY. That is the law. Let me say, the act of March 3, 1891, provided for the creation of the court of appeals and for the payment of an additional circuit judge in each judicial circuit, provided that where the judges attended that court away from their places of residence they should be entitled to compensation, and ever since then the law has made appropriation to carry out the letter of the law creating the circuit court of appeals. I investigated that matter myself at the Department of Justice this morning, and spent an hour there with the officials that have the accounts under their supervision, and I find that the law has been so since the circuit court of appeals was established.

Mr. UNDERWOOD. I looked up the law in the Revised Statutes. I will say candidly that I did not look at the acts of the last Congress, and, if the act was passed by the last Congress, then I may be in error.

Mr. CONNOLLY. It was enacted before the last Congress, but how long ago I do not remember; I think probably about 1891, the time of the creation of the court of appeals.

Mr. POWERS. If I understand the gentleman from Alabama [Mr. UNDERWOOD] correctly, his criticism applies to this allowance to the district judges when they are called away from their districts to attend court?

Mr. UNDERWOOD. Yes, sir.

Mr. POWERS. For the information of the gentleman, let me say that for more than twenty or twenty-five years this statute has been in force. Many years ago the language of the statute relating to allowances of this kind was that the judges should be allowed their "reasonable expenses."

That wide latitude of language was greatly abused. Sometimes the judges charged as high as \$40 a day. For that reason Congress cut down the allowance to \$10 a day and made it apply in terms both to travel and to attendance upon court. The object of the allowance was to indemnify the judges for their expenses in leaving home, and included, of course, expenses of transportation as well as expenses while attending court. Our district judge

in the State of Vermont does more work probably in the city of New York than he does in our State. When he leaves home for the purpose of holding court in New York he is allowed \$10 a day from the time when he leaves until he returns, the allowance of \$10 covering his transportation expenses and his expenses while in New York. As the gentleman will readily see, the allowance is not a very liberal one.

Mr. UNDERWOOD. As I understand, the law at present does not apply to the time taken up by the judge in traveling from his home to the place where he is going to hold court.

Mr. POWERS. Oh, yes, it does. The language of the act is "expenses for travel and attendance, not to exceed \$10 per day;" that is, \$10 per day for traveling, or \$10 per day while in attendance at court.

Mr. UNDERWOOD. I understand that such is the provision of this bill; but I do not understand that it is the existing law.

Mr. POWERS. It has been the law in this same form for a great many years.

Mr. UNDERWOOD. The gentleman from Illinois [Mr. CONNOLLY] and the gentleman from Vermont [Mr. POWERS] insist that this provision is now existing law as passed by the last Congress. I therefore wish to ask the gentleman from Illinois [Mr. CANNON] why the provision has been incorporated in this bill at this time.

Mr. CANNON. I will tell the gentleman exactly how I understand this matter, and I want to be entirely frank with him and the Committee of the Whole.

Ten dollars a day is the allowance now for travel and expenses to the circuit judges. When one of these judges does appellate duty away from home, he certifies his account for expenses upon the basis of \$10 a day. And that is right enough. When a circuit judge of Indiana or the southern district of Illinois goes to Chicago for the purpose of holding court (and there is work enough there for three judges), all he has to do is to certify his account for expenses at the rate of \$10 a day, and upon his certificate the allowance is made. But this provision of the existing law does not apply to a district judge. He must make out a detailed account of his expenses. If, for instance, he pays 10 cents for blacking his boots, or if he buys a breakfast at a restaurant for 50 cents or a dollar, he must include such items in the detailed statement of his expenses.

That statement is sent down here and must pass the approval of the accounting officers of the Treasury, who must decide as best they can whether the charges are reasonable. Now, the provision in this bill, as we have reported it, will allow these district judges \$10 a day upon their certificates in the same way that the circuit judges get their allowances (which we can not prevent them from getting) at the rate of \$10 per day. If this provision goes out of the bill, these district judges must continue to render an account of expenses in detail. That is the state of the case as I understand it, and I think I understand all there is in it.

Mr. SHAFROTH. And the effect of allowing these judges \$10 a day will be to save money to the Treasury.

Mr. CANNON. In effect it does that, because when one of these judges is away from home, holding court in Chicago or New York City or Dallas or anywhere else outside of his district, an allowance of \$10 a day for expenses is not extravagant.

Mr. UNDERWOOD. Upon the statement which the gentleman from Illinois now makes, he is probably right, so far as that matter is concerned; but the further provision in this paragraph, in the language "of meals and lodgings for jurors in United States cases," is not embraced in the present law, I know.

Mr. CANNON. No, it is not; but appropriations for that purpose have been made time out of mind, because of the necessity of making provision for such expenses. I am reminded of the fact that this matter was especially brought to the attention of the Committee on Appropriations and the Committee of the Whole House five or six years ago and upon the necessity of such an appropriation being shown it went in the bill. In reporting such a provision in the present bill your committee has simply followed the precedents. I think a point of order would lie to the clause "of meals and lodgings for jurors in United States cases." But the gentleman knows what that means. In certain protracted cases, where you have to keep the jury together, they must be fed and lodged.

Mr. UNDERWOOD. The Judiciary Committee, in connection with a bill before them, have considered the very proposition put in here. I think there ought to be some provision made as to the feeding of jurors in Government cases. But there is no limitation upon the provision here. It leaves it absolutely within the control of the judge. I think it is better to put a bill through Congress providing for the feeding of these jurors, which bill has been carefully considered by the Judiciary Committee, than it is to put through a loose provision in this way.

Mr. CANNON. Then there must be an appropriation, if the bill is put through. Now, if my friend could secure the passage

of the bill, this appropriation would only be available according to the terms of the bill that would be passed.

Mr. UNDERWOOD. But I do not think we ought to pass laws that will leave it entirely to the discretion of the Treasury Department and of the judges to construe how and when these jurors shall be fed.

Mr. CANNON. If my friend wants to apply his point of order to the meals and lodgings of jurors in United States cases, of course the provision will go out.

Mr. UNDERWOOD. I shall be compelled to insist on that portion of it. Now, as to this provision:

And of bailiffs in attendance upon the same, and of the compensation of jury commissioners—

I will say that, as I understand it, the United States Government has been to no expense concerning jury commissioners heretofore.

Mr. CANNON. Oh, yes; that is provided for by law, and has been in ever since jury commissioners were authorized, I am informed.

Mr. DOCKERY. I desire to ask the gentleman whether he has made—

Mr. CANNON. The gentleman's point of order would run to these words, commencing in line 17:

Of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court.

It has been called to my attention in reference to this paragraph—

The CHAIRMAN. Does the gentleman from Alabama make a point of order on that whole paragraph?

Mr. UNDERWOOD. The first provision does not limit this payment to the judges of \$10 a day to the time they are actually holding court. Now, if the gentleman from Illinois will amend that part of the provision so that it shall apply to the judges, so that it shall only pay them \$10 a day on the days they are actually holding court, I will withdraw the point of order.

Mr. CANNON. Well, I think it ought to so apply. I think the accounting officers would so construe it; but I have no objection to its going in, if the gentleman desires.

Mr. UNDERWOOD. Then, Mr. Chairman, as to that part of the section, from line 7 down to the word "appeals," I move to amend it by adding that compensation shall be allowed to such judges only when the court is in actual session.

Mr. DOCKERY. You ought to use some more specific language than that.

Mr. HULL. Make it "in actual attendance."

Mr. CANNON. We can agree on that, I think.

Mr. QUIGG. Mr. Chairman, a parliamentary inquiry. I want to know what is the status of this proposition? Is there a point of order pending?

The CHAIRMAN. When the matter is settled by the gentleman from Alabama as he desires to present it, it will be reported by the Clerk.

Mr. CANNON. I suppose the shorter way to do it, really—

Mr. DOCKERY. Let me suggest to the gentleman from Alabama, and the gentleman from Illinois, to insert in line 14, page 104, after the word "each," the words:

Not to exceed \$10 per day each, during the time the court is in actual session.

Mr. CONNOLLY. That would exclude traveling expenses.

Mr. SULLIVAN. You might make it such per diem only when they are in actual attendance on the courts.

Mr. CANNON. I think the act as we have got it accomplishes what the gentleman wants. We can not very well mature the clause in Committee of the Whole in this way and guard everything. I will suggest to the gentleman that I shall be quite content if he will make his point of order to the whole thing, and if it should go into conference, then, in view of our discussion, we can get it, if it is in the power of the House conferees, according to the gentleman's ideas, because, if I understand what he wants to get at, I am in harmony with him.

Mr. UNDERWOOD. I will then make the point to the section, from line 7 down to line 22, that it changes existing law.

Mr. CANNON. That would take out the words commencing with "and further provided," in line 10, and closing with the word "court," in line 19.

Mr. UNDERWOOD. No; with the word "court," in line 21.

Mr. CANNON. No; the compensation of the jury commissioners is provided by law.

Mr. UNDERWOOD. It is not provided in section 715, which you seek to amend.

Mr. CANNON. The act concerning jury commissioners was passed in 1879. The supplement to the Revised Statutes will show it. I can show the gentleman by good authority that that is the case.

Mr. UNDERWOOD. If it is no change of existing law as to jury commissioners, why is that provision put in here?

Mr. CANNON. Because we have got to appropriate the money for it. This is providing the money in pursuance of law.

Mr. UNDERWOOD. Then, down to the word "court," in line 19, I will make my point of order.

Mr. CANNON. Well, I confess the point of order.

The CHAIRMAN. Will the gentleman state where the point of order commences?

Mr. UNDERWOOD. After the word "courts," in line 10, down to and including the word "court," in line 19.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DOCKERY. Now I ask the gentleman whether he is going to leave the amount as it is in the bill?

Mr. UNDERWOOD. That is a question I do not know about.

Mr. DOCKERY. You have knocked out the item, and it seems to me the total ought to suffer a corresponding reduction.

Mr. CANNON. No doubt the matter will go into conference, and it can be fixed there.

Mr. DOCKERY. Put back.

Mr. CANNON. So as to accomplish what the gentleman desires and what I desire. It is only to save time and the difficulty of fixing the amendment, which is somewhat intricate. I think we would better go on.

Mr. LEWIS of Washington. Mr. Chairman, if I can have order for a moment, sir—

The CHAIRMAN. The committee will please be in order.

Mr. LEWIS of Washington. Mr. Chairman, on Saturday afternoon I offered an amendment to the presently considered section, and the gentleman from Illinois—

Mr. CANNON. I ask to have the amendment reported.

Mr. LEWIS of Washington. The gentleman from Illinois [Mr. CANNON] reserved a point of order against the amendment, and the Chair, with the consent of the committee, sent the matter over until this morning. This morning I have taken the liberty of putting that amendment in different words, that it may more correctly express my meaning, and I join with the gentleman from Illinois in asking now that that be reported before I proceed to discuss the point of order.

The CHAIRMAN. The Clerk will report the amendment.

The amendment was read, as follows:

Provided, That no person charged with contempt of court in having violated any order, judgment, or decree of any Federal court shall be punished, unless he shall be first convicted by a jury of being guilty of such contempt as is now defined and made punishable by statute, or unless it be one committed in the presence of the court.

Mr. CANNON. To that amendment I make the point of order that it is legislation which, whether it be desirable or not, is not in order upon a general appropriation bill under the rules of the House.

The CHAIRMAN. Does the gentleman from Washington desire to be heard upon the point of order?

Mr. LEWIS of Washington. On the point of order purely; yes.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. LEWIS of Washington. Mr. Chairman, the amendment in this case is addressed to the portion of the law providing salaries and compensation for and likewise prescribing the mode of the conduct of the Federal courts. The point made by the gentleman from Illinois [Mr. CANNON] is that it is not germane. Many precedents could be offered you upon the general question—I should like to have the attention of the Chair, as he is to decide this matter.

I assume, Mr. Chairman, that the Chair will decide this question purely upon what the Chair regards to be proper parliamentary practice, and while I might offer to the Chair some general precedents upon the question of the germaneness, it is not my purpose to do so, but it is my object to impress upon the Chair one single precedent, and a controlling one. I want the Chair's attention to the contention I make, which is that this amendment comes squarely and absolutely within the previous ruling of this House upon a parallel and similar case. In 1890, in the Fifty-first Congress, there was before the open House a bill known as the Federal election bill. This bill provided, among other provisions, the manner and control of ballot boxes, describing, as the Chair will no doubt recall, the manner in which the elections were to be held and controlled, particularly those of Representatives in the Congress of the United States.

Mr. CANNON. Well, now, was that a general appropriation bill?

Mr. LEWIS of Washington. Just a moment, and I will answer the gentleman from Illinois.

To that bill, Mr. Chairman, there was offered by Mr. Rowell an amendment. The amendment was:

It shall be the duty of the circuit judge or judges of the United States in each circuit, within one month after the passage of this act, to open a special term of the circuit court in and for such judicial district in their respective circuits as shall be most convenient to him or them; and the said court so opened and held by said circuit judge or judges shall appoint for each judicial district in their respective circuits three discreet persons of good character and standing, who shall be residents of the judicial district in and for which they are named, who shall be known as United States juror commissioners.

It shall be the duty of said commissioners to organize as a board by the selection of one of their number as chairman, whose duty it shall be to preside over their meetings and to give notice from time to time to his associates of the time and place of all meetings of said board. The said board may act by a majority vote, and shall from time to time make from the qualified voters in their judicial districts a list of persons who under the laws of the United States and of the State in which they act shall be eligible for jury duty, without respect to race or color. And hereafter all panels for jurors, grand and petit, shall be drawn by said board in the presence of a district or circuit judge. All provisions of law in relation to making jury lists, or the drawing of jurors, inconsistent with the provisions of this section are hereby repealed. All vacancies which shall from any cause arise in said board shall be filled by the court making the original appointments, which court shall be held as provided herein for its holding for the making of such original appointments.

It prescribed what the judge shall do. This amendment, Mr. Chairman, prescribes that the judges of the Federal court should open term, should instruct jury commissioners and what else the judge of the Federal court should not do.

Mr. Breckinridge, of Kentucky, made the point of order that this amendment was not germane, and I read his point of order:

On yesterday—

Says the gentleman—

the provision in the bill as to juries was stricken from it, so that now there is no provision at all embodied in the bill having reference to that subject. The point of order I submit is that the machinery of the jury, and the mode of fixing a jury, either legitimately or illegitimately, of packing a jury or legitimately making up a jury, is not germane to an election bill. It does not form any part of the election machinery; it is not germane to the election of members of Congress, and is not relevant in any way to the matter pending. I submit the point of order ought to be sustained; and that there is nothing in our rules or anything which governs us which makes the mode of fixing a jury, or selecting a jury, or obtaining a jury in the circuit courts of the United States a proper part of the machinery of the election of members to the House of Representatives.

The declaration is clearly made there, sir, that this House can not prescribe the duty of the Federal judges or such duties as the Federal courts shall not engage in, or the manner in which they shall undertake to discharge the duties. The point is made that it is not germane to elections. The gentleman makes the point here that the present amendment is not germane to the provisions of the bill respecting the Federal judges. The Speaker, in the chair, held this amendment to be germane and submitted it to the House. I respectfully insist, Mr. Chairman, that the instances are parallel, and if an amendment respecting the duties of a Federal judge can be germane to an election law, it is equally germane respecting the compensation of the Federal judges.

I know of no other precedent that has been before the House which I can offer to the Chair to sustain this amendment more clearly than the one that I have in my hand and tender the Chair. In answer to the distinguished gentleman from Illinois, as to whether this was on an appropriation bill, I say that, while it was not an appropriation bill, the gentleman recollects that it provided the modes of election and also appropriated for compensation for the execution of this machinery, and to that extent was absolutely parallel with the provision to which I have annexed the amendment in considering the bill before us. Under this authority I most respectfully insist that the amendment is both germane and proper and should be submitted to the House.

The CHAIRMAN. The point as made by the gentleman from Illinois is that the amendment being new legislation, it is not in order upon a general appropriation bill. The precedent cited by the gentleman from Washington is in the case of an amendment offered, not on a general appropriation bill, but on a bill having reference to elections, and providing for the mode, and so forth, of elections. The cases are entirely distinct; and this being new legislation, the Chair sustains the point of order.

Mr. STEELE. Mr. Chairman, I would like to have unanimous consent to return to page 94, with a view to offering an amendment suggested by the gentleman from Illinois [Mr. CONNOLLY] that would cure the defects that he objected to on Saturday.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to return to line 4, on page 94, in order that he may offer an amendment.

Mr. STEELE. In line 11, after the words "be responsible," are the words.

The CHAIRMAN. The Chair will call attention to the fact that the language went out on a point of order.

Mr. STEELE. I ask the gentleman to withdraw his point of order.

Mr. CONNOLLY. I am willing to withdraw the point of order provided that the amendment is made.

The CHAIRMAN. The point of order can not be withdrawn, but of course it is competent for the committee to put back those lines in the bill by unanimous consent.

Mr. CANNON. What you want to do is to ask unanimous consent to restore the text of the bill, with the adoption of an amendment that is satisfactory to my colleague.

Mr. STEELE. Yes. The amendment is this: After the word "responsible" add the words "on his bond," and then leave it as now provided by law by putting in the words "to the United States;" so that it will read "be responsible on his bond to the

United States, as now provided by law, for any default of said clerk."

Mr. DOCKERY. Well, you propose to restore the language stricken out on the point of order, with this additional language? Mr. STEELE. With this amendment; yes, sir.

Mr. DOCKERY. I think that is a very proper amendment.

Mr. STEELE. It will read then, "be responsible on his bond to the United States for any default of said clerk."

The CHAIRMAN. The Clerk will report the amendment suggested by the gentleman from Indiana.

The Clerk read as follows:

Following the word "dollars," on page 94, line 9, restore the text of the bill on page 94, line 4 to 12, with the following amendment; so that it will read:

"And the general treasurer may hereafter designate a clerk in his office who, in the necessary absence or inability of the general treasurer for any cause whatever, shall perform his duties, and the general treasurer may require the said clerk, when so designated, to give bond for the faithful performance of such duties during the absence or inability of the general treasurer, but the general treasurer shall in every respect be responsible on his bond to the United States for any default of said clerk."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

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

The Clerk, proceeding with the reading of the bill, read as follows:

Paris Exposition: The President, by and with the advice and consent of the Senate, shall appoint a commissioner-general, an assistant commissioner-general, and a secretary-general to represent the United States at the exposition to be held in Paris, France, commencing April 15 and closing November 5, 1900; also nine commissioners to represent the United States at the proposed exposition and to constitute an advisory board to the commissioner-general in making and executing all needful rules and regulations as to exhibits from the United States, and to serve without compensation or allowance for expenses. The assistant commissioner-general shall assist and act under the direction of the commissioner-general, and shall perform the duties of the commissioner-general in case of the death, disability, or temporary absence of the commissioner-general. The secretary-general shall act as disbursing agent, and shall perform such duties as may be assigned to him by the commissioner-general, shall render his accounts quarterly to the proper accounting officers of the Treasury, and shall give bond in such sum as the Secretary of the Treasury may require. The commissioner-general shall be paid a salary of \$8,000 per annum, the assistant commissioner-general a salary of \$6,000 per annum, and the secretary-general a salary of \$4,500 per annum, which said sums shall be in lieu of all personal expenses other than actual traveling expenses while engaged in exposition work; and the terms of service of the commissioner-general, assistant commissioner-general, and secretary-general shall not exceed three years. The necessary expenses herein authorized and expenses for the proper installation and care of exhibits, together with all other expenses that may be authorized by the commissioner-general incident to the participation of the United States in said exposition, are hereby limited to the sum of not exceeding \$25,000, including not exceeding \$70,000 for clerk hire in the United States and at Paris. The Secretary of the Interior, the Secretary of Agriculture, and the Commissioner of Fish and Fisheries are hereby authorized to prepare, respectively, such suitable exhibits as the President shall approve relating to education, agriculture, and fish and fisheries, and shall exhibit the same under the direction and control of the commissioner-general, the total expenses of each of the three said exhibits to be determined by the President, and not to exceed in the aggregate \$85,000, to be paid out of appropriations made within the aforesaid sum of \$25,000; and reports respecting such exhibits, printed in English, French, and German languages, shall accompany such exhibits as the commissioner-general may direct. All officers and employees of the Departments of the Interior and Agriculture and of the Fish Commission in charge of or responsible for the safe-keeping of exhibits belonging to the United States may permit such exhibits to pass out of their possession for the purpose of being transported to and from and exhibited at said exposition, under the supervision and care of the commissioner-general, whenever authorized to do so, respectively, by the Secretary of the Interior, the Secretary of Agriculture, and the Commissioner of Fish and Fisheries; such exhibits and articles to be returned to the said respective Departments to which they belong at the close of the exposition. The commissioner-general is hereby authorized to erect a temporary office for the commission within the limits of the said exposition, the cost of such building not to exceed the sum of \$10,000, and the same to be sold or disposed of by the commissioner-general when no longer required for use. The expenses herein authorized incident to the proper installation and exhibit of contributions from this country, other than the exhibits of the Department of the Interior, the Department of Agriculture, and of the Fish Commission, and any loan exhibits that may be approved by the commissioner-general, shall not be construed to authorize the payment by the United States of freight, express, or other transportation charges on such contributions or exhibits either to or from Paris, France. It shall be the duty of the commissioner-general to transmit to Congress a detailed statement of the expenditures incurred hereunder, and this statement shall be prepared and arranged with a view to conciseness of statement and convenience of reference. Toward the expenses herein authorized incident to the participation of the United States in said exposition there is hereby appropriated the sum of \$100,000, to be immediately available and to remain available until expended.

Mr. HANDY. Mr. Chairman, I reserve a point of order on that paragraph.

Mr. CANNON. I desire, Mr. Chairman, to perfect the text of the bill before any amendments are offered.

Mr. QUIGG. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois wishes to offer an amendment first to perfect the text of the bill.

Mr. HANDY. But, Mr. Chairman, I make the point of order—

Mr. CANNON. Oh, if there is to be any point of order on the paragraph, we might as well let it come now.

Mr. HANDY. I make the point of order that this is new legislation on a general appropriation bill.

Mr. CANNON. I do not so understand it.

Mr. HANDY. This paragraph creates new offices, provides by legislation for offices which do not exist under the present law.

Mr. CANNON. Let us see about that. This is all the law there is on the subject. I will read it; it is the act of 1897:

International Exposition at Paris: That the invitation of the Republic of France to take part in an exposition of works of art and the products of manufactures and agriculture of all nations, to be held in Paris, commencing the 15th day of April and closing the 5th day of November, 1900, is accepted; and the governors of the several States and Territories be, and are hereby, requested to invite the people of their respective States and Territories to make a proper representation of the productions of our industry and of the natural resources of the country, and to take such further measures as may be necessary in order to secure to their respective States and Territories the advantages to be derived from this beneficent undertaking.

That the President shall appoint a special commissioner to represent the United States in the proposed exposition, who shall take all proper measures to provide for the representation of the industries and natural resources of the United States by their citizens in said exposition, and shall procure proper space and privileges therefor, and shall make report to the President, to be submitted to Congress on the first day of its next regular session, containing his proceedings hereunder, with such recommendation as he may deem proper. For the compensation of said special commissioner, not to exceed \$5,000, and for all necessary expenses and employment attendant thereon, the sum of \$25,000 is hereby appropriated, to continue available until expended.

That is a work we have entered upon, and therefore, in my judgment, is in order.

Mr. DOCKERY. It is a public object already in progress.

Mr. HANDY. It has been frequently held in this House that a public object must be of a material nature and not such an immaterial "object" as may be inferred from the law read by the gentleman from Illinois. This whole paragraph is full of legislation. There is nothing in the law of 1897, which the gentleman has read, about a commissioner-general or a deputy commissioner-general.

Mr. CANNON. Will the gentleman allow me right at that point?

Mr. HANDY. Yes.

Mr. CANNON. In addition to that, in the disposition of the President's message and documents at this present session of Congress, there was by resolution of the House of Representatives specially referred to the Committee on Appropriations that part of the message in relation to the Paris Exposition and all documents in connection therewith.

Mr. HANDY. That might give the Appropriations Committee a right to bring in a bill to provide for the Paris Exposition, but the rules of the House forbid the Appropriations Committee from bringing in such new legislation on a general appropriation bill. I am in favor of the Paris Exposition, and hope to see the United States properly represented thereat, but I am also in favor of enforcing the rules of the House in regard to riders on appropriation bills. I have been converted to this view by the distinguished gentleman from Illinois, who is always found standing rigidly in behalf of the enforcement of the rule against new legislation on general appropriation bills.

Mr. CANNON. And now I want to baptize the gentleman before he backslides. [Laughter.]

Mr. HANDY. I shall be most happy to be baptized in the denomination of the Shaking Quakers, represented by my distinguished friend from Illinois. [Laughter.] But, Mr. Chairman, this is new legislation in regard to the creation of a commissioner-general and in regard to the creation of an assistant commissioner-general; also in regard to the creation of nine commissioners of the ornamental variety, not to receive pay, and in regard to the length of term that the commissioner-general and other officers shall serve. All the way through, every sentence and every line of this paragraph contains new legislation. Doubtless some such legislation should be provided, but it ought not to be provided for on a general appropriation bill, and under the rules of the House it can not be. I insist that the law read by the gentleman from Illinois does not give such a foundation to this appropriation as is required by the rules of the House.

The CHAIRMAN. The Chair thinks the act of 1897 is sufficient foundation for an appropriation, but not for legislation. The Chair is unable to see wherein it authorizes the office of commissioner-general or assistant commissioner from the reading of the law by the gentleman from Illinois. The rule in regard to the continuation of public works simply authorizes an appropriation in the continuance of public works and not the appointment of officers.

Mr. CANNON. And still, if that be true, I want to submit to the Chair that as it authorizes the appropriation, and as it is a public object, the matter, we feel, is in the nature of a limitation upon the expenditure of the money, as it seems to me. Now, take it in connection with the Chicago Exposition. After the exposition was authorized by the House the whole matter was treated of from session to session by appropriations.

Mr. DOCKERY. I would like to suggest to the Chair that under clause 2, Rule XXI, this seems to be a "public object already in progress," and while perhaps there has not been any specific metes and bounds fixed by law in respect of this "object," yet if the Chair should hold this proposition obnoxious to the rule it would seem to be impossible for any appropriation bill to provide the machinery to execute the "public object." Now, then, the

general "object" is, as suggested by the amendment in the bill, the necessary preparation to be made for the great international exposition to be held at Paris in 1900. All the preliminary steps have already been authorized and taken under the law read by the gentleman from Illinois.

Now, as supplemental to that law comes this appropriation. In the very nature of the situation, this being a new "public object" not incidental to and connected with an Executive Department, there must be legislation to carry out that "object," in order to effectuate the purposes of the appropriation.

The CHAIRMAN. The Chair thinks that is the difficulty—that there must be legislation to carry out the object, and that legislation is attempted to be inserted in a general appropriation bill by this paragraph.

Mr. DOCKERY. But I beg to suggest to the Chair that the words "public object already in progress" would seem to be sufficient to admit the proposition upon this bill.

The CHAIRMAN. The rule would simply authorize an appropriation, but would not authorize legislation upon the subject in a general appropriation bill. There are in this paragraph several clauses which are distinctly new legislation, and if in a paragraph any clause or provision is out of order, the point of order against the whole paragraph must be sustained. Of course after the paragraph had gone out, it would be in order to offer any provision relating to the same subject which might be in order. But when the point is raised against the whole paragraph, and the paragraph contains a clause obnoxious to the rule, the whole paragraph must go out.

Mr. CANNON. Let me put this case, because this is a very important matter: This bill limits the total expenditure for this object to \$525,000; it carries an appropriation of \$100,000. I take it, a clause appropriating \$100,000 for the Paris Exposition for the coming fiscal year would clearly be in order. Now, suppose that, as a limitation upon the expenditure of such an appropriation, a provision should be inserted that there should not be anything expended for a commissioner beyond a specified amount, or for an assistant commissioner beyond a specified amount, or for the secretary beyond a specified amount, or for an agricultural exhibit beyond \$50,000, or a provision that the money should not be expended for an exhibition of anything but food products or agricultural products of the various States. A provision of that kind would be in the shape of a limitation, and it seems to me would be clearly in order. That being true, is not that the substance of these provisions, and is not the question merely one of form?

Mr. HANDY. I can not even admit under the past rulings of Chairmen of the Committee of the Whole that within the meaning of the rule this exposition is a "public object or work now in progress." The Chair will recall—

The CHAIRMAN. The Chair will say that the clause referred to in the rule simply authorizes an appropriation, but does not authorize legislation. The gentleman from Illinois speaks of the matter of limitation. Now, a limitation on an appropriation has been held to be in order; but it must be purely a limitation. Under the guise of a limitation, it is not competent to insert in an appropriation bill new legislation, affirmative legislation.

Mr. CANNON. If the Chair thinks the point of order well taken, and the gentleman from Delaware desires to insist upon the point, it is his privilege to do so. Then let the whole matter go out.

The CHAIRMAN. The Chair sees no escape from the point of order.

Mr. DOCKERY. Then the matter will have to be provided for in the Senate.

Mr. SHAFROTH. And the Senate is likely to put in large salaries for these commissioners, to which I am opposed.

Mr. HANDY. In reply to the gentleman from Illinois, I desire to say that it is not only my privilege to make this point of order, but that I make it under a patriotic purpose; and I do not suppose the gentleman from Illinois meant to make any other intimation with regard to my purpose in this matter.

Mr. CANNON. Does the gentleman want to conjure up a cause of difference between himself and me?

Mr. HANDY. No; not at all.

Mr. CANNON. Then what is the object of the remark?

Mr. HANDY. I wish to put myself very clear and straight in this matter.

Mr. WILLIAM A. STONE rose.

Mr. HANDY. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman from Pennsylvania [Mr. WILLIAM A. STONE].

Mr. WILLIAM A. STONE. Mr. Chairman, as this provision is a matter of so much importance, having been put in the bill after careful consideration, I desire to suggest that perhaps it would be best for the Chair to postpone his ruling until the bill has been completed. I am not prepared to say at this time that the Chair is not right in his intimation; but this is a matter of so great importance, not only to the House, but to the country, that

I suggest to the Chair to withhold his decision on the point of order and let us get through with the rest of the bill.

The CHAIRMAN. It does not rest with the Chair to postpone a ruling upon the point of order. If the Committee of the Whole, by unanimous consent, desires that it be done, the Chair has no objection.

Mr. WILLIAM A. STONE. It often does rest with the Chair to postpone the ruling upon a point of order; and sometimes the occupant of the chair himself suggests such postponement.

A MEMBER. The Chair has already ruled upon the point.

Mr. WILLIAM A. STONE. I do not understand that the Chair has already ruled upon it at all.

Mr. RIDGELY. I ask unanimous consent that this point of order be allowed to go over for the present.

Mr. HANDY. I call for the regular order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. CONNOLLY. I desire to offer as an amendment to the paragraph just read the clause which I send to the desk.

The Clerk read as follows:

Insert in line 7, page 108, after the word "use," the following: "And the proceeds of such sale shall be accounted for by him and paid into the Treasury of the United States."

The CHAIRMAN. The paragraph to which this amendment applies has gone out on the point of order.

Mr. CONNOLLY. I did not understand that the portion which I propose to amend had gone out.

The CHAIRMAN. A point of order was raised upon the whole paragraph; and a portion of the paragraph being obnoxious to the rule, the whole paragraph must go out.

Mr. CONNOLLY. Then I withdraw the amendment.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. DINGLEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had passed bills and joint resolutions of the following titles; in which the concurrence of the House was requested:

- S. 435. An act for the relief of the legal representatives of John C. Howe, deceased;
 - S. 726. An act granting a pension to James A. Southard;
 - S. 668. An act granting a pension to Frances E. Pease;
 - S. 3286. An act granting an increase of pension to Mrs. E. S. Kelly;
 - S. 3254. An act granting a pension to Adelaide H. Lambertson;
 - S. 1541. An act granting a pension to "Itewayaka" or "One-armed Jim;"
 - S. 3178. An act granting a pension to Olevia S. Washburn;
 - S. 1807. An act granting an increase of pension to Abraham T. Casey;
 - S. 2785. An act for the relief of Blanche T. Hunton;
 - S. 2948. An act granting an increase of pension to Mrs. Anna M. Deitzler;
 - S. 2573. An act granting an increase of pension to William Blades;
 - S. 1070. An act granting a pension to Barney Smith;
 - S. 1603. An act granting an increase of pension to Michael Lochard;
 - S. 3517. An act granting a pension to Rhoda A. Van Niman;
 - S. 3132. An act to provide for the disposition of abandoned imported merchandise;
 - S. 3077. An act to grant the right of way through the Indian Territory to the Denison, Bonham and New Orleans Railway Company for the purpose of constructing a railway, and for other purposes;
 - S. 626. An act for the establishment of a light-house and fog signal at a point north of the bell buoy near the broken part of the Pollock Rip Shoals, on the coast of Massachusetts;
 - S. 2813. An act granting a pension to Barney Smith;
 - S. 435. An act for the relief of the legal representatives of John C. Howe, deceased;
 - S. 3804. An act to authorize the President of the United States to appoint and confer the rank of first lieutenant of infantry upon the director of gymnastics and instructor of swordsmanship at the United States Military Academy; and
 - S. Res. 106. Joint resolution for the provision of a commission to supervise the collection of a fund among all the schools and colleges of the United States for the purpose of erecting a monument of General Lafayette in the city of Paris, France, the same to be presented to the Government of France and unveiled and dedicated on the 4th day of July, in the year 1900.
- The message also announced that the Senate had passed without amendment bills of the following titles:
- H. R. 2484. An act giving the assent of Congress to a change of the compact entered into between the United States and the State of Arkansas on her admission into the Union;
 - H. R. 5434. An act to repeal in part and to limit section 3480 of the Revised Statutes of the United States; and

H. R. 4934. An act permitting the building of a dam between Coon Rapids and the north limits of the city of Minneapolis, Minn., across the Mississippi River.

SUNDRY CIVIL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

UNDER LEGISLATIVE.

Statement of appropriations: For preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements showing appropriations made, new offices created, offices the salaries of which have been omitted, increased, or reduced, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills passed during the second session of the Fifty-fifth Congress, as required by the act approved October 19, 1888, §1,200, to be paid to the persons designated by the chairmen of said committees to do said work.

Mr. HEPBURN. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The amendment of Mr. HEPBURN was read, as follows:

Insert in line 13, page 109, after the word "work," the following:

"Provided, That said statement shall also contain a statement of all appropriations heretofore made and herein contained for or in behalf of each work, improvement, or public building now in process of construction or now incomplete."

Mr. CANNON. I will say to my friend that I shall have to reserve the point of order upon that. It seems to me it would entail an amount of work and cover an amount of space that will tend to make the prompt preparation of this work practically impossible and tend to add to it that which will, I fear, destroy its usefulness. This is the size of the volume printed at the end of each year. I hold it in my hand. The real use of it is that it comes with reasonable promptness and covers the exact information that all of us here are desirous of having, reliably and early. I think the gentleman could get the information he desires by a resolution directed to the Treasury, and get it in the shape of a separate document, much better than to do it in this way.

Mr. HEPBURN. Mr. Chairman, I have no doubt that this amendment is subject to a point of order, just as I think the entire paragraph is. The paragraph will not be any more subject to a point of order when this amendment is added than it is now; but I think that this matter is of such importance—

Mr. CANNON. I will say to my friend that this item is specifically directed by law now.

Mr. HEPBURN. A portion of it is, I am free to say.

Mr. CANNON. All of it.

Mr. HEPBURN. Up to 1885—I think that is the year—there is a compact and succinct statement showing all of the appropriations that have heretofore been made for all of the improvements undertaken by the Government. My recollection of that volume is that in size it is about like the one exhibited by the gentleman from Illinois. At all events, it is but very little larger. Now, this information that I think we ought to have is of the utmost importance. It puts before the reader at a glance the entire condition of each work as to appropriations that have heretofore been made. Here, for example, in this bill is an item, we will say, of \$300,000. No one knows from that, without careful investigation and searching through a number of volumes, what that work has cost up to this time. It might occur to gentlemen that it is not worth the additional cost. They might be appalled sometimes at the extraordinary expenditures that have been made.

Again, there are a number of instances where works have been undertaken, where they have progressed under the charge of particular engineers for a number of years and immense sums have been expended, and then the work and the whole scheme was abandoned and another entirely different one entered upon. I have in my mind one relating to the improvement of Galveston Harbor. A plan was adopted very many years ago, and under that plan more than a million and a half of dollars was expended. The later engineers concluded that the plan was defective, that the intended purposes could not be accomplished by further pursuing the means, and they abandoned the whole of it. Every dollar that had been expended was a loss. Now, I think that a fact of that kind, if brought to the attention of members, would make them more careful in accepting the ipse dixit of this, that, or the other man with regard to an improvement. I think the publication of the facts that would appear in this work would be worth hundreds of thousands of dollars to the Government through a more economical regard for expenditures. I hope the gentleman will not insist on his point of order.

Mr. CANNON. Now, Mr. Chairman, I have listened to the gentleman from Iowa. This work, as I recollect it, was done down to about the year 1876, and then, on rivers and harbors, was continued from 1876 to 1885 or 1886. Now, this contemplates a statement of all that has been expended or all that will be expended in connection with all public objects in progress.

Mr. HEPBURN. Yes, in progress.

Mr. CANNON. Now, that means every object that we appro-

priate for, and the gentleman is very correct about the great desirability of such statements. I think, in addition to what he wants, probably it would be wise to take up the work where it dropped in 1876 and bring it down to date; but that can only be done efficiently and economically at the Treasury Department.

Now, I think there are some seven or eight volumes in the former work. I am not exactly certain as to the number. It is impossible for two men, the clerk of the House Committee and the clerk of the Senate Committee on Appropriations, to do this work in two years. I indorse and concede the importance of having the work done and would be glad to cooperate with the gentleman after his scheme has been matured and thoroughly thought over, to help make provision by which it could be done. But the mere tying of it on to these two men who prepare that volume, which is not of absolute necessity, but of very great convenience to every Member and Senator, it seems to me would be to destroy this and postpone the other, unless we furnish a corps of clerks for a long time. Therefore, in the present state, in the form in which it comes, I feel compelled to insist on the point of order.

Mr. SULLIVAN. Would it not do to complete the work from 1876 down, or from 1885 down?

Mr. CANNON. I have no objection. I am inclined to think very strongly that it ought to be done, but I think it would take \$50,000 to do it, and I think it is worth the money.

Mr. HEPBURN. Oh, I will do it for a thousand dollars.

Mr. CANNON. My friend is entirely mistaken about the scope of the work.

Mr. HEPBURN. How many appropriations are there?

Mr. CANNON. Why, this runs to every public work, to every item in the appropriation.

Mr. SULLIVAN. How many items would there be in it?

Mr. CANNON. Why, all the works—that have cost \$450,000,000, I feel quite sure that the gentleman has not an adequate conception of the amount of work that he is proposing to have done, and therefore I suggest to him to look into it further, and I should be glad, to the best of my ability, to look into it with him; and if some scheme can be evolved that will work it out, I am quite content.

Mr. HEPBURN. Mr. Chairman, I am satisfied that the gentleman from Illinois has an exaggerated idea as to the work contemplated by this proposition. For instance, take the public buildings. We have appropriated for, say, 285 or 290 public buildings, but there are only some 25 or 30 of them now incomplete. All but the 25 or 30 would be eliminated from this inquiry. We have undertaken a great many works of improvement of rivers and harbors, but it is to be hoped that at least some of them are complete; that we are not to continue them eternally. All those that are completed will be eliminated from the inquiry, leaving only those that are now being appropriated for. In this bill there are some 40 or 50; that is all. Some of them only go back a very few years, to the period when the activity of the River and Harbor Committee began. Now, all save these will be eliminated.

I do not think the volume containing the information sought by this amendment would be anything like as large as the gentleman supposes it will. It will add but comparatively few pages and will not require the research that he anticipates. Here are thirteen or fourteen appropriation bills each year. The examination of those is not a labor of such enormous proportions. These gentlemen who will be charged with this duty are familiar with all of them and will be able to turn their hands in an instant to each one. Instead of its taking many years and a large corps of clerks and \$50,000, a few months, the gentlemen who are now engaged upon the work, and the appropriation now provided for will be all, in my judgment, that will be needed.

Mr. CANNON. Mr. Chairman, I am compelled to insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HARTMAN. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

To enable the Secretary of the Senate and Clerk of the House of Representatives to pay to the officers and employees of the Senate and House borne on the annual and session rolls on the 1st day of February, 1888, including the Capitol police, the official reporters of the Senate and House, and W. A. Smith, CONGRESSIONAL RECORD clerk, for extra services during the Fifty-fifth Congress, a sum equal to one month's pay, at the compensation then paid them by law, the same to be immediately available.

Mr. CANNON. I am compelled to make the point of order on that provision.

Mr. HARTMAN. Do I understand the gentleman to reserve the point of order?

Mr. CANNON. I prefer making it, but if the gentleman wants to say something I will reserve it.

Mr. HARTMAN. I hope the gentleman will reserve the point.

The CHAIRMAN. The point of order is reserved.

Mr. HARTMAN. Mr. Chairman, this is the usual resolution which has been offered and passed by every Congress since the Forty-seventh Congress, with the exception of the last one, when

the present occupant of the chair ruled the amendment out as not being in order. I desire to deviate somewhat from the point of order and refer to the merits of this matter, with the consent of the House, after which I will direct myself to the point of order.

Every member of this body knows that the parties who render the most efficient and faithful service in the conduct of the affairs of this body are the employees of it. That is also true at the other end of the Capitol. In 1897 we came here in extraordinary session. We members of the House, because of the extra time demanded and the extra service and travel required of us, received our additional compensation in the form of mileage, which we properly voted to ourselves. These employees also came here under the same order that brought us here.

There has been no provision for extra compensation to them in any way, and can not be unless this amendment shall be adopted. Mr. Chairman, I want to say this. I want to say it confidentially, between ourselves. Of course it would not do for it to get to our constituents. But as a matter of fact every man here knows that the members of this House, or a large majority of them, are not as faithful in their attendance upon the sessions of the House as the employees are. They are here from one week's end to the other; and I know, and you know, all of you, that there are very many members of this House who are not here one-fourth of the time from the opening of the session until it closes.

Now, then, let us be fair and just to these men who perform such an important part in the conduct of the affairs of this House. Enough for the merits of the question, Mr. Chairman, and to the question of order.

I now want to address myself to the point of order. I know I am addressing myself to a court that decided adversely to us on a similar proposition in the last Congress. Therefore I expect a similar decision. However, I wish to say, with due respect and with due deference to the gentleman who rendered the decision, now the presiding officer, that if he does so decide again I intend to ask the House to reverse it.

I shall ask the committee to reverse it, and to reverse it upon the decisions and well-considered precedents, which are of equal dignity, although I do not say of superior force and power, to the distinguished gentleman who now presides over the Committee of the Whole House on the state of the Union. But, Mr. Chairman, you are familiar with the decisions when the point of order has been submitted to this House before. I refer you only to the occasion when the point of order was raised on a similar amendment in the Fifty-first Congress. Mr. Payson, then a member of this House from the State of Illinois, was occupying the position that the present Chairman occupies, and he then, upon that question, had this to say in support of his ruling, which overruled the point of order similar to the one made by the gentleman from Illinois:

This—

Says Judge Payson—

is not a new question in the House of Representatives, nor is it new to the present occupant of the chair. When the general deficiency bill was under consideration at the last session of this Congress, the present occupant of the chair had the honor to preside as Chairman of the Committee of the Whole House on the state of the Union. The same question was then presented in the shape of an amendment; and at that time the Chair took occasion to examine the entire line of precedents and the history of legislation with reference to this matter, as well as the rulings which had been made upon it up to that time, and sees no reason now for changing the opinion then formed in regard to it.

The decisions have been practically unanimous for a great many years past, and especially since the present occupant of the chair has been in public life, beginning with the ruling of Mr. Kasson, of Iowa, and others succeeding him, including the gentleman from Kentucky, Mr. Carlisle, the Speaker of the last House, and so on down to the present time, with but a single exception this amendment has been held to be in order, either by the direct ruling of the Chair or by an overwhelming majority in the committee when the question has been submitted for its decision.

Following the precedents—without expressing an opinion as to what judgment the present occupant of the chair might entertain if this were an original proposition—but following the precedents and the rulings heretofore made, the Chair holds the amendment to be in order.

Now, I submit that to the judgment of the House and to the consideration of the Chair; and in addition to that, I submit further that there is a long line of precedents sustaining this view of the matter.

In support of the proposition upon the merits, commencing with the Forty-seventh Congress there were two extra months' salaries paid to the employees of this House and the Senate and the Capitol police. In the Forty-eighth Congress there were two extra months' salary paid them; in the Fiftieth Congress two extra months' salary; in the Fifty-first there was one; in the Fifty-second there were two, and in the Fifty-third there was a special session and two extra months' salary; in the Fifty-fourth Congress, one extra month; and now in the Fifty-fifth Congress, when these men and boys and these women come here and serve us so faithfully, who are uniformly affable and courteous, who are attentive to their duties and attentive to their business here, I ask that they may have accorded to them a proper recognition of their service similar and no greater than

that which was received by members of the House. The point of order is raised against this amendment by the gentleman from Illinois. I sincerely hope that he will withdraw the point of order, or that the Chair will overrule it; or, if the Chair sustains it, that then the House of Representatives will do justice to these employees who have helped us in the performance of our duties.

Before closing, I want to say this, Mr. Chairman, that my advocacy of this amendment is purely disinterested, as I have no employee whose appointment I have procured. I can say that you can not find in the city of Washington, in the House or Senate list of employees, a single person who can say that I contributed to securing his or her position in public life by my assistance or aid, either given directly or indirectly. Some how or another I do not seem to have any special influence with this Administration, and I am very glad of it. [Applause on the Democratic side.]

I want to see now if this Republican House will be willing to do what we all know we ought to do. As we have received our additional compensation in the shape of mileage, let us be as just to the employees who do the work as we have been to ourselves. I undertake to say that any man who refuses to vote for this amendment must, in order to be consistent, turn into the Treasury of the United States every dollar which he has drawn for his mileage, which he got in the way of extra compensation. Understand, I still insist that we were entitled to it, and if anybody feels that he was not entitled to that, let him return it and vote against this amendment of mine. [Applause.]

Mr. CANNON. Now just a word, and I am ready for a ruling. I reserved the point of order that the gentleman from Montana might make his speech. We have as a rule given a month's extra pay to the employees of the House, but it has generally, if not universally, been given at the close of the session in the deficiency bill. This is the sundry civil bill. This is February. We hope to get away from here the 1st of May, but the 1st of August may find us here. This pays the people that were on record the 8th of February. Anybody on the roll then who is not on the roll now? I do not know. Where does the little joker come in out of order? The whole thing is a gift and a gratuity. We could with equal propriety on the merits give these meritorious employees in the Departments a month's extra pay, everybody in the public service, but we do not, because we come in contact with our own employees.

Now, the best way is just to hold our horses, and about the close of this session, by separate resolution or on the deficiency bill, give the employees the month's extra pay; not the employees who were on there on the 8th day of February, because some of them may be unworthy and may be discharged for cause. I have known such things happening in the House. Now, my friend says there is now nobody in Washington by his grace and favor. Well, there are two or three by mine, and I would like to deal by my own, if they be my own. We will get at that in time. The gentleman has got in his speech, and it was a good one. He always makes a good speech. But I make the point of order, and we will deal with the matter further on.

Mr. HARTMAN. I will agree to make another speech if the gentleman from Illinois will vote with me on the resolution.

The CHAIRMAN. The Chair will say that this can hardly be affected by feelings of friendship or courtesy. It is simply a question of law; nor can the Chair be guided by the precedents where they conflict with the express language of the rule of the House, nor when the precedents were put, not upon the construction of the rule, but simply under the practice that had grown up in the House. This extra month's pay grew up by unanimous consent without any point of order being made by the House for many years. The precedent established by Judge Payson, a very honorable and able member and an able chairman of the Committee of the Whole in the Fifty-first Congress, puts it expressly on the ground that it had been so done before and so held before, and he intimates that if it was an original proposition, he should be constrained to hold otherwise.

The language of the rule is so plain that no one can fail to understand it, and does not leave it open to doubt. The rule is as follows:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.

There is no law that authorizes an extra month's pay, and it is expressly contrary to the express language of the rule, and so the Chair is constrained to sustain the point of order.

Mr. HARTMAN. I most respectfully appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Montana appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken; and on a division (demanded by Mr. HARTMAN) there were—ayes 44, noes 67.

Mr. CANNON. Mr. Chairman, I ask for tellers. I will not

only have tellers, but a yea-and-nay vote in this House. I will have you Democrats on record.

Mr. BRUCKER. We will go there.

Mr. SULLIVAN. I object to that remark, because there are some members on this side that are with the gentleman from Illinois.

Mr. RIDGELY. Mr. Chairman, will the Chair state the question again?

The CHAIRMAN. Without objection, the Chair will state that the question is on an appeal of the gentleman from Montana. The question is whether the decision of the Chair shall stand as the judgment of the committee.

Tellers were ordered; and Mr. CANNON and Mr. HARTMAN were appointed.

The House again divided; and the tellers reported—ayes 69, noes 84.

So the decision of the Chair was overruled.

The amendment was then agreed to.

The Clerk read as follows:

For the Interior Department, including the Civil Service Commission, \$278,000, including not exceeding \$10,000 for rebinding tract books for the General Land Office.

Mr. BROWN. I move to amend by striking out in the clause just read the words "including the Civil Service Commission." Mr. Chairman, I am not sure what would be the practical effect of agreeing to this amendment.

I say this because we have been told that the Civil Service Commission will go on, and on, and on, whether any appropriation be made for it or not; so that, probably, if this amendment should be agreed to, and these words be stricken out, the same portion of this appropriation would go to the Civil Service Commission that would go to it if the words remain in the bill and become a part of the law.

But whether that be so or not, I for one, at least, will find a great deal of personal pleasure, if nothing else, in voting for this amendment.

I do not know how other gentlemen may feel about it, but I think that this proposition will afford us an opportunity to express ourselves in a small way, at least, upon what I once designated here as "the abomination known as the civil-service law of the United States."

Mr. Chairman, a bill has been introduced, and has gone to the Committee on Reform in the Civil Service, proposing what at least many members of the House believe would be a very sensible and reasonable modification of the civil-service system.

That bill has been for many weeks in the hands of that committee. I do not know what the outcome may be, but the general understanding is that the bill will never see the light of day, or at least will never see any more of the light of day than it is seeing through that committee; that it will never come to this House; that this House will never have an opportunity during this Congress, or at least during this session of Congress, to express itself upon that measure.

Therefore, Mr. Chairman and gentlemen of the House, I submit that there can be no harm at least in agreeing to this amendment. I submit further that this proposition affords us an opportunity in a small way, as I said a moment ago, to express ourselves in reference to this institution which has grown up and fastened itself upon this Government and this people in such a way that it seems almost impossible to eradicate it. I trust, therefore, that this amendment may meet the approval of the House.

The question being taken, the amendment was rejected; there being on a division (called for by Mr. BROWN)—ayes 16, noes 37.

Mr. ALDRICH. I ask unanimous consent that the Committee of the Whole return to the paragraph relating to the Geological Survey, in order that I may offer an amendment.

The CHAIRMAN. The proposed amendment of the gentleman from Alabama [Mr. ALDRICH] will be read.

The Clerk read as follows:

In line 25, page 57, strike out "one hundred and seventy-five" and insert "two hundred;" so that the clause will read: "For topographic surveys in various portions of the United States, \$200,000," etc.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. CANNON. I am compelled to object.

Mr. SHATTUC. Mr. Chairman, by far the greater part of my life work has been with and among the railroad men of the United States. I know them; their capabilities; their sterling citizenship; and I can not permit to pass uncontradicted, aspersions cast upon them a few days ago by the gentleman from Mississippi [Mr. FOX]. He said, and I quote from the RECORD:

I want to ask any honest Republican why it is that the cotton planter in the South, as shown in this case they do, should not have as much control over the suffrages of the laborers on his plantation as the cotton manufacturers in New England, or the railroad magnates in any part of the country, or the mine owner of Pennsylvania has over the laborers in his employ? Why not? You know that they vote them; everybody knows it, and they vote them without reference to the great principles of their party, of which the great body of these voters have no comprehension.

"You know that they vote them; everybody knows it." So stated the distinguished gentleman from Mississippi. To this emphatic declaration I reply that neither the gentleman who made the statement nor anyone else can justify such a charge, for it is not true. It is a slander.

Mr. Chairman, there is not a railway manager in this country who does not know the charge to be without any foundation at all, and I make the statement that no manager could retain his position on any railway in this country for thirty days should he undertake any such policy.

There is not in this country to-day a more independent, manly, courageous, and generous class of people than those in the railway service. It would not be safe for anyone to undertake to control the suffrage of these people. These railway employees are, as a rule, well educated, self-relying, self-respecting, quick to resent any move that appears to be an infringement of their personal rights, and I am glad to say from personal knowledge that they resented very emphatically similar slanders in 1896, and they will, I am sure, maintain their manhood by resenting the slander that has been repeated on this floor and made a part of the record of this Congress just as soon as they get a chance.

The gentleman from Mississippi [Mr. FOX] said—and I read from the RECORD:

They vote them without reference to the great principles of their party, of which the great body of these voters have no comprehension.

Indeed! They have no comprehension, have they not, of the political issues? That is, these railway employees have not the mental capacity to perceive and understand for themselves the issues of the day!

Now, Mr. Chairman, I am safe in saying that there are 400,000 railway employees in this country who can secure teachers' certificates in Alabama or in Mississippi. I am prepared to say that there are 225,000 trackmen in the United States to-day, working for the railroad companies, who would on an educational test rate higher than would the white population of Mississippi and Alabama combined, excepting Tupelo. I pretend to say, Mr. Chairman, that you can take a sufficient number of employees from the railways of the United States and fill every office in the Government, from the highest to the lowest, elective and appointive, and that, too, without seriously impairing the service of the railroads; and I believe, gentlemen, it would be a great benefit to the Government of the United States to have that change. [Laughter.]

I have said, Mr. Chairman, that you could fill every position, elective and appointive. I want to retract that statement. I was engaged for thirty-two years consecutively in the management of railroad property. I know the managers and very many of the employees of the roads of this country well and I never yet have found a calamity howler among them. That class of civilization seems to come from the extreme ends of civilization and from the extremes of climatic conditions; they come from Texas and the South, where they have nine months summer and three months late in the spring [laughter], and from the great Northwest, where they have nine months of winter and three months late in the fall. [Laughter.]

A MEMBER. It refers to climate and not to civilization.

Mr. SHATTUC. Yes; and it is from these extreme ends of civilization and of climatic conditions that these gentlemen come who seem never to be so happy as when they find some poor woman begging bread. They rejoice without measure when they find some poor man out of employment. They go into ecstasies when they discover some paper that is publishing the names of a large number of employees who have had their salaries reduced. They speak it to the shorthand men. They insist that it shall be published in the CONGRESSIONAL RECORD. They print these speeches by tons and send them to an admiring constituency, who no doubt appreciate that kind of patriotism, else they would not be fed upon it, and from this class comes the gentleman who utters this uncalled-for slander against a class who are the very best of our best civilization.

Mr. GREENE. Will the gentleman allow a question?

Mr. SHATTUC. When I get through.

The CHAIRMAN. The gentleman's time has expired.

Mr. SHATTUC. Gentlemen, I should like two minutes more. Several MEMBERS. Make it five.

The CHAIRMAN. Unanimous consent is asked that the gentleman's time be extended five minutes. Is there objection? There was no objection.

Mr. GREENE. Do I understand the gentleman—

Mr. SHATTUC. When I get through. I recognize you as one of them, and I will attend to you when I get through. [Laughter.] I am sure that the gentleman from Mississippi [Mr. FOX] will not object to my reversing his question and having it read: Why is it that the cotton manufacturer of New England and mine owners of Pennsylvania should not have as much control over the suffrage of their employees as have the cotton planters of the South? That is, why should they not be permitted to vote dead men, to pad the poll books and falsify the election returns? Why should

they not have the right to enter into all kinds of conspiracies to defy the law and bulldoze and commit every kind of an offense whenever the exigencies of the case seem to require it? This is what was proven to have been done by the people who undertook to elect the Congressman from Alabama just unseated by this House, and the gentleman from Mississippi was his chief counsel.

Such methods reflect the civilization of the people who participate in them as well as the condition of the people who submit to such methods. I suggest, Mr. Chairman, that it is not in very good taste for a gentleman who lives in that kind of political atmosphere to come into this section of civilization and tell us how our elections should be conducted.

Now I will listen to the calamity howler from the Northwest. [Laughter.]

Mr. GREENE. I appreciate the compliment, coming from a gentleman who says he has been a railroad manager. I understood the gentleman to say he had never known a railroad manager who was a calamity howler. Is that true?

Mr. SHATTUC. I have been that fortunate; yes.

Mr. GREENE. Why should they do it, when they rob the whole country?

Mr. SHATTUC. I say that statement is absolutely false.

Mr. GREENE. Why should they howl when they plunder the whole country?

Mr. SHATTUC. I say that statement is absolutely false, and the gentleman who makes it knows it is not true.

Mr. GREENE. Why should they howl about calamities?

Mr. SHATTUC. You know that statement is false when you make it—

Mr. GREENE. You do not catch the point.

Mr. SHATTUC. Oh, I catch the point, just as I do everything you say, even if it takes a bushel basket to catch it. [Laughter.]

Mr. GREENE. Why should the railroad magnate howl about calamity—

Mr. SHATTUC. Oh, you have a diarrhea of words and a constipation of ideas—that is all. [Laughter.]

Mr. GREENE. How long did you occupy the position of a railroad magnate yourself?

Mr. SHATTUC. Thirty-two years, continuously.

Mr. GREENE. And you never had any occasion to howl calamity, personally?

Mr. SHATTUC. No; you bet your life, I did not; and I never have had any occasion to do it since, and I should be ashamed to represent a constituency who would justify my coming here and telling everybody what a miserable time they have had.

Mr. GREENE. Will you allow me to ask another question?

Mr. SHATTUC. No; wait until I get through. Do not disturb me. There are only two men on your side, my friend from Tupelo [Mr. ALLEN] and his colleague [Mr. SULLIVAN], who have not included their own towns as calamity-stricken places and befouled their own nests by coming up here and telling what a poor time their people have. You have taken every opportunity of telling what a miserable country you come from. [Laughter.]

Mr. HANDY. Mr. Chairman, I call the gentleman to order. He is not addressing himself to the point.

Mr. SHATTUC (addressing Mr. GREENE). Your people are the kind of people who charge visiting sportsmen \$25 a month for shooting your game.

Mr. GREENE. Now, are you through?

Mr. SHATTUC. Not if you require my services, which are at your command at any time. [Laughter.]

Mr. GREENE. Mr. Chairman, I move to strike out the last word.

Mr. CANNON. Now, Mr. Chairman, if my friend will allow me, I did not object to the gentleman from Ohio [Mr. SHATTUC] talking and I will not object to my friend from Nebraska [Mr. GREENE], for that will be one and one, and then I want to go on with the bill.

Mr. GREENE. Well, we will do that.

Now, Mr. Chairman, I do not know why my good friend the gentleman from Ohio [Mr. SHATTUC] felt called upon to tell the House and the country that railroad magnates were not calamity howlers. I do not know why he felt called upon to tell the people that he had been a railroad magnate for thirty years. I shall agree here and now with my good friend that there is not a railroad magnate from Maine to California who ever had any occasion to howl calamity.

Mr. HANDY. How about the stockholders?

Mr. GREENE. They have often had occasion to howl, but the managers never.

Mr. SHATTUC. If howling made a stockholder, you would be entitled to all the stock in this country.

Mr. GREENE. I will further assert that there is not a single gentleman who has ever participated as attorney or manager for a railroad corporation that has had any particular occasion to howl calamity. I want to say to my friend when he talks about the extreme edges of civilization and refers to the great West

as the extreme edges of civilization, that if he will come out there the old women will tell him more about politics than he ever knew.

Mr. SHATTUC. Then they should send them here instead of the Representative they do send here. [Laughter.]

Mr. GREENE. The old ladies will tell him more about political economy and the affairs of the Government than he has ever known in his life. They can tell him more about the methods by which railroad magnates put their roads into the hands of receivers than most "magnates" would care to tell. When he refers to the great State from which I come as the edge of civilization, I want to tell the gentleman it is made up of the best men and women on the American continent.

Mr. SHATTUC. They do not send them here. [Great laughter.]

Mr. GREENE. I say to my friend I will agree that my friends in the Republican party have not been sending them here. [Laughter.] That is true; and I want to say more to my friend, that the only trouble Nebraska has ever had has been because the railroads have robbed and plundered it by exorbitant freight charges.

Mr. SHATTUC. The only trouble is that your district fails to send a man here who will speak well of its people and of the district. You tell us what a poverty-stricken lot of people you represent, showing conclusively, if you state the true situation, that your country is a good one to keep away from.

Mr. GREENE. I say to my friend we have the greatest State in this Union and among the best men and women of any State. Her possibilities are boundless, her people industrious, her percentage of illiteracy least, and her only drawback is "railroad magnates."

Mr. SHATTUC. Yes; in hurricanes and winds you have, and if your previous statements on this floor are correct you have a hungry constituency. [Renewed laughter.]

Mr. GREENE. We have been robbed and plundered. [Continued laughter.] Be quiet a moment. If gentlemen on the Republican side of this House want to drown out everybody but their own fellows, why, you do that.

Mr. SHATTUC. Why, a Mississippi River calliope could not drown you out. [Renewed laughter.] I have listened here for weeks at a time to slanders and reflections you have cast on your own people.

Mr. GREENE. Just wait until I give you the floor, will you? I want to say, Mr. Chairman, to my friend that I think it is a fact well known by the people all over this country that the railroads are not suffering on account of poverty. The gentleman need not to have volunteered the information. This is particularly true of railroad magnates, of which he informs us he is one. They have lived on the fat of the land by sapping every industry; hence they are content.

Mr. SHATTUC. Get somebody else to tell it; they will not believe you. [Renewed laughter.]

Mr. GREENE. I think the gentleman need not have risen to state that he was a defender of these corporations. That goes without his saying so.

Mr. SHATTUC. You are right. I represent every interest of all of my constituents—railroads and all the rest—and I never slander any of my constituency. I prefer to tell all what a great district I represent. My district would not keep a calamity howler here half a session.

Mr. GREENE (continuing). Because everybody in the House knows you are. But did you ever raise your voice in defense of the struggling poor? Yes, brother; we know where you belong.

Mr. SHATTUC. You bet they do, or they will before this session is over. I never raised my voice to tell how poor a poor community was. I do not help poor people with my voice alone. If poor people could be supported on one's voice, you could feed the nation.

Mr. GREENE. And you need not have stood upon this floor to tell the people that you were the corporations' tool in this House. [Cries of "Ah!" on the Republican side.]

Mr. SHATTUC. I am not measured by your yardstick. [Applause on the Republican side.]

Mr. GREENE. I do not yield.

Now, all I care to say is simply this: When the gentleman speaks about the West as the fringe of civilization, it deserves the severest criticism, and I will not allow it to pass unrebuked. The West is populated by people who went from New England and from the Middle States and from almost every civilized country upon the face of the globe. Our population is heterogeneous, being the best blood and brain from every clime, and homogeneous because we are devoted to our country and our homes and with one common purpose are seeking the highest good for our common country. God has blessed the people who had the hardihood, the perseverance, the manhood, and the womanhood to enter into that frontier country and make it the garden spot of this Union.

Mr. MAHON. The railroads made it a success.

Mr. GREENE. I want to say to the gentleman, furthermore,

that the great West, from its broad and fertile fields, can feed the East long after you have ceased to plant your beans with a shotgun and dig fishing worms with dynamite. [Cries of "Oh!"] When you talk about the West as the fringe of civilization, it displays to this House and the country that you have no knowledge of the West or its people; that you have no knowledge of the broad expanse of that great country, of its rich valleys, its undulating plains, and broad table-lands, its mines, teeming with wealth enough to enrich a nation, of its energetic population, and the rapid strides which that great part of the country has been making to ascendancy among the States of the American Union. Sir, I do not want to criticize any part of our great country. We are one people. From North to South, from East to West, it should be our common purpose to seek the common welfare of all and every section and push on to the forefront of the nations of the world.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHATTUC. I ask that the gentleman have ten minutes more. [Laughter.]

Mr. GREENE. I do not want any more time. I simply want to say this—

The CHAIRMAN. The time of the gentleman has expired.

Mr. GREENE. I want to say simply I am not asking more time, because one word was sufficient to answer my friend.

Mr. SHATTUC. I do not want to ask you a question. You can not tell me anything.

Mr. CANNON. Mr. Chairman, I ask unanimous consent—

Mr. TODD. May I ask the gentleman from Ohio one question?

The CHAIRMAN. The gentleman from Ohio has not the floor.

Mr. CANNON. I now ask unanimous consent that the gentleman from Mississippi should have five minutes, and after that I want to ask consent to go on and finish the next page and a half of this bill, so that we can get through with it.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Mississippi have five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FOX. Mr. Chairman, I did not have the opportunity of hearing all that the gentleman from Ohio said. I came into the Chamber while he was speaking; but, as I understand, he made some criticism on the remarks that I had the honor to deliver the other day in the contested-election case of Aldrich against Plowman. I want to say, Mr. Chairman, that in all I have ever said in this Chamber, and I have said very little, I have never said one word that any gentleman could construe to stir up sectional feeling or the feeling of one class against another.

Mr. Chairman, I believe that this Government is made for the whole people, for every class of people, and that equal opportunities ought to be extended to all, and that the man in this country who attempts to array one class against another is unworthy of citizenship, and much more unworthy of a seat in this great body. [Applause.] What I did say, and I said it out of no hostility to railroad companies, because I have represented the largest railroad companies of this country for the last twelve years—what I did say was, and I reassert it, that we have as much right in the South to exercise any legitimate means to control the floating vote as have railroad corporations or manufacturing companies or mine owners in the North.

Mr. GREENE. But you are on the fringes of civilization—

Mr. FOX. I am very well content to take the civilization of my own State. It is a State that is made up of American people, descendants of those who fought for this country in the Revolutionary war, and always stood for good government under all circumstances. Now, what I want to say is that there are election frauds in this country, and I am sorry to say to the distinguished gentleman from Ohio [Mr. SHATTUC] that the election frauds in this country are not confined altogether to the Republican party. I am sorry that any exist. I believe that when you come to exercise the right of franchise, the brakeman has as much right as the railroad president. [Applause.] I believe that the humblest clerk in a great wholesale house on Broadway has as much right as the princely merchant who employs him. I believe that the laborer on the farm has just as much right at the ballot box—

Mr. HAMILTON. How about the colored man at the polls?

Mr. FOX. I believe he has as much right as you.

Mr. HAMILTON. Does he ever get that right?

Mr. FOX. Yes.

Mr. WILLIAMS of Mississippi. He has it in Mississippi.

Mr. FOX. Why is it not just as reasonable to expect that the planters would exercise their influence over the colored men in the South as that the railroad companies and other corporations should exercise their influence over their employees in the North? The trouble is, with you and your class of politicians, you think the colored man is the political slave of the Republican party.

Mr. HAMILTON. And you think he is the slave of his employer—

Mr. FOX. I can not yield to the gentleman for a speech. I want to tell you another thing, that if you gentlemen will stop

this policy of interfering in Southern elections and let them take the course they ought to take, you can do more in twelve months to build up the Republican party in the South than you have done since the war.

Now, I want to say further—

Mr. HAMILTON. I want to ask the gentleman if he lives at Tupelo?

Mr. FOX. Ask me a sensible and pertinent question, and I will answer it.

Mr. HAMILTON. I will do so. I understood the remarks of the gentleman from Ohio [Mr. SHATTUC] were addressed to the gentleman who lives in Tupelo, so he could not have referred to the gentleman.

Mr. SHATTUC. Yes; I did refer to him.

Mr. HAMILTON. He does not live in Tupelo.

Mr. FOX. I decline to yield, Mr. Chairman.

The CHAIRMAN. The gentleman from Mississippi declines to yield.

Mr. FOX. I know the gentleman from Ohio complimented the gentleman from Tupelo, and it is the only bad thing about JOHN ALLEN that I have heard since I have been a member of Congress. [Laughter.] Now, Mr. Chairman, everybody knows that in the last Presidential election the railroad companies and the capitalists of all kinds controlled the vote for McKinley by intimidation, by threats, by bribery. They bought everybody that they could buy and intimidated everybody that could be intimidated; and had it not been for that, William J. Bryan would to-day have been President of the United States. [Applause.]

The CHAIRMAN. The gentleman's time has expired.

The Clerk read as follows:

SEC. 2. That all sums appropriated by this act for salaries of officers and employees of the Government shall be in full for such salaries for the fiscal year 1890, and all laws or parts of laws in conflict with the provisions of this act be, and the same are hereby, repealed.

Mr. CANNON. Mr. Chairman, I ask unanimous consent that the amendment adopted on page 58, on motion of the gentleman from Missouri [Mr. DOCKERY], be transferred and inserted as section 3, at the end of the bill.

The CHAIRMAN. Is there objection to the motion of the gentleman from Illinois? [After a pause.] The Chair hears none.

The amendment was agreed to.

Mr. CANNON. Mr. Chairman, the Paris Exposition item went out on a point of order, and if it had been considered in the House, it was my purpose to perfect the text by amendment. Now, I desire unanimous consent to have that amendment printed and then the whole text printed in the RECORD, and I do it merely for preserving the matter as we hope to make it from the committee. I want to put it in the RECORD and have the paragraph printed as it would be amended.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none, and it is so ordered.

The amendment is as follows:

On page 107 strike out all after the word "Paris," in line 2, down to and including the word "dollars," in line 10, and insert in lieu thereof the following:

"The Secretary of Agriculture is hereby authorized to prepare such suitable exhibits of agricultural products of the States and Territories, including corn and the various products of that cereal, as the President shall approve, and shall exhibit the same under the direction and control of the commissioner-general, the total expenses of the said exhibits to be determined by the President, and not to exceed in the aggregate \$50,000."

In line 16 strike out the words "Departments of the Interior and Agriculture" and insert in lieu thereof the words "Executive Departments."

In line 21 strike out the words "under the supervision and care of" and insert in lieu thereof the words "as may be requested by."

In line 23 strike out the words "Secretary of the Interior, the Secretary of Agriculture" and insert in lieu thereof the words "heads of the Departments."

On page 108 strike out, in lines 10 and 11, the words "the Department of the Interior, the Department of Agriculture, and of the Fish Commission" and insert in lieu thereof the following: "Any of the Executive Departments that may be made as herein provided for."

On page 108, after the word "Congress," in line 17, insert "at the beginning of each regular session."

In line 18, after the word "hereunder," insert the words "during the twelve months preceding."

So that the paragraph will read as follows:

"Paris Exposition: The President, by and with the advice and consent of the Senate, shall appoint a commissioner-general, an assistant commissioner-general, and a secretary-general to represent the United States at the exposition to be held in Paris, France, commencing April 15 and closing November 5, 1889; also nine commissioners to represent the United States at the proposed exposition and to constitute an advisory board to the commissioner-general in making and executing all needful rules and regulations as to exhibits from the United States, and to serve without compensation or allowance for expenses. The assistant commissioner-general shall assist and act under the direction of the commissioner-general, and shall perform the duties of the commissioner-general in case of the death, disability, or temporary absence of the commissioner-general. The secretary-general shall act as disbursing agent, and shall perform such duties as may be assigned to him by the commissioner-general, shall render his accounts quarterly to the proper accounting officers of the Treasury, and shall give bond in such sum as the Secretary of the Treasury may require. The commissioner-general shall be paid a salary of \$8,000 per annum, the assistant commissioner-general a salary of \$6,000 per annum, and the secretary-general a salary of \$4,500 per annum, which said sums shall be in lieu of all personal expenses other than actual traveling expenses while engaged in exposition work; and the terms of service

of the commissioner-general, assistant commissioner-general, and secretary-general shall not exceed three years. The necessary expenses herein authorized and expenses for the proper installation and care of exhibits, together with all other expenses that may be authorized by the commissioner-general incident to the participation of the United States in said exposition, are hereby limited to the sum of not exceeding \$520,000, including not exceeding \$70,000 for clerk hire in the United States and at Paris. The Secretary of Agriculture is hereby authorized to prepare such suitable exhibits of agricultural products of the States and Territories, including corn and the various products of that cereal, as the President shall approve, and shall exhibit the same under the direction and control of the commissioner-general; the total expenses of the said exhibits to be determined by the President, and not to exceed in the aggregate \$50,000, to be paid out of appropriations made within the aforesaid sum of \$525,000; and reports respecting such exhibits, printed in the English, French, and German languages shall accompany such exhibits as the commissioner-general may direct. All officers and employees of the Executive Departments and of the Fish Commission in charge of or responsible for the safe-keeping of exhibits belonging to the United States may permit such exhibits to pass out of their possession for the purpose of being transported to and from and exhibited at said exposition, as may be requested by the commissioner-general, whenever authorized to do so, respectively, by the heads of the Departments and the Commissioner of Fish and Fisheries; such exhibits and articles to be returned to the said respective Departments to which they belong at the close of the exposition. The commissioner-general is hereby authorized to erect a temporary office for the commission within the limits of the said exposition; the cost of such building not to exceed the sum of \$10,000, and the same to be sold or disposed of by the commissioner-general when no longer required for use. The expenses herein authorized incident to the proper installation and exhibit of contributions from this country, other than the exhibits of any of the Executive Departments that may be made as herein provided for, and any loan exhibits that may be approved by the commissioner-general, shall not be construed to authorize the payment by the United States of freight, express, or other transportation charges on such contributions or exhibits either to or from Paris, France. It shall be the duty of the commissioner-general to transmit to Congress, at the beginning of each regular session, a detailed statement of the expenditures incurred hereunder during the twelve months preceding, and this statement shall be prepared and arranged with a view to conciseness of statement and convenience of reference. Toward the expenses herein authorized incident to the participation of the United States in said exposition there is hereby appropriated the sum of \$100,000, to be immediately available and to remain available until expended."

Mr. CANNON. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. PAYNE reported that the Committee of the Whole House on the state of the Union had had under consideration the bill (H. R. 8428) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1899, and for other purposes, and had directed him to report the same back with sundry amendments and with the recommendation that the bill be passed as amended.

Mr. CANNON. There are two amendments on which I desire a separate vote. One is the amendment which struck out the provision beginning on page 37, for what is called the "fraud fund"—the appropriation for punishment for violations of the internal-revenue laws. I desire also a separate vote on the amendment giving a month's extra pay to employees of the House and Senate.

The SPEAKER. Is a separate vote demanded on any other amendment? [A pause.] If not, the question will be taken on the other amendments in gross.

The question being taken, the amendments reported from the Committee of the Whole (except the two reserved for separate votes) were agreed to.

The SPEAKER. The Clerk will now read the first amendment on which a separate vote is asked.

The Clerk read as follows:

On pages 37 and 38 strike out the following:

"Punishment for violations of internal-revenue laws: For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws or conniving at the same, including payments for information and detection of such violations, \$75,000; and the Commissioner of Internal Revenue shall make a detailed statement to Congress once in each year as to how he has expended this sum, and also a detailed statement of all miscellaneous expenditures in the Bureau of Internal Revenue for which appropriation is made in this act: *Provided*, That necessary books of reference and periodicals for the chemical laboratory may be purchased out of the appropriation made for the fiscal year 1899, for salaries and expenses of agents and surveyors, fees and expenses of gaugers, salaries of storekeepers, and for miscellaneous expenses."

Mr. CANNON. I desire very briefly to call the attention of the House to this amendment.

Mr. SWANSON. I suppose the gentleman will grant to this side of the House the same length of time for discussion that is occupied on the other.

Mr. CANNON. Oh, certainly; but I hope the debate will not extend beyond five minutes on each side. I wish the Chair would let me know when I have spoken three minutes.

Gentlemen will recollect that the other day the Committee of the Whole struck out the paragraph making an appropriation of \$75,000 to aid in the enforcement of the internal-revenue laws. Heretofore the appropriation has been \$50,000. This is an increase of \$25,000.

What is the effect of this amendment? With a tax of \$1.10 on whisky, which costs 20 cents a gallon to manufacture, you propose to encourage people who, in the cities and elsewhere, through "moonshining" and other improper practices, violate the law, and thereby make 90 cents on every gallon of illicit whisky. You

propose to let the revenue in this respect go without protection. And I was sorry to see an almost solid vote on the other side in favor of striking out this provision.

Several thousand illicit stills are seized every year. We must have the information which this appropriation provides for obtaining. We must employ detectives. If people do not want detectives employed, they must abide by the law. There is no other way to detect criminals than to find people who know about the crime or are willing to find out about it.

This appropriation is necessary for the enforcement of the law in various parts of the country—in Chicago, in Cincinnati, in Kentucky, in Arkansas, in Tennessee, and especially in Georgia and North Carolina. I trust the action of the Committee of the Whole will be reversed and that this appropriation of \$75,000 will remain in the bill.

I now yield five minutes to the gentleman from Virginia [Mr. SWANSON].

Mr. SWANSON. I should like to have a little more than five minutes.

Mr. CANNON. I wanted to get through this discussion with five minutes on each side.

Mr. SWANSON. Mr. Speaker, the remarks of the gentleman from Illinois [Mr. CANNON] would tend to leave upon the mind of the House an entirely mistaken impression as to the effect of sustaining the amendment adopted by the Committee of the Whole after full discussion, and thereby eliminating that provision providing for payment of spies and informers. The gentleman has endeavored to give the House the impression that we have no officers for the enforcement of the revenue laws of the United States except so far as this special appropriation makes provision for them. Sir, we have about 950 deputy collectors. In every district where the internal-revenue laws are to be enforced there is a deputy collector, there are storekeepers and gaugers and deputy marshals, there is an efficient corps of officers to detect every violation of the internal-revenue laws.

A MEMBER. And we have, too, the licensed liquor dealers.

Mr. SWANSON. Yes; we have the licensed liquor dealers. The amendment of the committee strikes out the fund which creates the professional spies and informers who have made the United States courts notorious for frivolous, infamous, and wicked prosecutions which cost this Government thousands and thousands of dollars every year. This amendment strikes out the provision which provides pay for information obtained from these professional spies and informers, a system which debauches the courts of the country. The gentleman from Kentucky [Mr. EVANS] admitted in the discussion of this case in the Committee of the Whole—

Mr. EVANS. Admitted what?

Mr. SWANSON. That five-sixths of the prosecutions in the United States courts are for violations of the law requiring a special license for retailers.

Mr. EVANS. The gentleman is entirely mistaken on that point.

Mr. SWANSON. Well, look at the record.

Mr. EVANS. Let the gentleman look at the record.

Mr. SWANSON. I asked the gentleman whether five-sixths of the prosecutions in the United States courts, or at least a vast majority of them, do not result from a failure on the part of people to obtain special retail liquor licenses.

Mr. EVANS. And what did I answer?

Mr. SWANSON. The gentleman answered that such cases constituted a majority of the prosecutions—

Mr. EVANS. Oh, no.

Mr. SWANSON. And that you were willing to repeal that provision of the law.

Mr. EVANS. Yes.

Mr. SWANSON. But whether that be the fact or not, I guarantee that there is not anywhere else such a state of affairs as exists in the United States courts in regard to the enforcement of the internal-revenue laws. The cases arising from the disbursement of this fund go to the United States commissioner. One-half of the cases which go to him he refuses to send to the grand jury.

The grand jury refuse to indict half of the cases that are sent to them. The petit juries fail to convict one-half of the cases in which the grand juries find indictments. This failure arises from the use of this fund, and costs the United States millions of dollars every year in the payment of fees to witnesses, and this does not include the expenses to which the people are put on account of the frivolous prosecutions engendered in this way. Now, we say the right way to do is to leave the enforcement of this law to the deputy collectors, to the collectors of the district, to the twenty agents furnished to the Commissioner of Internal Revenue, and that this money should not be paid to men who can not be believed when the case is brought into court.

We think it a disgrace that this Government should pay for evidence. What does the record of the Commissioner of Internal Revenue show in reference to this fund? It shows that year

before last, I believe, they seized \$280,000 worth of property. Now, that included the distilleries, all the materials, and this vast quantity of illicit whisky that the gentleman from Illinois [Mr. CANNON] talked about so much. If they had seized any vast sum or any large quantity of illicit whisky, their seizure of all property under this fund would have amounted to more than \$280,000. If you will confine it to the whisky alone, it would not amount to a hundred thousand gallons.

What did this cost the Government last year? If you include the \$50,000 appropriated last year and then the costs of the revenue agents and the expenses for the frivolous prosecutions engendered, it has cost the Government, I believe, from half a million to a million of dollars, simply on account of the appropriation of this fund. A few years ago it was \$25,000. These gentlemen insisted that it should be increased to \$50,000. Congress did it. Now they come and insist that it shall be increased to \$75,000. We who oppose this say that it does not stop the manufacture of illicit whisky. It simply encourages frivolous prosecutions in the United States courts.

We ask you to give us one year of trial. Strike it out this year and the records of the courts next year will show a better state of affairs and a saving of money to this Government. Give us one experiment and experience will justify it. It has been discussed in full in the committee, and I hope the House will stand by the action of the committee.

Mr. CANNON. Mr. Chairman, I yield three minutes to the gentleman from New York [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I think the gentleman who last spoke is laboring under a misconception of the use to which this money is to be put. Deputy United States marshals have nothing whatever to do with it, and prosecutions which arise under their information are not paid for out of this fund. There are, as the gentleman says, a thousand deputy United States marshals throughout the country, but none of them are charged with the duty which is performed by those paid out of this fund. None of them appear before the grand jury or in trials in the United States courts, so far as my knowledge goes after an experience of several years as a United States district attorney.

This money is expended for the purposes of ferreting out fraud in the way of illicit distilling, duties which United States marshals and their deputies are not regularly paid for. Their pay comes from fees for making arrests, for subpoenaing witnesses, and for appearing before grand juries and in trials as witnesses.

Mr. SWANSON. Will the gentleman permit me?

Mr. ALEXANDER. Certainly.

Mr. SWANSON. I stated that this provided for an additional set of officers, distinct from the deputy marshals and deputy collectors, and I say the collectors and marshals are sufficient to execute the law without having the additional informers or spies that this fund provides for. That was one reason why I said there was no necessity for this fund—the fact that ample provision is made for the deputy collectors to see that the United States laws are enforced so far as illicit whisky is concerned.

Mr. ALEXANDER. And that was why I rose to correct the gentleman, who is evidently misinformed. This \$75,000 to be appropriated is to pay officials for doing work entirely different from that regularly performed by deputy United States marshals, and for which fees are provided.

Mr. LINNEY. Will the gentleman please tell us what that different work is, if the others can not do it?

Mr. ALEXANDER. Yes; if I am allowed the time.

The SPEAKER. The time of the gentleman has expired.

Mr. CANNON. I yield to the gentleman two minutes longer, if he desires to answer the question.

Mr. ALEXANDER. I shall be pleased to answer the gentleman.

Mr. LINNEY. I want to know this: You say that this special fund goes to the payment of officers for the performance of a duty that the marshals and the deputies can not perform, as I understand you?

Mr. ALEXANDER. Yes.

Mr. LINNEY. Now, will you please tell the House what duty it is in connection with the enforcement of the internal-revenue laws that may not now be as effectively carried out as the State laws may be carried out by the regular State machinery without the payment of any outside money?

Mr. ALEXANDER. I will answer the gentleman's question as briefly as possible. Deputy United States marshals might perform this duty if there was money to pay them for doing it; but without this fifty or seventy-five thousand dollars they could not be paid. The duty regularly performed by deputy United States marshals is paid for in fees for the performance of services like subpoenaing witnesses, making of arrests, or testifying as witnesses.

Mr. LINNEY. Why not give the money to the regular officers and keep these spies at home?

Mr. ALEXANDER. It does give it to the regular officers. I know of no spies. They are men regularly employed, men who

are doing their duty in the open the same as other Government officials. It is legitimate work, and this money is appropriated to pay them, not in the shape of fees, but for services for which no fees are provided.

Mr. SWANSON. I do not know whether the gentleman has that state of affairs in his own State or not, but in sections of this country, as United States judges have said, there are men who make their living from this fund, men who are known as professional spies, and who have no livelihood except what they get out of this fund.

Mr. ALEXANDER. We have nothing of that kind, as far as I know.

Mr. SWANSON. Why, Judge Paul, a United States judge, once told a witness who had been before him as a witness for years that when he commenced to be a United States judge this man was a witness in that court, that he had been at all the sessions of the court, and he did not want to see him there again. And Judge Brawley delivered a charge against professional spies and informers.

The SPEAKER. The time of the gentleman has expired.

Mr. ALEXANDER. I want to say in reply to my friend that these men are professional detectives, the same as detectives connected with our police system, and unless this money is appropriated there will be nothing to pay them. They have been in the business for years, being professionals, and are necessary to the enforcement of the law.

Mr. CANNON. Now, Mr. Speaker, just one word in conclusion and then I will ask the previous question.

Mr. KITCHIN. I should like to have two minutes just to tell how this fund operates in North Carolina.

Mr. CANNON. I will yield two minutes to the gentleman.

Mr. KITCHIN. Mr. Speaker, the gentleman who has just discussed the amendment on the other side [Mr. ALEXANDER] certainly is not informed as to the facts in regard to the expenditure of this fund in North Carolina. A great deal of this fund is paid, not to an officer, not to any man who has ever taken an oath as an officer, not to a man who is recognized by the collector or the marshal as an officer, but to private citizens who have no connection whatever with the departmental service. Any private citizen who reports certain illicit acts on the part of a distiller is paid \$10, \$15, or \$20 for the information. For this money private citizens roam all over the country, on Sundays and at other times, and where they find or think they find illicit distilling going on, or where they find an opportunity of wreaking their private vengeance against their neighbors under color of serving the Government, they make reports to the revenue officers.

Mr. ALEXANDER. May I ask the gentleman a question?

Mr. KITCHIN. The gentleman may.

Mr. ALEXANDER. Is there any objection to the detectives going up and down our streets in cities, seeing if there is any violation of law?

Mr. KITCHIN. Not a bit.

Mr. ALEXANDER. Then, is there any objection to detectives going up and down the country to see if people are violating the internal-revenue law?

Mr. KITCHIN. Yes; if you mean to denominate these private citizens who are wreaking their private vengeance as detectives. In the one case the detectives are paid regular salaries and are sworn officers, and in the other case the informant is paid only when he gives favorable information.

Mr. ALEXANDER. I want to ask the gentleman another question. Is there not just as much reason for claiming that a detective in the city of Washington is wreaking his private vengeance upon the citizen because he examines into what he is doing wrong as to say when an examination is made in connection with the business of the Internal Revenue Bureau that that man is wreaking private vengeance?

Mr. KITCHIN. There is this difference: In one case the detective is regularly employed and paid for his time and regarded as an officer, but it is another case where a private citizen gets pay in case he reports some man for having violated the law. With regular detectives the gratification of private vengeance is the exception, but it is the rule in the case of private informers.

Mr. ALEXANDER. The gentleman is entirely misinformed. There is not a dollar of this \$75,000 that is given for the payment of an informer.

Mr. KITCHIN. That is the way a large part of this fund is expended throughout the mountain regions of Kentucky, Virginia, North Carolina, Georgia, and Tennessee. The gentleman from New York is misinformed in regard to that. It is no worse to pay for evidence after the indictment has been drawn up against a man than it is to pay for proof before the charge is made against him; and it operates as a hardship upon the people where these prosecutions are made and results in frivolous prosecutions. I am opposed to violations of law and in favor of prosecuting violators, but I am opposed to this "fraud fund" which furnishes such an

opportunity for persecution. There are good men enough to report real violations without giving to bad men the opportunity of unreasonably annoying their neighbors.

Mr. CANNON. One word, and then I am ready for a vote. This is a representative Government. Virginia, North Carolina, Georgia, and other States the other day—

Mr. BARTLETT. Will the gentleman allow me to ask him a question?

Mr. CANNON. Let me get this sentence out. [Laughter.] Came the other day and opposed this appropriation. Why? Because this is a representative Government. Last year 2,273 illicit stills were seized. These people were making whisky at a cost of less than 20 cents a gallon, nearly 2,500 of them, and were making 90 cents a gallon profit by evading the laws of their country, your country, and my country; and a great majority of them were to be found in North Carolina, Georgia, and Virginia—a pretty large voting population, and they are represented here by men—I am not now criticising honorable Representatives—by men who do represent them.

They are their constituents; and they do not want these men prosecuted under this law by the aid of detectives. Well, now, let us see. Up in the mountains of Virginia, how far could a marshal, or a deputy that is known to be a marshal, get along in finding out about that illicit still? Not very far. Now, the way this thing is done is to get somebody to go there and spy the land and get the information; then the warrant is sworn out, and then the officers go there and arrest the parties and prosecute them. The gentleman says that is oppression. Well, now, if that is oppression, I am for oppressing that kind of constituents of the gentleman from Virginia. [Applause.] Now, I call for a vote. [Cries of "Vote!"]

Mr. SWANSON. As I understand, then, do you—

The SPEAKER. The gentleman asks the previous question.

Mr. CANNON. I will hear the gentleman's question.

Mr. SWANSON. As to that the gentleman is absolutely wrong. The report of the Attorney-General shows that in one-half of the prosecutions where the warrants are sworn out to take them before the commissioners, the commissioners do not send them to the grand jury; in one-half of the cases that are sent to the grand jury the indictments are not found, and the record shows that one-half of the cases where the indictments are found are acquitted in the courts. Do you favor that?

Mr. CANNON. Therefore, because every man is acquitted in the Federal courts the effect will be that we should abolish all law and all means of enforcing law.

Mr. SWANSON. All law that is oppressive ought to be abolished.

Mr. CANNON. Now, I ask for the previous question.

The question was taken, and the previous question was ordered.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and the Speaker announced that the yeas seemed to have it.

Mr. SWANSON. Division!

The House divided; and there were—ayes 67, noes 103.

Mr. SWANSON. The yeas and nays.

The question was taken on ordering the yeas and nays.

The SPEAKER. Thirty gentlemen have arisen—not a sufficient number—and the yeas and nays are refused.

Mr. SWANSON. Tellers on the yeas and nays.

The question was taken on ordering tellers on the yeas and nays.

The SPEAKER. Twenty-eight gentlemen have arisen—not a sufficient number—and tellers on the yeas and nays are refused; the yeas and nays are refused; the yeas have it, and the amendment is rejected. The Clerk will report the next amendment.

The Clerk read as follows:

Insert at the end of line 23, page 109:

"To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay to the officers and employees of the Senate and House borne on the annual and session rolls on the 1st day of February, 1898, including the Capitol police, the official reporters of the Senate and of the House, and W. A. Smith, CONGRESSIONAL RECORD clerk, for extra services during the Fifty-fifth Congress, a sum equal to one month's pay at the compensation then paid them by law, the same to be immediately available."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and the Speaker announced that the yeas seemed to have it.

Mr. HARTMAN. Division!

The House divided; and there were—ayes 43, noes 74.

Mr. HARTMAN. I demand the yeas and nays.

Mr. CANNON. I hope the gentleman will submit.

The SPEAKER. Twenty-four gentlemen have arisen in support of the demand for the yeas and nays—a sufficient number.

Mr. CANNON. I ask for the other side.

The SPEAKER (after counting). Eighty-one gentlemen have arisen—a sufficient number, and the yeas and nays are ordered.

Mr. FOOTE. Mr. Speaker, I should like to hear the amendment again.

Mr. COX. Mr. Speaker, I would like to have the amendment read again.

The SPEAKER. If there is no objection, the Clerk will again read the amendment.

The Clerk again read the amendment.

The question was taken; and there were—yeas 63, nays 155, answered "present" 8, not voting 130; as follows:

YEAS—63.

Aldrich,	Davey,	Landis,	Rhea,
Baird,	Driggs,	McEwan,	Ridgely,
Benner, Pa.	Eddy,	McIntire,	Robertson, La.
Botkin,	Epes,	Maguire,	Settle,
Broussard,	Fischer,	Mahany,	Simpson,
Brownlow,	Gardner,	Marshall,	Skinner,
Brumm,	Graff,	Mills,	Sulloway,
Bull,	Greene,	Minor,	Sulzer,
Carmack,	Griffin,	Mudd,	Vincent,
Codding,	Griffith,	Newlands,	Walker, Va.
Colson,	Gunn,	Norton, Ohio	Wanger,
Connell,	Harmer,	Norton, S. C.	Wheeler, Ky.
Corliss,	Hartman,	Ogden,	White, N. C.
Cranford,	Howell,	Olmsted,	Williams, Pa.
Cummings,	Kelley,	Packer, Pa.	Young, Pa.
Curtis, Iowa	Knowles,	Powers,	

NAYS—155.

Adamson,	Elliott,	Knox,	Robinson, Ind.
Alexander,	Evans,	Lacey,	Royse,
Allen,	Faris,	Lanham,	Russell,
Babcock,	Fitzpatrick,	Latimer,	Sayers,
Bailey,	Fleming,	Lawrence,	Shafroth,
Ball,	Fletcher,	Linney,	Shannon,
Barham,	Footo,	Little,	Shelden,
Barney,	Foss,	Lloyd,	Showalter,
Barrows,	Fowler, N. J.	Loud,	Shuford,
Bartholdt,	Fox,	Love,	Simpkins,
Bartlett,	Gaines,	Lovering,	Sims,
Belford,	Gibson,	Low,	Slayden,
Bingham,	Gillet, N. Y.	McDowell,	Smith, Ky.
Bishop,	Gillett, Mass.	McRae,	Southard,
Bland,	Grow,	Maddox,	Spalding,
Bodine,	Hamilton,	Marsh,	Sparkman,
Boozo,	Handy,	Martin,	Steele,
Brenner, Ohio	Hay,	Maxwell,	Stephens, Tex.
Brown,	Henderson,	Meekison,	Stevens, Minn.
Brucker,	Henry, Conn.	Mesick,	Stewart, Wis.
Burke,	Henry, Ind.	Moody,	Straif,
Burleigh,	Henry, Miss.	Moon,	Sturtevant,
Burton,	Henry, Tex.	Morris,	Tate,
Cannon,	Hepburn,	Northway,	Tawney,
Clardy,	Hilborn,	Osborne,	Terry,
Clark, Iowa	Hill,	Otey,	Todd,
Clark, Mo.	Hitt,	Otjen,	Tongue,
Clarke, N. H.	Hooker,	Parker, N. J.	Underwood,
Clayton,	Hopkins,	Payne,	Updegraff,
Connolly,	Howard, Ala.	Perkins,	Vandiver,
Cox,	Howard, Ga.	Pierce, Tenn.	Van Voorhis,
Dalzell,	Hull,	Pugh,	Warner,
Danford,	Hunter,	Quigg,	Weymouth,
Davenport,	Jenkins,	Ray,	Wheeler, Ala.
Davison, Ky.	Johnson, N. Dak.	Reeves,	White, Ill.
De Armond,	Ketcham,	Richardson,	Williams, Miss.
Dingley,	King,	Rixey,	Wilson,
Dinsmore,	Kirkpatrick,	Robb,	Zenor.
Dolliver,	Kitchin,	Robbins,	

ANSWERED "PRESENT"—8.

Dockery,	Kleberg,	McCulloch,	Smith, Ill.
Jett,	McClellan,	Miers, Ind.	Stallings.

NOT VOTING—130.

Acheson,	Cochrane, N. Y.	Jones, Va.	Prince,
Adams,	Cooney,	Jones, Wash.	Sauerhering,
Arnold,	Cooper, Tex.	Joy,	Shattuc,
Baker, Ill.	Cooper, Wis.	Kerr,	Sherman,
Baker, Md.	Cousins,	Kulp,	Smith, S. W.
Bankhead,	Cowherd,	Lamb,	Smith, Wm. Alden
Barber,	Crump,	Lentz,	Snover,
Barlow,	Crumpacker,	Lester,	Southwick,
Barrett,	Curtis, Kans.	Lewis, Ga.	Sperry,
Beach,	Davidson, Wis.	Lewis, Wash.	Sprague,
Belden,	Davis,	Littauer,	Stark,
Belknap,	Dayton,	Livingston,	Stewart, N. J.
Bell,	De Graffenreid.	Lorimer,	Stokes,
Bennett,	De Vries,	Loudenslager,	Stone, C. W.
Benton,	Dorr,	Lybrand,	Stone, W. A.
Berry,	Dovener,	McAleer,	Strode, Nebr.
Boutell, Ill.	Ellis,	McCall,	Strowd, N. C.
Boutelle, Me.	Ermentrout,	McCleary,	Sullivan,
Bradley,	Fenton,	McCormick,	Sutherland,
Brantley,	Fitzgerald,	McDonald,	Swanson,
Brewer,	Fowler, N. C.	McMillin,	Talbert,
Brewster,	Griggs,	Mahon,	Taylor, Ohio
Broderick,	Grosvenor,	Mann,	Taylor, Ala.
Bromwell,	Grout,	Mercer,	Vehslage,
Brosius,	Hager,	Meyer, La.	Wadsworth,
Brundidge,	Hawley,	Miller,	Walker, Mass.
Butler,	Heatwole,	Mitchell,	Ward,
Campbell,	Hemenway,	Odell,	Weaver,
Capron,	Hicks,	Overstreet,	Wilber,
Castle,	Hinrichsen,	Pearce, Mo.	Yost,
Catchings,	Howe,	Pearson,	Young, Va.
Chickering,	Hurley,	Peters,	
Cochran, Mo.	Johnson, Ind.	Pitney,	

So the amendment was rejected.

The following pairs were announced:

Until further notice:

Mr. LOVERING with Mr. ADAMSON.

Mr. CRUMPACKER with Mr. MIERS of Indiana.

Mr. SHERMAN with Mr. MEYER of Louisiana.
 Mr. JETT with Mr. MANN.
 Mr. LOUDENSLAGER with Mr. STALLINGS.
 Mr. BROSIUS with Mr. ERMENTROUT.
 Mr. WARD with Mr. McCULLOCH.
 Mr. PITNEY with Mr. DOCKERY.
 Mr. DOVENER with Mr. SPARKMAN.
 Mr. LITTAUER with Mr. CRANFORD.
 Mr. WILLIAM A. STONE with Mr. McCLELLAN.
 Mr. HEATWOLE with Mr. TALBERT.
 Mr. CRUMP with Mr. ROBB.
 Mr. STURTEVANT with Mr. SLAYDEN.
 Mr. SNOVER with Mr. BARLOW.
 Mr. WHITE of Illinois with Mr. ROBERTSON of Louisiana.
 Mr. CHARLES W. STONE with Mr. BRANTLEY.
 Mr. STEELE with Mr. TAYLOR of Alabama.
 Mr. LYBRAND with Mr. LENTZ.
 Mr. MILLER with Mr. KLEBERG.
 Mr. HICKS with Mr. BANKHEAD.

For this day:

Mr. SPERRY with Mr. COCHRAN of Missouri.
 Mr. MAHON with Mr. LESTER.
 Mr. BOUTELL of Illinois with Mr. GRIGGS.
 Mr. WALKER of Massachusetts with Mr. STOKES.
 Mr. CAPRON with Mr. MAGUIRE.
 Mr. STRODE of Nebraska with Mr. DE VRIES.
 Mr. DAVIDSON of Wisconsin with Mr. HINRICHSEN.
 Mr. PEARCE of Missouri with Mr. McALEER.
 Mr. OVERSTREET with Mr. LAMB.
 Mr. WILBER with Mr. DE GRAFFENREID.
 Mr. BRODERICK with Mr. VEESLAGE.
 Mr. BROMWELL with Mr. YOUNG of Virginia.
 Mr. CHICKERING with Mr. BREWER.
 Mr. CURTIS of Kansas with Mr. LIVINGSTON.
 Mr. TAYLER of Ohio with Mr. JONES of Virginia.
 Mr. YOST with Mr. BERRY.

On this vote:

Mr. GROSVENOR with Mr. BRUNDIDGE.

After the roll call the following took place:

Mr. KLEBERG. Mr. Speaker, I am paired with the gentleman from West Virginia, and I want to withdraw my vote.

The SPEAKER. The gentleman's vote will be withdrawn.

Mr. DOCKERY. Mr. Speaker, I have a general pair with the gentleman from New Jersey, Mr. PITNEY. I suppose it was announced, and having voted in the negative, I wish to withdraw my vote.

The result of the vote was then announced as above recorded.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

A motion by Mr. CANNON to reconsider the vote whereby the bill was passed was, upon his motion, laid on the table.

TRANSPORTATION OF DISTILLED SPIRITS, ETC.

Mr. EVANS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 6462, and pending that I would like to ask unanimous consent that the debate be limited to some reasonable time.

Mr. BAILEY. Mr. Speaker, I would like to have the Chair direct the Clerk to read the title to the bill.

The Clerk read as follows:

A bill to authorize the transportation of distilled spirits to general bonded warehouses and the removal therefrom.

Mr. EVANS. I would suggest to gentlemen that this bill was quite fully discussed a few days ago, and possibly some short time will suffice for discussion this afternoon.

Mr. SWANSON. I think ten minutes on a side will be sufficient.

Mr. EVANS. Well, say fifteen minutes on a side.

Mr. DINGLEY. The only discussion, I take it, will be on the amendment.

Mr. SWANSON. Probably that is all.

Mr. EVANS. Well, then, Mr. Speaker, I ask that general debate be limited to thirty minutes, fifteen minutes on a side.

The SPEAKER. The gentleman from Kentucky moves that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering House bill 6462, and pending that, asks unanimous consent that the time for general debate be limited to thirty minutes. The Chair understands that there is no objection. The question now is on the motion of the gentleman from Kentucky that the House resolve itself into Committee of the Whole House on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. LACEY in the chair.

The CHAIRMAN. The House is in Committee of the Whole on the state of the Union for the further consideration of House bill No. 6462. The gentleman from Kentucky [Mr. EVANS] is entitled to the floor for fifteen minutes.

Mr. EVANS. Mr. Chairman, the object of this bill was quite clearly stated when it was before the Committee of the Whole a few days ago. I will not undertake to make any further explanation on that point, but will yield ten minutes to the gentleman from Pennsylvania [Mr. SHOWALTER].

Mr. SHOWALTER. Mr. Chairman, a few days ago my genial friend from Nebraska, in his daily grist of calamity which he grinds out to the delectation of the other side of this House and which this side receives with great patience and composure, quoted from an article in some Pennsylvania paper, citing the deplorable condition of labor in Newcastle. I have the honor to represent the district in which that city is located, and I want to say, Mr. Chairman, that if there is one place in the Union where the cry of calamity and hard times can not apply it is Newcastle, Pa. There are more men employed there to-day and at better wages than at any time in its history. An idle man in that beehive of industry would be hard to find.

I am reminded by these constant denials and cry that prosperity does not exist, is not here, of the same cry from the same people a few years ago, just after the McKinley tariff law went into effect, which established that great industry in our land—the manufacture of tin plate. The Democratic newspapers, the Democratic orators all over our broad land, from the Atlantic to the Pacific, from the Lakes to the Gulf, declared we could not make tin plate, never could make it. Even after more than a score of plants had been established and were turning out tin plate by the tons, still they declared that we could not make tin plate.

Many of them even to-day will deny that we can make tin plate. To these doubting Thomases I want to say that in my district, in this same city of Newcastle, which the Demosthenes from Nebraska claims is in such a pitiable condition, the largest tin-plate mill in the world is located, employing more men and turning out more tin than any other establishment in the world. There are over 1,700 men employed in the production of tin plate in that city, receiving \$83,000 per month. And that is not all; in this same city there is in course of construction a still larger plant, which will employ over 2,000 men, with a monthly pay roll of over \$100,000.

Mr. Chairman, the Democratic party is made up of negations and denials. I will not in the brief time allotted to me undertake to go into its history. Suffice it to say that its long, black record of nearly forty years of opposition and denials of righteous measures is scarcely illumined by one ray of light. In fact, it has denied and opposed almost every measure calculated to promote the greatness, the progress, the peace, the happiness, and the prosperity of our land; and when the people became tired of its constant denials and foolishly gave it control of the Government under which we had grown and expanded and had become the most powerful and prosperous people on earth, a policy under which we had paid off two billions of a Democratic war debt, had protected our labor and our industries, and had become the wonder and marvel of the world, unparalleled in growth, in progress, and in wealth, it reversed this policy, passed a free-trade tariff law, plunged the country into the worst panic on record, paralyzed our industries, closed our mills and factories, threw tens of thousands of our workmen out of employment and sent them tramping the highways of the countryside and the byways and alleys of our cities. It dissipated the surplus in the National Treasury, which surplus was to it the cause of all ills to which we are heir, and ran the country \$262,000,000 in debt, in a time of absolute peace, and now when the bright beams of prosperity are again beginning to shine under the beneficent policy of the Republican party, led by its matchless chieftain, William McKinley, it takes up its old shibboleth and continues to deny.

It now denies the right of the Government to maintain its plighted faith and honor, and wants to pay our bonds in 44-cent dollars, a policy which, if pursued, would tarnish our fair fame, sully our heaven-born flag, plunge us into the abyss of national repudiation, dishonor, and disgrace, and make us a reproach among the nations of the earth. It denies that there is any prosperity in America and goes skulking around like a pestilence, loving darksome and grewsome places, gloating, feeding, and fattening like the scavenger upon the filth and misery it may discover, and if perchance in some sequestered sections a few places are discovered where local conditions are disadvantageous, where labor is still poorly paid or is in revolt, the hue and cry goes forth from one end of the land to the other that the Dingley bill is a failure and prosperity does not exist. How pitiable, how dishonest, how unpatriotic this cry! [Applause.]

Mr. SWANSON. Mr. Chairman, this bill proposes to amend the laws in regard to warehouses for the deposit of distilled liquors. Under the present law, if a person desires to remove whisky to a

general bonded warehouse, it can only be done upon the request of the distiller. The Government is very much interested in getting whisky to the point of distribution as quickly as possible. So it has established in large cities, like Kansas City, New York, Baltimore, and other places, large general bonded warehouses for the deposit of whisky, thus bringing it close to the consumer. As I have stated, under the existing laws this transfer can only be made upon the request of the distiller.

The present bill proposes to give the owner of the whisky the same privilege now allowed to the distiller. I am in favor of the bill. All the members of the Committee on Ways and Means favored it. It ought to be passed. But I desire the adoption of an amendment which will extend to fruit brandy the same privilege extended to distilled whisky. The benefit to the Government by the passage of this bill will be in getting the whisky as quickly as possible to market. As the Government does not receive the tax on distilled whisky until it is sold, it is interested in having the whisky brought to the great markets where it is to be sold as quickly as possible.

This whisky may be allowed under the law to remain in bonded warehouses for seven years. I insist that the people who make fruit brandy should have the same privilege in regard to the transportation of their product to the large general bonded warehouses as is accorded to distillers of whisky and, by this bill, to owners as well as distillers.

This bill as introduced by the gentleman from Pennsylvania [Mr. DALZELL] contained no exception depriving fruit brandy of the privilege extended to whisky. The amendment which I desire to offer will restore the bill to the form in which it was originally introduced.

There can be no objection to extending this same privilege to fruit brandy; and I can see stronger reasons for extending it to fruit brandy. The distillers of fruit brandy in this country are small distillers. In my district there are, I suppose, about 200 persons engaged in making fruit brandy. There are in some districts special bonded warehouses for the deposit of fruit brandy; where there is no special bonded warehouse the tax must be paid on the fruit brandy within a very short time after it is gauged.

Mr. CLARK of Missouri. I wish to ask the gentleman from Virginia why it is that a distiller of fruit brandy can not have a bonded warehouse for his product as much as a distiller of whisky?

Mr. SWANSON. The reason a distiller of fruit brandy has not a bonded warehouse in which he can deposit his product like the grain distiller is that at a grain distillery there are always storekeepers and gaugers. But the distiller of fruit brandy has no gauger present all the time. He simply makes a report of the amount of brandy made by him; and then a gauger goes and gauges the brandy; and upon the amount reported by the gauger the tax is paid.

Where there is a special bonded warehouse for fruit brandy, the distiller of fruit brandy may deposit it in that warehouse and have the privilege of allowing it to remain there in bond for seven years. But every grain distiller has his own bonded warehouse.

Mr. VINCENT. Does the gentleman state that if the liquor is deposited in a bonded warehouse the tax need not be paid for seven years?

Mr. SWANSON. The distiller or owner, in that case, is not compelled to pay the tax, I believe, for seven or eight years.

Mr. EVANS. In that respect all distilled spirits stand on the same footing.

Mr. SWANSON. Yes; all distilled spirits stand on the same footing, except that each grain distiller has his bonded warehouse in which he can deposit his whisky, but each distiller of fruit brandy has not his bonded warehouse; and unless he can induce the Department to establish a special bonded warehouse suitable for his product, he has to pay the tax on his fruit brandy, I believe, ninety days after it is gauged.

Mr. VINCENT. By putting off the payment of this tax for seven years, is not the manufacturer of whisky given a special advantage?

Mr. SWANSON. Under the present law he is given that privilege; that is, he does not take it out of the warehouse until he has sold it, and when he has sold it he pays the tax on it and the retail dealer gets the whisky. Now, in order to make them take it out of bond quickly, in order to get it as near the place of consumption as possible, the Government has established in large cities, like Kansas City, St. Louis, New York, Chicago, and Boston, and other great points of distribution, what are known as general bonded warehouses. The distiller of whisky will enter into a bond and take his whisky and deposit it in one of these general bonded warehouses, and when it is sold, then the tax is paid on it.

Mr. RIDGELY. Are these bonded warehouses Government houses?

Mr. SWANSON. No; they are not Government houses, but they have a gauger there to take charge, so that nothing is done improperly, and there is no fraud.

Mr. RIDGELY. But the distillers have to pay the storage.

Mr. SWANSON. The distillers have to pay the storage, provided they have not sold the whisky; but under the present law it is limited to the distillers. The whisky can only be removed on petition of the distiller. This extends it to the owner as well as to the distiller.

Mr. GAINES. The purpose of this is to give the owner of the whisky the same advantage which the distiller of it has?

Mr. SWANSON. A distiller sometimes will sell a thousand barrels of his whisky, and the Government is anxious to get it to the point of distribution, and so is the owner; but the distiller will not sign the petition for the removal to a general bonded warehouse, because he wants to keep it at his distillery and get storage or rent.

This is to allow the owner to have the same privilege that the distiller has under the present law. Now, I want the owners of fruit brandy to have the same privilege of having general bonded warehouses at the great points of distribution, like Kansas City, Baltimore, and New York, which is extended to the grain distillers. There can be no reason why this privilege should not be granted. The tax upon fruit brandy and the tax upon whisky are precisely the same, \$1.10 a gallon. Now, it is said that the whisky and brandy might be mixed. Well, if you mix brandy and whisky, what difference does it make, so far as the Government is concerned? It gets the same tax on the mixture, \$1.10.

Mr. RIDGELY. The gentleman says this was in the bill once. Why was it taken out?

Mr. SWANSON. Mr. Wilson, of the Revenue Bureau, did not want it to apply to fruit brandy.

Mr. SHAFROTH. Why not?

Mr. SWANSON. I do not know why. I can not see any valid reason. The only excuse he gave was that sometimes they mix brandy and whisky. Even if that is true, how can the Government lose anything? The tax on both of them is precisely the same.

Now, Mr. Chairman, the makers of fruit brandy have a hard time. It is very hard to get warehouses right at the distilleries. They are anxious to get their product to the markets of distribution in Chicago, New York, and Baltimore and other places, just as much so as the makers of grain whisky. Consequently they ask and demand that they shall have the same privilege of shipping the product of their distilleries to these bonded warehouses in the large cities that is extended to the makers of whisky.

Mr. RIDGELY. They ought to have it.

Mr. SWANSON. The distillers of fruit brandy are mostly small distillers. A man who has 25 barrels of fruit brandy is anxious to get it into a large market, so that he can dispose of it. If my amendment prevails, he can ship it and pay the storage on it in Kansas City, Baltimore, or New York, precisely as whisky is sent there now, with the same privilege of having seven years in which to pay his tax which is extended to the great whisky distillers of this country. I say this will benefit more people than will be benefited by the extension of it to whisky alone. Why? Because the fruit-brand distillers of this country are more numerous. They are small distillers.

A man will take the apples or the peaches from his orchard and make 5, 10, 15, or 50 barrels of brandy, while the whisky distillation of this country is in the hands of a few large dealers. There is a great deal more monopoly in whisky than there is in fruit brandy. I say that this privilege and this right ought to be extended to the fruit-brand distillers of this country, for the reasons which I have stated.

Now, I do not see any objection to this. I believe that one objection I heard was that you could take 1 barrel of fruit brandy and make 2 to 5 barrels of whisky out of it. Say you do that. If it is above a certain gauge you have got to pay a tax then upon the whole 5 barrels that you make out of that 1 barrel. If there was a difference in tax, if you charged a different tax on fruit brandy from the tax on whisky, I could see some reason why this objection might prevail, but there is no such distinction.

Mr. SIMPSON of Kansas. Will this have a tendency to make brandy and whisky cheaper?

Mr. SWANSON. It will only enable gentlemen who are dry to get it a little more quickly than they would if they had to order it by telegraph and then wait two or three days for it to be sent by rail. For instance, if the gentleman from Kansas [Mr. SIMPSON] was in Kansas City and wanted a barrel of whisky, the Government would be anxious that he have that barrel of whisky as soon as possible, so that it could get the revenue. So instead of compelling him to send to Kentucky and wait until the whisky was shipped from there, the Government has a general bonded warehouse in Kansas City, so that he can go there and get it out at once.

Mr. SIMPSON of Kansas. It gets to the consumer quicker, but not cheaper.

Mr. SWANSON. That is right. It simply gets to him quicker and the Government gets the revenue quicker.

Mr. SHAFROTH. What effect does the mixing of whisky and brandy have on the man who drinks it?

Mr. SWANSON. That depends entirely on the man. [Laughter.]

Mr. VINCENT. If it gets to the consumer quicker, he will get drunk quicker.

Mr. SWANSON. I am not an expert on that, and I will turn the question for answer over to the gentleman from Kansas [Mr. SIMPSON]. Now, Mr. Chairman, in all seriousness, I have not heard from anybody a good, sensible, reasonable excuse why the makers of fruit brandy should not have the same privilege which is extended to the makers of whisky from grain.

I will reserve the balance of my time.

Mr. EVANS. How much time has the gentleman?

The CHAIRMAN. The gentlemen has one minute remaining.

Mr. SWANSON. I ask unanimous consent that the gentleman from North Carolina [Mr. LINNEY], who is very much interested in this bill, have that one minute and five additional minutes.

Mr. LINNEY. That will be six in all, Mr. Chairman.

The CHAIRMAN. The time for general debate has been fixed by order of the House.

Mr. SWANSON. I ask unanimous consent.

Mr. STEELE. It can not be done in committee.

Mr. DINGLEY. I suggest that the gentleman will have his opportunity after the general debate is closed.

The CHAIRMAN. The gentleman from Kentucky [Mr. EVANS] has seven minutes remaining.

Mr. EVANS. Mr. Chairman, I should be extremely glad if the committee would fully understand this measure. I observe that there are certain interests that always feel that they are perhaps specially aimed at whenever legislation upon the subject of distilled spirits is mentioned. This bill is of the simplest possible character in its design, and in order that the committee may understand it, I will read a few lines from the Wilson bill. That bill, after providing that the Commissioner of Internal Revenue shall have authority to authorize the establishment of general bonded warehouses in each collection district, says:

That any distilled spirits made from materials other than fruit and lawfully deposited in the distillery warehouse may, upon application of the distiller thereof, be removed from such distillery warehouse to a general bonded warehouse—

That has been authorized by the act, etc.

Mr. SHAFROTH. Why does it except liquor made from fruit?

Mr. EVANS. The main purpose and object of the bill is, in substance, to insert after the word "distiller" the words "or owner," so that it will give to the owner the same privileges bestowed upon the distiller, and so as to make it the law—

That any distilled spirits made from materials other than fruit and lawfully deposited in a distillery warehouse, may, on application of the distiller or owner thereof, be removed from the distillery warehouse to the general bonded warehouse.

Now, that is, as I have said, the main purpose of this bill; and the other provisions arrange the details appropriate to that object.

Mr. SHAFROTH. Is there not given the same privilege to liquors distilled from fruit?

Mr. EVANS. Anybody who understands the practical operations of the internal-revenue system must see at once that the Ways and Means Committee, backed by the experience of the Internal-Revenue Commissioner, are right in the view that the privilege should not be given to fruit brandies, but should apply, as in the Wilson bill, alone to spirits made from other things than fruit. It will be understood by all familiar with the internal-revenue laws that fruit brandies are not subjected to the strict rules and regulations that apply to spirits distilled from grain. There are statutes expressly authorizing the Commissioner to exempt fruit brandies from those rigid provisions.

The Commissioner has done that, and distillers from fruit are dealt with in the most liberal spirit. Every advantage is given to that particular character of product, so that a fruit distiller is not required to establish a bonded warehouse, as every distiller from grain is. He may and does avail himself of the special bonded warehouses that are particularly provided for the deposit of fruit brandies. General bonded warehouses are authorized under the Wilson bill. They were created solely for the purpose of receiving spirits distilled from grain, and the only object of the bill is to give the owner as well as the distiller of such spirits the right of removal from one warehouse to another.

The Commissioner of Internal Revenue and the framers of the Wilson bill have united in saying that the privilege of storage in general bonded warehouses should not be allowed to fruit brandies; in other words, that it would not be safe for that character of spirits to go into the general bonded warehouses. If you reverse the action of the Fifty-third Congress in the Wilson bill and the action of the Committee on Ways and Means in this case, you will override and overrule the experience of the entire Revenue Office. That will not do.

Mr. LINNEY. Will the gentleman allow me to ask him this question: You have under existing law allowed the fruit-brandy distiller to keep his brandy in the warehouse eight years before he sells it?

Mr. EVANS. Eight years. He pays the same tax, has the same allowance for outage, but as he is otherwise abundantly and liberally provided for, he can not put them in a general bonded warehouse. You may have a special bonded warehouse in New York, Cincinnati, Louisville—you may have as many as ten in any one district in the United States to take care of fruit brandies.

The distillers of fruit brandy are abundantly taken care of. The regulations under which they operate are much more liberal than those which are provided in the case of other distilled spirits because they are few in number. Their operations are very limited, and there is the greatest possible relaxation of the stringent regulations that apply to distillers generally.

Now, Mr. Chairman, I have stated the object of the bill. I think there is no just cause of complaint upon the part of those who distill from fruit. They are given every possible privilege from an administrative standpoint by those who have charge of the execution of the internal-revenue laws. The gentleman confounds one question with another entirely different. As I have repeatedly stated, this bill is an amendment to the Wilson bill, allowing the owner of distilled spirits to transfer them from one sort of bonded warehouse to another. Under the law as it exists the owner as distinguished from the distiller can not do that although he may have bought and paid for the property and have a warehouse receipt for it.

Mr. SWANSON. Mr. Chairman, I will take five minutes on the amendment.

The CHAIRMAN. The gentleman has one minute remaining on general debate.

Mr. SWANSON. I will take five minutes on the amendment.

The CHAIRMAN. The question is on the first committee amendment. All the other committee amendments have been disposed of by the Committee of the Whole.

Mr. SWANSON. Mr. Chairman, upon that I desire to be recognized.

The CHAIRMAN. The Clerk will report the first amendment. The Clerk read as follows:

In line 3, page 1, after the word "spirits," insert the words "made from materials other than fruit deposited."

Mr. SWANSON. Mr. Chairman, I simply want to state the fact that this bill as originally drawn allows distillers of both fruit brandy and whisky to have the benefit of its provision. Now, the amendment is to insert the words "made from materials other than fruit deposited." Now, I seek to get fruit brandy the same privilege as that which is extended to whisky.

The gentleman from Kentucky [Mr. EVANS] says that fruit brandy is treated with more leniency than whisky. That is true only to this extent: Every man who is a whisky distiller has a gauger with him all the time to see that no illicit whisky is made, and the man who distils fruit brandy has no gauger. But this is no benefit to the honest distiller. To a man disposed to carry out the law, there is no benefit accruing to the fruit-brandy distiller that is not given to the whisky grain distiller. There is another advantage coming to the grain distiller that the fruit-brandy man can not get. The man that makes whisky out of grain has at his distillery his own special warehouse. He can put his whisky into that warehouse and keep it there for seven years without paying the tax to the Government.

But the man who makes fruit brandy, they do not let him have any special warehouse of his own, as they do the man who makes whisky out of grain. So that, unless he is convenient to what is called the special bonded warehouse, he has to pay his tax upon his brandy, I think, in ninety days after it is gauged. I will guarantee that nine-tenths of all the brandy made in the United States has the tax paid upon it in about three or four months after it is distilled. A vast majority of it—a vast majority of the arrests and seizures and complaints of illicit whisky do not come from illicit distilleries, but they come from inability of the men who make the fruit brandy to pay the tax on the fruit brandy when it becomes due, ninety days after it is gauged.

Down in my district there are over 200 fruit-brandy distillers, and they had last year one special bonded warehouse for that whole district—seven or eight counties—and that special bonded warehouse has been closed. The object of the general bonded warehouse is to put the product near the consumer, near the distributive points, so that the consumer can get it as quickly as possible. Now, if you give that privilege to the whisky distillers, why do you not give it to the fruit-brandy distillers? Why do you not give them a general bonded warehouse in the great cities, a point of distribution, so that they can deposit their product there for the consumer to buy, the same as you do the whisky?

What excuse does the gentleman from Kentucky [Mr. EVANS] give why it should not be done? I would like to have him give me some excuse now why the privilege should not be extended to

the fruit-brandy distillers? I asked the Deputy Commissioner who appeared before the committee to give me some reason, and he said that they might mix it. Suppose they do mix it; they pay the same tax. Take a barrel of half brandy and half whisky, if a man wants to mix it, and you get \$1.10 a gallon on the aggregate product. There is no way in the world, and they can not state any way, in which the Government could lose one cent in extending to the fruit-brandy distillers of this country the same privilege that is extended to the whisky distillers.

The CHAIRMAN. The gentleman's time has expired.

Mr. DINGLEY. I ask unanimous consent that the gentleman may have five minutes more.

There was no objection.

Mr. SWANSON. Now, what is the condition in connection with the fruit-brandy distillers of this country? As the gentleman from Kentucky well says, they are small distillers scattered all over the country. They are wherever the orchards of apples and peaches grow. They are away from the great markets of distribution. If this bill passes, what does it give him? Here is a man with 20 barrels of fruit brandy in the country, and under the present law he can not carry it to Baltimore, or Kansas City, or New York and deposit it in the bonded warehouses and wait there without paying the tax until he can get a purchaser, but the gauger comes around in ninety days and gauges his brandy, and in ninety days thereafter he has to pay the taxes on it; he has to raise the money to do it, and unless he does so the Government will levy on it and seize it and sell it.

Now, it is said that they have got a special bonded warehouse. That is true, but I believe there is but one in the State of Virginia, and that is at Charlottesville. I do not know of any in North Carolina.

Mr. LINNEY. There is none at all.

Mr. SWANSON. None at all, and I will guarantee that there are 200 fruit-brandy distillers in the gentleman's district.

Mr. LINNEY. There are as many as 400 or 500.

Mr. SWANSON. Four hundred or five hundred in the gentleman's district. There is a large number in mine, and there is a very large number scattered all over the country. Now, what they want, all they ask, is to have the same privilege accorded to them to put their product in the general bonded warehouse for distribution upon precisely the same terms as are extended to the whisky distillers, so that they can pay the tax upon it after they get a purchaser for it. What trouble is there going to be in the general bonded warehouses? Suppose you have 500 barrels of brandy and 500 barrels of whisky. How can it injure the Government to have both these products in a general bonded warehouse with security given for the payment of the tax upon each one when sold?

The only objection that I can see to this measure is that the people who sell whisky at these large distributing points do not want brandy brought in in competition with whisky.

I say the Government has no right to make a discrimination of this kind—to give the man who raises one product an advantage over the man who raises another. Especially should there be no discrimination against the fruit-brandy distiller, who has not a warehouse of his own as a grain distiller has. I insist, as a matter of right affecting every district in this country, that the fruit-brandy distiller should be placed on the same footing as the whisky distiller.

Mr. LINNEY. Mr. Chairman, I think if gentlemen will reflect a moment they will see the justice of the proposition of the gentleman from Virginia [Mr. SWANSON]. One important consideration in connection with this question is that the product either of grain distillation or fruit distillation becomes better by age. Old whisky or old brandy is better than new. I am of opinion, Mr. Chairman, that brandy at the age of eight years is worth four times as much as it is at the age of six months. This is probably the only thing in the world that improves by age. Byron, I have no doubt, had old peach brandy in his goblet when, holding the goblet in hand, he wrote:

In the days of my youth, when the heart's in its spring,
And dreams that affection can never take wing,
I had friends—who has not?—but what tongue will avow
That friends, rosy wine, are so faithful as thou?
The heart of a sweetheart some boy may estrange;
Friendship shifts with the sunbeam, thou never canst change;
Thou grow'st old—who does not?—but on earth what appears
Whose virtues, like thine, still increase with its years?
Yet if blest to the utmost that love can bestow,
Should a rival bow down to our idol below,
We are jealous! Who's not? Thou hast no such alloy,
For the more that enjoy thee the more we enjoy.

I recollect witnessing on one occasion the sale of two jugs of peach brandy. One jug was a year old; the other was said to be about fourteen years old. The fourteen-year old peach brandy went off readily at \$8 a gallon, while the other sold at only a little more than the tax. The advantages accruing to the brandy distiller by the age of his product are much greater than those accruing to the whisky distiller.

There is another view in which this matter ought to be considered. I believe the distillation of grain ought to be discouraged. I am that much of a temperance man; I am getting pretty close to Governor DINGLEY on that point. [Laughter.]

Why should the distillation of grain be discouraged? Because it can be used for food. We can produce from it human muscle and probably human brain. But when you come to fruits, the same thing is not true to the same extent. Hence, the same objection does not apply to encouraging the distillation of fruit, especially as fruit brandy is better as a beverage than this miserable whisky which slowly kills people, to say nothing of degrading them in the estimation of Governor DINGLEY. [Laughter.]

It appears to me, therefore, that upon the soundest philosophic ground and upon the highest considerations of philanthropy and Christianity, we should encourage the fruit distiller rather than the whisky distiller. We should encourage the man who takes our apples and our peaches when they are rapidly decaying and converts them into that which defies the effects of time. Good peach brandy would last a thousand years, if it did not evaporate, and would be better at the end of that period than at the beginning. I am informed by a distinguished gentleman who sits near me, who is unquestionably a splendid judge of both whisky and brandy [laughter], that this consideration in regard to improvement by age does not apply to whisky in the same way that it does to brandy—that whisky improves for four years and afterwards retrogrades in quality.

Mr. BROMWELL. The gentleman from North Carolina entirely misunderstood the statement which I made to him. I said that under the present unfair discrimination in connection with the tax on whisky there is allowed an outage for four years only; that there is no allowance of outage on account of the evaporation during the next four years. So that these aged whiskies in bond are selling to-day for less money than raw whiskies only two, three, or four years old, in spite of the fact that the quality of whisky, like that of brandy, improves with age, as is known to every whisky dealer and every consumer of whisky.

Mr. LINNEY. Yes; that was what the gentleman said. I do not think his explanation contradicts my statement.

[Here the hammer fell.]

Mr. LINNEY. I would like five minutes additional.

There was no objection.

Mr. LINNEY. I do not think the statement just made by the gentleman varies materially from the construction I put upon it. At any rate, the fact I have stated is clearly established by the testimony of any man who knows anything about whisky. I would be willing to leave this question to any gentleman who has investigated the matter, whether by observation or experience.

I would be willing to leave it to that splendid representative of the brandy interests of Kentucky who, as it was said when a tack had been driven in the bottom of a barrel of whisky with a little piece of leather adhering to it, was able when he took a drink out of those 20 gallons to say, "There is a little iron in that;" and another distinguished gentleman was critical enough to say, "And a little leather in it." I would be willing to leave the question to the taste of men who have reached that condition of perfection as judges of whisky.

Every man of discrimination on this subject will agree with me that age makes good liquor. And if there is anything that any deliberative body desires it is good liquor, if they must use any at all. Of course they will use some, in spite of all that certain reformers may say. Then let it be made good by age. And brandy, as I have said, improves more by aging than whisky.

In addition to that, Mr. Chairman, the brandy distilleries throughout a great portion of our country are increasing more rapidly than almost any other industry. Why is the manufacture of brandy increasing? Because orchards and vineyards are increasing. The output of apple scions every year surpasses almost any other industry of the Middle States, especially on the Blue Ridge Range, running through five or six different States.

In almost any town in the counties adjoining the State of Virginia you will find hundreds and thousands and in some instances millions of apple and peach scions, and you will find agents traveling from Georgia to the Atlantic engaged in selling those scions. As a result there is a splendid outlook; a new industry is opening up; there are new lines of hope for our struggling people. [Laughter.] And although the result may be the production of spirituous liquors, which by some people may be regarded as an evil, there is less of destructive effect in this product than in any whisky that I know of that is in use to-day.

Thomas Moore's poetic extravagance possibly was inspired from the presence of old brandy, the product of distilled fruit, as was Lord Byron's:

Friend of my soul, this goblet sip;
'Twill chase the pensive tear.
'Tis not so sweet as woman's lip,
But, oh! 'tis more sincere.
Like her delusive beam
'Twill steal away thy mind;
But, like Affection's dream,
It leaves no sting behind.

It has a decided advantage over whisky, and I say, if the Government touches it at all, it ought to legislate in the interest of the fruit grower and let the fruit be converted into this product, which makes gentlemen convivial and decent, instead of that which degrades men.

Mr. EVANS. How will this bill contribute to that?

Mr. LINNEY. That question can be answered very easily. It seems to me a blind man can see, if he looks with his mind's eye a little. It gives them the same opportunity that the whisky men now have of depositing their products in a general bonded warehouse, which privilege they now have not, and permitting it to remain there eight years before paying the taxes, thus making the product more valuable.

Now, one other idea. The distinguished gentleman from Kentucky [Mr. EVANS], who knows more about brandy than any of us, not that he uses any of it, but because he has been, I believe, Commissioner of Internal Revenue.

He has been at the head of the liquor business of the Government, a more responsible position and greater than a Cabinet officer, so far as that line of business is concerned. He says that the apple distillers have exemptions and privileges that others have not. Where are they? Every distiller of apples gives a bond. Every apple distillery is visited regularly by Government officials and the keen eye of a Government official is enough to fashion a spur always to quicken the diligence of these men along the line of what is right.

There is no privilege enjoyed by the brandy distillers that is not enjoyed by the distillers of grain, and in addition the distiller of grain has his warehouse present with him all the while, with an officer to look after it, whereas the brandy distiller has not got that privilege at all. My friend says we may keep brandy eight years without paying the tax on it. In that I think my friend is mistaken. I know the practical working of the business to be otherwise.

Mr. EVANS. Not in the slightest.

[Here the hammer fell.]

Mr. DALZELL. Mr. Chairman, it seems to me that in the few minutes in which we have been engaged in this debate we have managed to get a great deal of misinformation. As my friend from Kentucky [Mr. EVANS] says, this is a very simple bill. There is only one point involved. Under existing law the whisky distiller is the only party who can remove whisky from the bonded warehouse. The owner of the whisky has not that privilege; it must remain there, whatsoever his wish may be, until it leaves the warehouse at the instance of the distiller.

Now, the proposition embodied in this law is simply to extend to the owner the same privilege that the distiller has, and after the first, all the other paragraphs of the bill are simply a provision of methods for carrying out the purpose and intent of the bill.

This law as it now stands on the statute book has no reference at all to liquors that are distilled from fruits. There are two separate and distinct methods with respect to distilling provided for upon our statute books. One relates to whisky distillers, the other relates to distillers from fruits.

When my friend talks about extending to the fruit distiller the privileges that the whisky distiller has, he conveys a wrong impression. The whisky distiller has no privileges over the distiller of fruits; but he has burdens. He can not engage in his occupation at all except by the expenditure and investment of a large capital. He must have a storehouse. That storehouse is as much in the custody of the United States Government as any public building. He is subject to scrutiny at all times. Upon the other hand, the distiller from fruits has no such scrutiny. He is at liberty to do with his product whatever he pleases. If he wants to sell it at once, he may sell it.

A MEMBER. By paying his tax.

Mr. DALZELL. If he wants to age it, all he has to do is to carry it to a special bonded warehouse and let it stay there five, eight, or ten years, or as long as he sees fit.

Mr. LINNEY. These small distillers have only 50 or 100 gallons, and there are no special warehouses which are accessible to them. I do not believe there is a single one in the district I represent. How are they to avail themselves of that?

Mr. DALZELL. The special warehouse is an individual investment which will always follow the course and demand of commerce. Wherever there is necessity for a special warehouse you will find private capital invested in the construction of such a warehouse.

Mr. SWANSON. Will the gentleman permit me?

Mr. DALZELL. Certainly.

Mr. SWANSON. The object of this bill, which is a very just one—and I am for it, whether my amendment prevails or not—the object of this bill and the advantage to the Government is to get this whisky near the great distributing points, so that the consumer can get it quicker.

Mr. DALZELL. I understand that.

Mr. SWANSON. Now, where is there a special warehouse at any distributing point?

Mr. DALZELL. I do not know. I am not familiar with that subject; but the point the gentleman makes is this: He is undertaking to introduce the system of our internal-revenue laws relating to whisky into the system of our internal-revenue laws relating to another and entirely different subject. What the gentleman wants to accomplish ought to be accomplished by a change of the system relating to fruit distilleries and not by tacking an amendment onto a bill which relates to an entirely different subject.

Mr. SWANSON. Will the gentleman permit me to ask him a question? I will ask for an extension of his time.

Mr. DALZELL. I have said substantially all I want to say.

Mr. SWANSON. The position I take is this: Every grain distiller has his own individual warehouse. No fruit distiller has his own warehouse, but they have a few special bonded warehouses.

Mr. DALZELL. I can not yield to my friend for a speech, when he is simply repeating what he has stated three or four times.

Mr. SWANSON. I want to ask the gentleman this question: The reason why the fruit-brandy distillers in the past have not availed themselves of it is because the law excluded it. What I want to know is, what evils can accrue to the Government from permitting fruit brandy to be admitted to a general bonded warehouse?

Mr. DALZELL. That question was answered by the Commissioner of Internal Revenue, who appeared before the Committee on Ways and Means and was cross-examined by my friend. He stated that the system of administration proposed by the gentleman from Virginia was absolutely impossible of execution.

Mr. SWANSON. What other excuse did he make, except that they might mix the two?

Mr. DALZELL. Mr. Chairman, I want to say just one word about it. Here is a law on the statute books that relates to the distillation of spirits. My friend wants to tear down the entire system relating to fruit brandy by an amendment to this law, to which it would not be germane.

We have, as I have said, two systems of internal-revenue laws with respect to distillation, one relating to the subject now before the House and the other relating to the distillation of fruits. Each system is perfect in itself. Now, why undertake to graft one system onto the other system? In other words, why attempt to repeal wholly the other system, relating to fruit distillation, by an amendment to this, which relates to grain distillation? If my friend is right, he ought to introduce a bill which shall change the fruit system and make it conform to his notions.

[Here the hammer fell.]

Mr. EVANS. Mr. Chairman—

Mr. WILLIAMS of Mississippi. Will the gentleman allow me to ask him a question?

Mr. EVANS. I will answer the gentleman.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. EVANS. I move to strike out the last word. I will answer the gentleman's question.

Mr. WILLIAMS of Mississippi. If a distiller has sold his whisky to some whisky dealer, does this bill give that whisky dealer the right to have the whisky remain in the bonded warehouse, and thereby avoid the payment of the tax for an additional period?

Mr. EVANS. Not at all. If I may be indulged for a moment, as I stated before, the law already existing exempts fruit distillers in the most liberal manner from the operations of the stringent provisions of law generally applicable to the distillation of spirits.

The fruit men, of all the people in the country, have the least right to complain; and as has been well said by the distinguished gentleman from Pennsylvania [Mr. DALZELL], the effort of the gentleman from Virginia is an attempt to put into this proposed legislation provisions applicable to fruit brandies when the provisions of the pending bill are applicable, or ought to be applicable, alone to grain spirits. Now, I have no interest in this matter, and so far as I know, no constituent of mine has any real interest in this bill.

I am attempting here to discharge a duty imposed upon me by the Committee on Ways and Means, and hence I ask the adoption of the amendment proposed by that committee. But one thing has struck me as being necessary as a result of this discussion, and that is that if the distillation of fruit brandy has increased to the extent which the gentleman from North Carolina [Mr. LINNEY] says, then we ought to repeal the law authorizing the exemption of fruit distillers from the stringent provisions applicable to distillers from grain.

We ought to revise the internal-revenue system and take from this great and growing industry these special exemptions which it now has. These exemptions were given to this industry because it was supposed to be a small industry, and because these small exemptions were supposed not to be materially injurious to the revenue. But if this manufacture has increased to the extent which gentlemen have indicated, then these special exemptions ought to be repealed, and every distiller of fruit brandy ought to

be compelled to erect a distillery bonded warehouse, just as the distiller of other spirits is compelled to do.

What we want by this bill is to authorize the owner of spirits to transport his spirits in bond. We do not want to go into a general revision of the internal-revenue laws. I ask for a vote upon the amendment proposed by the Committee on Ways and Means, which we think ought to be adopted.

Mr. DALZELL. Mr. Chairman, let us have the amendment reported.

Mr. MOODY. Is this the amendment which the committee want?

Mr. DALZELL. Yes.

The CHAIRMAN. It is the amendment proposed by the committee.

The amendment was reported, as follows:

In line 3, page 1, after the word "spirit," insert the words "made from materials other than fruit deposited."

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SWANSON demanded a division.

The committee divided; and there were—ayes 66, noes 52.

So the amendment was agreed to.

Mr. EVANS. Mr. Chairman, I suppose that is all the amendments that anybody desires to discuss. If that be so, I move that the committee rise and report the bill to the House with the recommendation that as amended it do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LACEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 6462 and had directed him to report the same back to the House with sundry amendments, and with the recommendation that as amended it do pass.

Mr. EVANS. I move the previous question on the bill and amendments to its passage.

The previous question was ordered, and under the operation thereof the amendments were agreed to and the bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. EVANS, a motion to reconsider the vote by which the bill was passed was laid on the table.

NEBRASKA, KANSAS AND GULF RAILWAY COMPANY.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 6358) authorizing the Nebraska, Kansas and Gulf Railway Company to construct and operate a railway through the Indian Territory, and for other purposes.

The Clerk proceeded to read the bill.

Mr. SIMPSON of Kansas. Mr. Speaker, this is a long bill; I know it is in the regular form, and I therefore ask that the further reading of the bill be dispensed with.

The SPEAKER. The gentleman asks unanimous consent that the further reading of the bill be dispensed with. Is there objection?

Mr. SIMPSON of Kansas. It will take half an hour to read it.

Mr. DINGLEY. As I understand, this bill has been reported by the committee unanimously, and the gentleman assures us that it is in the regular form.

Mr. BARTHOLDT. It has. It is in the usual form and passed both Houses last Congress.

Mr. McEWAN. Is there any land grant with it?

Mr. BARTHOLDT. It has the usual grant in rights of way.

Mr. TODD. Mr. Speaker, has unanimous consent been given for the consideration of the bill?

The SPEAKER. The question is, Is there objection to dispensing with the reading of the bill? [After a pause.] The Chair hears none.

Mr. TODD. May I ask another question for information? If unanimous consent is given, will it still be in order to present amendments to the bill?

The SPEAKER. It will be in order to present amendments.

Mr. BARTHOLDT. I have an amendment I desire to offer.

Mr. MERCER. I would like to ask the gentleman from Missouri if he can tell me the former name of this railroad?

Mr. BARTHOLDT. Mr. Speaker, I desire to make an explanation. This bill passed both Houses of Congress in the Fifty-fourth Congress, but failed to reach the President in time to receive his signature. The only change in the bill is that the name is changed from the Galveston and Great Northern to the Nebraska, Kansas and Gulf Railway, and that change was made because there are four or five Great Northern railways in existence.

Mr. MERCER. I trust the bill will pass.

Mr. BAILEY. Mr. Speaker, I understand from members of the committee, in private conversation, that this bill is in the usual form, with all the safeguards and limitations.

Mr. LITTLE. The bill carries with it the usual limitations and the provision for compensation for all property; and it contains the provision giving them 50 feet right of way on each side of the tracks.

Mr. BAILEY. I think to read the bill will be a useless waste of time.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. BARTHOLDT. I offer the following amendment.

The Clerk read as follows:

Insert in line 12, on page 1, after the word "direction," the following: "by way of Kingfisher."

The amendment was agreed to.

Mr. TODD. I offer the following amendment.

The Clerk read as follows:

At the end of section 12 add, as part of said section:

"Provided, That the United States of America shall have the right to purchase the franchise rights and other property herein granted, with the road-bed, bridges, telegraph lines, and tracks, together with such other property and rights as the Government may deem necessary for the proper operation of the road, at any time after ten years from this date whenever the Government shall elect to exercise such right by giving the Nebraska, Kansas and Gulf Railroad Company or its assigns two years' notice of such intention to purchase. But nothing shall be construed herein to compel the Government to purchase the property except by its own volition. Should the Government elect to purchase the property, the purchase price shall be 10 per cent above the actual cost of acquisition and construction, such acquisition and construction to be effected with due economy: *And provided further*, That capital stock and bonds shall not be issued by said company in any amount to exceed for each the actual cost of the road and the economical requirements of its equipment and service: *And provided further*, That the business of said railroad company shall be limited to that of a common carrier, and it shall be unlawful for said company to acquire by lease, purchase, or in any other manner any mines, mineral lands, or other lands not necessary to execute the functions of a common carrier, or to directly or indirectly engage in any industries such as are usually operated by private enterprise or private capital: *And provided further*, That no free passes, telegraph franks, or reduced rates of transportation or service of any kind other than enjoyed by the general public shall be given by said railroad company to any officer, either of the national or of State governments, in either of their legislative, executive, or judicial branches, or to any other person not an actual employé of the road: *And provided further*, That any violations of any of the provisions of this act shall constitute a forfeiture of the franchise and franchise rights of said Nebraska, Kansas and Gulf Railroad Company."

Mr. BARTHOLDT. I raise the point of order on this amendment that it is not germane to the bill.

Mr. TODD. I do not understand the gentleman's point of order, Mr. Speaker.

The SPEAKER. The gentleman's point of order is that the amendment is not germane to the bill.

Mr. BARTHOLDT. I move the previous question.

Mr. TODD. In what particular is the amendment not germane to the bill?

Mr. BARTHOLDT. I move the previous question.

Mr. TODD. I insist that the gentleman's point of order is not well taken.

The SPEAKER. The point of order must first be decided. The Chair will hear the gentleman from Missouri on the point of order.

Mr. BARTHOLDT. Well, I did not intend, Mr. Speaker, at this time to go into the discussion of Government ownership of railroads. My point of order is that that subject-matter of the amendment is not germane to the matter contained in a right-of-way bill.

Mr. TODD. I understand the gentleman to say that this is not germane because it involves Government ownership. Is that what the gentleman says?

The SPEAKER. This bill simply gives a railroad a right of way.

Mr. TODD. But it carries certain rights with it which the Government has a right to determine when it grants a franchise.

Mr. BARTHOLDT. The Government is not granting a franchise.

The SPEAKER. The Chair understands that the Government does not grant a franchise to the road, but simply gives it a right of way. It does not give a charter to the railroad.

Mr. HENDERSON. The amendment of the gentleman could only be germane if we were granting the road a franchise or granting it a charter.

Mr. TODD. But if the Government gives the road the right to condemn and make a right of way, the road then has a vested right which would be difficult for the Government to regain after giving the franchise.

Mr. MAGUIRE. If the gentleman will allow me just a moment, Mr. Speaker, the Government has this right. The Government's rights that are provided for against all railroads are reserved without this amendment. The Government has the right of eminent domain, and has the right to condemn private property for public use. The amendment does not seem to add anything to that right.

Mr. TODD. Mr. Speaker, suppose a part of my amendment is

construed to be out of order, is it necessary that I should withdraw it in order that the other part of my amendment may stand which is in order?

The SPEAKER. The Chair can only rule on the amendment as a whole.

Mr. TODD. The part of the amendment surely must be germane which provides for a certain amount of capital stock and bonds. Poor's Railroad Manual, which is the official authority on railroad questions in this country, states that the railroads in the United States are capitalized at five times their cost; consequently the people of the United States are to-day paying the railroads dividends upon five times the cost of the roads. I maintain that, in order to correct that wrong, the railroads should be held to an honest and economical construction, and only allowed to issue bonds and stock in amount equal to the actual cost.

The SPEAKER. That hardly seems to be speaking to the point of order.

Mr. TODD. Mr. Speaker, being a new member, I must ask indulgence if I am in error in regard to some of the rules of parliamentary law. I am speaking simply as a business man who has had intimate relations as a large shipper with the railroads in my State for a great many years, and it is from a business standpoint that I drew this amendment.

The SPEAKER. The amendment must be considered as a whole. If any part of it is out of order, then the whole is out of order.

Mr. TODD. I will withdraw the first part of it and speak a moment as to the next part of it, which I consider germane.

The SPEAKER. The gentleman from Missouri has asked for the previous question, and he is in charge of the bill.

Mr. TODD. But, Mr. Speaker, can the previous question be ordered, precluding my right to speak on the point of order?

The SPEAKER. After the Chair has disposed of the point of order, he would have to recognize the gentleman in charge of the bill.

Mr. TODD. Have I not a right to debate the point of order on the other portions of my amendment? I do not wish to abuse my privilege, but if I have the right to debate this, I shall insist on it; if I have not, I will sit down.

The SPEAKER. The Chair will have to sustain the point of order.

Mr. TODD. Very well, Mr. Speaker; let me say one more word. It is largely for the purpose of bringing up the question of Government ownership of railroads, and an honest and reputable conduct of their affairs, that I have offered the amendment. I have no special antagonism against this particular railroad, but I think Congress should insert the provisions I have offered into every railroad franchise presented for our action.

The previous question was ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

On motion of Mr. BARTHOLDT, a motion to reconsider the vote by which the bill was passed was laid on the table.

REPRINT OF MINORITY VIEWS ON CONTESTED-ELECTION CASE—THORP VS. EPES.

Mr. MIERS of Indiana. Mr. Speaker, the minority views in the election case of Thorp against Epes have been exhausted, and I ask unanimous consent for a reprint.

The SPEAKER. The gentleman from Indiana asks for a reprint of the minority views in the election case of Thorp against Epes. Is there objection?

There was no objection.

ARTICLES EXPORTED FROM THE UNITED STATES.

Mr. HOPKINS. Mr. Speaker, I ask unanimous consent for the present consideration of the following bill (H. R. 7271) amending the act entitled "An act to allow the return free of duty of certain articles exported from the United States for exhibition purposes," approved May 18, 1896.

Mr. BAILEY. Mr. Speaker, I object.

Mr. HOPKINS. Was not the gentleman present—

Mr. BAILEY. I was not. I believe it allows Barnum & Bailey to bring a number of animals into this country, and there is some question whether they ever carried them out. I ask the gentleman to withhold the bill.

Mr. HOPKINS. This is the first time I knew there was any objection from any member of the committee.

Mr. BAILEY. I will say that I am not sure that my information is correct, and I only ask time to verify it.

Mr. HOPKINS. I will withdraw my request, Mr. Speaker.

CONSTRUCTION OF RAILWAY THROUGH THE INDIAN TERRITORY.

Mr. COWHERD. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 6079.

The SPEAKER. The Clerk will report.

The Clerk read as follows:

A bill to amend an act entitled "An act to authorize the Denison and Northern Railway Company to construct and operate a railway through the Indian Territory, and for other purposes."

Be it enacted, etc., That the provisions of section 8 of the act entitled "An act to authorize the Denison and Northern Railway Company to construct and operate a railway through the Indian Territory, and for other purposes," approved July 30, 1892, be, and the same is hereby, extended for a further period of two years from the passage of this act, together with all the rights granted and duties imposed thereby. All acts and parts of acts inconsistent with this act are hereby repealed.

Mr. BAILEY. I reserve the right to object, and I simply desire to call the attention of the gentleman from Missouri to the fact that within the last thirty days a bill passed this House authorizing the Gulf, Colorado and Santa Fe Railroad to buy the Denison and Northern Railroad, and if there was an agreement between the Denison and Northern Company and the Gulf and Santa Fe road, this bill ought not to pass, because it simply authorizes the extension of the right to build through the Indian Territory to a company that has already asked permission to sell the charter it now has. Of course, the gentleman from Missouri would not aid anybody in speculating on this charter, and I desire to call his attention to that state of facts. So far as I am concerned, whenever any company desires in good faith to obtain a charter to build a railroad in that country, I am perfectly willing to see it granted under proper safeguards and limitations; but I am not willing to allow anybody to speculate on these charters.

Mr. COWHERD. I think the gentleman from Texas when he understands the situation will not think that this company is speculating on the charter. This company obtained a charter in 1892, which would have expired in 1893, but was extended so as to expire in 1898. The company cleared the right of way for about 100 miles. It has bridged and graded about 25 miles, having expended about \$108,000 in doing this work. It has now practically completed, so it is claimed, an arrangement whereby it will receive such assistance from a very strong railway company, to which it will be partially a feeder, as will enable it to build the first 50 miles of the road and probably complete it before the time now fixed for the expiration of the charter. But in order that there may be no question the company has asked this extension.

As I am informed by gentlemen connected with this company, they knew nothing of the provision which was put in the bill of the Gulf, Colorado and Santa Fe Railroad Company. The right of way of that company, as I understand, parallels this right of way for about 3 to 5 miles; and all that has been put in that bill is a provision that they may buy the right of way which this company has for that distance. I am certain that the Denison and Northern Railroad Company does not want to sell, and that the Gulf, Colorado and Santa Fe Company can not buy.

I am inclined to think that when this road is built, as it will be, I am informed, within the next two or three months—at least the first 50 miles of it—it is more than possible that it may serve the purpose for which the other road was to be built, as they are mainly endeavoring, I am told, to extend their road to some gilsonite mines, the product of which, I am informed, will constitute the main part of the traffic over that small portion of the road. They have the right of way for only a short distance, while this right of way is for more than a hundred miles.

Mr. BAILEY. I believe the property of this company is now in the hands of a receiver; but I understand they have been trying to perfect an arrangement. I was not aware that they had done so; but in view of the statement just made by the gentleman [Mr. COWHERD], I shall not object. I have no objection to the extension; but I would not want any speculation in this matter.

Mr. COWHERD. I would not offer the bill if I thought there was any such intention. I do not believe there is.

There being no objection, the House proceeded to the consideration of the bill; which was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. COWHERD, a motion to reconsider the last vote was laid on the table.

Mr. TODD. I ask unanimous consent—

Mr. DINGLEY. I call for the regular order.

The SPEAKER. The regular order is demanded.

Mr. DINGLEY. I move that the House adjourn.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 726. An act granting a pension to James A. Southard—to the Committee on Invalid Pensions.

S. 668. An act granting a pension to Frances E. Pease—to the Committee on Invalid Pensions.

S. 3254. An act granting a pension to Adelaide H. Lambertson—to the Committee on Invalid Pensions.

S. 3178. An act granting a pension to Olevia S. Washburn—to the Committee on Invalid Pensions.

S. 1807. An act granting an increase of pension to Abraham T. Casey—to the Committee on Invalid Pensions.

S. 3804. An act to authorize the President of the United States to appoint and confer the rank of first lieutenant of infantry upon the director of gymnastics and instructor of swordsmanship at the United States Military Academy—to the Committee on Military Affairs.

S. 2573. An act granting an increase of pension to William Blades—to the Committee on Invalid Pensions.

S. 1070. An act granting a pension to Barney Smith—to the Committee on Invalid Pensions.

S. 1608. An act granting an increase of pension to Michael Lochar—to the Committee on Invalid Pensions.

S. 3517. An act granting a pension to Rhoda A. Van Niman—to the Committee on Invalid Pensions.

S. 3132. An act to provide for the disposition of abandoned imported merchandise—to the Committee on Ways and Means.

S. 3077. An act to grant the right of way through the Indian Territory to the Denison, Bonham and New Orleans Railway Company for the purpose of constructing a railway, and for other purposes—to the Committee on Indian Affairs.

S. 626. An act for the establishment of a light-house and fog signal at a point north of the bell buoy near the broken part of the Pollock Rip Shoals, on the coast of Massachusetts—to the Committee on Interstate and Foreign Commerce.

S. R. 106. Joint resolution for the provision of a commission to supervise the collection of a fund among all the schools and colleges of the United States for the purpose of erecting a monument of General Lafayette in the city of Paris, France, the same to be presented to the Government of France, and unveiled and dedicated on the 4th day of July, in the year 1900—to the Committee on Foreign Affairs.

S. 2813. An act granting a pension to Barney Smith—to the Committee on Invalid Pensions.

S. 2785. An act for the relief of Blanche T. Hunton—to the Committee on the Public Lands.

S. 435. An act for the relief of the legal representatives of John C. Howe, deceased—to the Committee on Claims.

ENROLLED BILL SIGNED.

Mr. HAGER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title:

H. R. 4934. An act permitting the building of a dam between Coon Rapids and the north limits of the city of Minneapolis, Minn., across the Mississippi River.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:
To Mr. STEELE, indefinitely, on account of important business.
To Mr. BREWER, indefinitely, on account of important business.
To Mr. ALDRICH, for ten days, on account of important business.
To Mr. SPERRY, for four days, on account of important business.
The motion of Mr. DINGLEY was then agreed to; and accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting a reply to the resolution of the House of February 23, 1898, in regard to the conveyance of articles to the Cubans and the suppression of filibustering, was taken from the Speaker's table, referred to the Committee on Foreign Affairs, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS.

Under clause 2 of Rule XIII, Mr. PAYNE, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the Senate (S. 3627) to create a board of local inspectors of steam vessels for the customs district of Alaska, reported the same without amendment, accompanied by a report (No. 566); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2258) granting a pension to Joshua Parker, reported the same without amendment, accompanied by a report (No. 564); which said bill and report were referred to the Private Calendar.

Mr. DRIGGS, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2198) granting an increase of pension to Joseph P. Harmon, late private in Company

K, Fifth Maine Volunteers, and Company B, Seventh Maine Volunteers, reported the same without amendment, accompanied by a report (No. 565); which said bill and report were referred to the Private Calendar.

Mr. HENRY of Connecticut, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2728) granting a pension to William D. Lamb, reported the same with amendment, accompanied by a report (No. 567); which said bill and report were referred to the Private Calendar.

Mr. DAYTON, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 7288) for the relief of Surg. John W. Ross, United States Navy, reported the same with amendment, accompanied by a report (No. 568); which said bill and report were referred to the Private Calendar.

Mr. BREWSTER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 771) granting an increase of pension to Bernard Dunn, reported the same with amendment, accompanied by a report (No. 569); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4160) granting an increase of pension to George W. Garrison, reported the same with amendment, accompanied by a report (No. 570); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BRODERICK: A bill (H. R. 8691) to divide the State of Kansas into two judicial districts, and for other purposes—to the Committee on the Judiciary.

By Mr. HAMILTON: A bill (H. R. 8692) amendatory of the pension law in the act of June 27, 1890—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 8693) providing for widening and improving the road to the national cemetery in Marion County, Ky., and for the purchase of land to be used for hitching purposes in connection with said cemetery—to the Committee on Military Affairs.

By Mr. FERGUSON: A bill (H. R. 8694) to enable the city of Albuquerque, N. Mex., to create certain indebtedness, and for other purposes—to the Committee on the Territories.

Also, a bill (H. R. 8695) to create the sixth judicial district in the Territory of New Mexico, the appointment of an additional associate justice of the supreme court of the Territory of New Mexico, and for other purposes—to the Committee on the Judiciary.

By Mr. BELL: A bill (H. R. 8696) prohibiting the Secretary of the Treasury from owning any interest in any association issuing national currency at the time of his appointment, and so forth—to the Committee on Banking and Currency.

By Mr. SOUTHARD: A bill (H. R. 8725) to establish a light and fog-signal station at or near terminus of what is known as the Straight Channel, in Maumee Bay, near Toledo, Ohio—to the Committee on Interstate and Foreign Commerce.

By Mr. GIBSON: A bill (H. R. 8726) to provide for the national defense and for the assertion and maintenance of the national honor—to the Committee on Naval Affairs.

By Mr. BROMWELL: A joint resolution (H. Res. 166) authorizing the Secretary of War to loan tents to the citizens' committee of the city of Cincinnati for the use of the Thirty-second National Encampment of the Grand Army of the Republic—to the Committee on Military Affairs.

Also, a joint resolution (H. Res. 167) authorizing the Secretary of the Navy to purchase vessels of war—to the Committee on Appropriations.

By Mr. HULL: A concurrent resolution (House Con. Res. No. 23) providing for the investigation of certain disbursements of moneys appropriated for river and harbor improvements in the Savannah (Ga.) river and harbor district—to the Committee on Military Affairs.

By Mr. BELFORD: A memorial of the New York legislature, urging passage of H. R. 5170, to establish a military park and naval reservation along the Palisades of the Hudson—to the Committee on Military Affairs.

Also, a memorial of the New York legislature, protesting against reduction of mail deliveries—to the Committee on the Post-Office and Post-Roads.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BARHAM: A bill (H. R. 8697) granting a pension to William Conover—to the Committee on Pensions.

By Mr. BARRETT: A bill (H. R. 8698) to amend the military record of Henry W. Dunbrack—to the Committee on Military Affairs.

By Mr. BENTON: A bill (H. R. 8699) granting increase of pension to William H. Nesbit—to the Committee on Invalid Pensions.

By Mr. BROMWELL: A bill (H. R. 8700) removing charge of desertion against Frank Pendery, and granting him an honorable discharge—to the Committee on Military Affairs.

By Mr. BURKE: A bill (H. R. 8701) for relief of Joseph F. Hathaway, and to grant him a pension as a survivor of the Mexican war—to the Committee on Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 8702) for the relief of Lewis Kindness—to the Committee on Military Affairs.

By Mr. DE VRIES: A bill (H. R. 8703) for the relief of and to increase the pension of Mellen Lothrop—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8704) for the relief of D. E. Goulding—to the Committee on Claims.

By Mr. FOSS: A bill (H. R. 8705) for the relief of Charles Sommer—to the Committee on Invalid Pensions.

By Mr. GRIFFITH: A bill (H. R. 8706) granting a pension to Lewis Noble, of Risingsun, Ohio County, Ind.—to the Committee on Invalid Pensions.

By Mr. MAHON: A bill (H. R. 8707) for the relief of Henry C. Wolfe—to the Committee on Military Affairs.

Also, a bill (H. R. 8708) for the relief of Lydia Elinore Davis—to the Committee on Pensions.

By Mr. MARSHALL: A bill (H. R. 8709) for the relief of George R. Gary—to the Committee on Military Affairs.

By Mr. McDONALD: A bill (H. R. 8710) to increase the pension of George D. Frantz—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8711) for the relief of Francisco Perna—to the Committee on the District of Columbia.

By Mr. SPRAGUE: A bill (H. R. 8712) granting a pension to Mathilda Swenson—to the Committee on Pensions.

By Mr. STEWART of New Jersey: A bill (H. R. 8713) to remove the charge of desertion now existing on the records of the War Department against William H. Levi—to the Committee on Military Affairs.

By Mr. TONGUE: A bill (H. R. 8714) to correct the military record of John Fox, of Albany, Oreg.—to the Committee on Military Affairs.

By Mr. VINCENT: A bill (H. R. 8715) for the relief of W. J. Randolph—to the Committee on War Claims.

Also, a bill (H. R. 8716) for the relief of Mary White—to the Committee on Claims.

By Mr. YOUNG of Pennsylvania: A bill (H. R. 8717) to grant a pension to William F. Woolsey—to the Committee on War Claims.

Also, a bill (H. R. 8718) increasing pension of William H. Smyser—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8719) for the relief of Emanuel Damsohn, Company F, Second Delaware Infantry—to the Committee on Military Affairs.

By Mr. FOWLER of New Jersey: A bill (H. R. 8720) authorizing the President to confer upon Frederick H. Harris the brevet rank of brigadier-general of United States Volunteers—to the Committee on Military Affairs.

By Mr. HAY: A bill (H. R. 8721) for the relief of the heirs of Sarah Jane Benner—to the Committee on War Claims.

By Mr. NORTON of Ohio: A bill (H. R. 8722) granting a pension to Frances Delaplane—to the Committee on Invalid Pensions.

By Mr. HEMENWAY: A bill (H. R. 8723) granting a pension to Juliette J. Harrow, widow of Gen. William Harrow—to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 8724) granting a pension to Addie L. Ballou—to the Committee on Invalid Pensions.

By Mr. LANDIS: A bill (H. R. 8727) to correct the military record of Joshua H. Howard—to the Committee on Military Affairs.

Also, a bill (H. R. 8728) to correct the military record of John Cambridge—to the Committee on Military Affairs.

Also, a bill (H. R. 8729) to correct the military record of Annin W. Dewey—to the Committee on Military Affairs.

Also, a bill (H. R. 8730) to correct the military record of Benjamin F. Davis—to the Committee on Military Affairs.

Also, a bill (H. R. 8731) to remove the charge of desertion from the military record of David A. Lindsay—to the Committee on Military Affairs.

By Mr. BOUTELLE of Maine: A bill (H. R. 8732) for the relief of Henry O. Morse—to the Committee on Naval Affairs.

By Mr. LANDIS: A bill (H. R. 8733) to correct the military record of Archibald Chittick—to the Committee on Military Affairs.

By Mr. LENTZ: A bill (H. R. 8734) to remove the charge of desertion against David Parrott—to the Committee on Military Affairs.

Also, a bill (H. R. 8735) granting an increase of pension to Mathias J. Dilger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8736) to correct the military record of William E. Rodgers—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. ARNOLD: Petitions of E. C. Faloon and others, of Clarion; George T. Henery and others, of Piollet; J. T. Campbell and others, of Leatherwood; C. W. Sinclair and others, all citizens of Pennsylvania, in favor of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

Also, petition of Epworth League of Nebraska, Pa., and T. D. Collins and others, of Tionesta, Pa., favoring legislation providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

By Mr. BARNEY: Petition of the Chamber of Commerce of Milwaukee, Wis., in favor of the passage of House bill No. 5359, in relation to second-class mail matter, etc.—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Sheboygan, Wis., in favor of the passage of a general bankruptcy bill—to the Committee on the Judiciary.

Also, petition of the Wisconsin Retail Hardware Association, in favor of legislation to prohibit ticket scalping—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Christian Temperance Union, of Waukesha, Wis., for the passage of a bill to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

By Mr. BABCOCK: Petition of the United Brethren Church, praying for the enactment of a Sunday-rest law for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BELFORD: Resolutions of the council and board of aldermen of the city of New York, favoring the broadening and deepening of the channels of the harbor of New York—to the Committee on Rivers and Harbors.

Also, petitions of H. F. Herrick, Charles A. Jaggar, and other citizens of Southampton; W. S. Cartwright, Julia Brown, Robena Lester, C. E. Kellum, J. G. Smith, and other citizens of Islip, Long Island, N. Y., praying for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. BENTON: Petition of W. H. Nesbit, to accompany House bill for increase of pension—to the Committee on Invalid Pensions.

By Mr. BROMWELL: Petition of George Guckenbarger and 52 others, George M. Verity and 18 others, B. Schmitt and 18 others, L. Straus and 18 others, J. H. Walters and 43 others, R. L. Sprigg and 18 others, H. Monter and 18 others, J. K. Bigger and 17 others, William Gardner and 18 others, Bloom & Phillips and 16 others, V. E. Shields & Co. and 16 others, F. A. Mannheim and 16 others, Fred Wonkler and 18 others, L. Heine & Son and 18 others, C. T. Olenger and 18 others, H. P. Kidder and 18 others, S. Kohn & Son and 47 others, Glove Tailoring Company and 15 others, A. Sauer and 15 others, J. Freiberg and 18 others, W. E. Greene and 18 others, C. B. Avey & Co. and 19 others, R. P. Lewis and 19 others, The Deelman Jewelry Company and 19 others, W. H. Vallman and 19 others, W. U. Nourse and 19 others, T. C. Wearsch and 19 others, Rufus E. Hawkins and 19 others, George Prentiss and 19 others, L. S. Newburg & Son and 19 others, Gordon Chemical Company and 19 others, American Bell Company and 19 others, William Seeger and 19 others, F. Kos and 19 others, all citizens of Ohio; also resolutions of Sinclair Mutual Aid Society of Cincinnati, opposing legislation prohibiting ticket scalping—to the Committee on Interstate and Foreign Commerce.

Also, petition of wholesale jewelers of Cincinnati, in regard to financial legislation—to the Committee on Banking and Currency.

Also, petition of St. Bernardus Society of Cincinnati, against the Lodge bill to restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

Also, petition of the officers of the grand league of the American Loyal Railway League, in favor of the passage of the anti-scalping ticket bill—to the Committee on Interstate and Foreign Commerce.

Also, seven petitions of citizens of Cincinnati, Ohio, in favor of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. BROWNLOW: Petition of citizens of Elizabethton, Tenn., and vicinity, for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. BROSIOUS: Resolutions of Municipal Voters' League of Chicago, Ill., in support of the present civil-service law—to the Committee on Reform in the Civil Service.

By Mr. BURLEIGH: Petition of the Woman's Christian Temperance Union of Gardiner, Me., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, paper to accompany House bill No. 8631, to correct the record of Isaac S. Bangs—to the Committee on Military Affairs.

By Mr. CLARDY: Papers to accompany House bill No. 2608, for the relief of A. B. Gilliland—to the Committee on Military Affairs.

By Mr. COOPER of Wisconsin: Petitions of the Woman's Christian Temperance Union of Sharon, Wis., for the passage of a bill to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

By Mr. COWHERD: Petition of citizens of Kansas City, Mo., favoring the restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DALZELL: Petition of citizens of Turtle Creek and vicinity, State of Pennsylvania, praying for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. DE VRIES: Papers to accompany House bill for the relief of D. E. Goulding—to the Committee on Claims.

Also, papers to accompany House bill to increase the pension of Mellon Lothrop—to the Committee on Invalid Pensions.

Also, resolutions of the Los Angeles Chamber of Commerce and resolutions of San Francisco Lodge, No. 68, I. A. of M., of San Francisco, Cal., in opposition to the passage of the anti-scalping bill—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the Board of Marine Underwriters of San Francisco, Cal., concerning the improvement of San Francisco Harbor—to the Committee on Rivers and Harbors.

Also, resolutions of the San Francisco, Cal., Chamber of Commerce, requesting the establishment of a department of commerce and industry—to the Committee on the Judiciary.

Also, petitions of the Woman's Christian Temperance unions of Sacramento, Chico, Urinsheew, Elk Grove, Lodi, and Linden, and the counties of Placer, Butte, and Yolo, State of California, for the passage of a bill to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, affidavit to accompany House bill No. 6200, for the relief of Felix Spurgeon—to the Committee on Invalid Pensions.

By Mr. FOSS: Resolutions of Company L, Second Infantry, National Guard of Illinois, favoring an appropriation to promote the efficiency of the militia—to the Committee on the Militia.

By Mr. HENDERSON: Resolutions of the Sioux City (Iowa) Commercial Association, in favor of legislation to prohibit ticket scalping—to the Committee on Interstate and Foreign Commerce.

By Mr. HENRY of Indiana: Papers relating to the case of James Wilkinson—to the Committee on Military Affairs.

By Mr. HILL: Petition of Cigar Makers' Union No. 139, of Long Hill, Conn., in favor of the passage of House bills 7389 and 6092, relating to labor—to the Committee on Labor.

Also, resolution of the New England Milk Producers' Union, concerning the powers of the Interstate Commerce Commission—to the Committee on the Judiciary.

By Mr. HOWELL: Three petitions of citizens of the State of New Jersey, for the relief of members of the Life-Saving Service who shall become enfeebled by age or disabled by accident—to the Committee on Pensions.

By Mr. JOHNSON of Indiana: Petition of citizens of Richmond, Ind., asking for the passage of a bill to forbid the sale of intoxicating beverages in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. JOY: Petition of W. J. Ketchum and 46 others, Louis Deibel and 70 others, J. F. Krieg and 19 others, I. Davenport and 24 others, N. R. Brindle and 24 others, all citizens of St. Louis, Mo., in favor of legislation to more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. KIRKPATRICK: Petition of 25 citizens of Leighton, Weissport, and vicinity, Pennsylvania, for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. KLEBERG: Petitions of citizens of Cuero and Benavides, State of Texas, asking the Government to assume control and secure deep water at Aransas Pass Harbor, Texas—to the Committee on Rivers and Harbors.

By Mr. LOVERING: Petitions of the Woman's Christian Temperance unions of Rock and Marshfield Hills and the First Baptist Church of Dighton, Mass., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Christian Temperance Union of the State of Massachusetts, praying for the enactment of a Sunday-rest law for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the North Baptist Church Young People's Union, of Marshfield, Mass., praying for the enactment of legislation substituting voluntary arbitration for railway strikes—to the Committee on Labor.

Also, petition of the North Baptist Church Young People's Union, of Marshfield, Mass., praying for the enactment of legislation prohibiting interstate gambling by telegraph, telephone, or otherwise—to the Committee on Interstate and Foreign Commerce.

Also, petition of the North Baptist Church Young People's Union, of Marshfield, Mass., praying for the enactment of legislation prohibiting in the District of Columbia and the Territories kinetoscope reproductions of pugilistic encounters and also the interstate transportation of materials of the same—to the Committee on Interstate and Foreign Commerce.

Also, petition of the North Baptist Church Young People's Union, of Marshfield, Mass., praying for the enactment of legislation raising the age of protection for girls to 18 years in the District of Columbia and the Territories—to the Committee on the District of Columbia.

Also, petition of the North Baptist Church Young People's Union, of Marshfield, Mass., praying for the enactment of legislation to prohibit the transmission by mail or interstate commerce of newspaper descriptions of prize fights—to the Committee on Interstate and Foreign Commerce.

Also, petition of the North Baptist Church Young People's Union, of Marshfield, Mass., urging the passage of a bill to prohibit the sale of liquors in Government buildings—to the Committee on Public Buildings and Grounds.

By Mr. McDOWELL: Petition of William C. Doty and 23 citizens of Wooster, Ohio, in favor of the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. NORTHWAY: Petition of citizens of Chardon, Geauga County, Ohio, for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Chardon, Ohio, asking for the passage of a bill to forbid the sale of intoxicating beverages in all Government buildings—to the Committee on Public Buildings and Grounds.

By Mr. NORTON of Ohio: Papers to accompany House bill No. 6935, relating to the case of Samuel Cole—to the Committee on Military Affairs.

Also, petition of Dick Lambert Post, No. 165, Grand Army of the Republic, of Ironton, Ohio; also petition of William C. Brown, of Winchester, Ind., favoring the passage of House bill No. 2053, relating to pensions to those who have lost limbs, etc.—to the Committee on Invalid Pensions.

Also, papers to accompany House bill No. 7906, relating to the case of B. F. Worner—to the Committee on Military Affairs.

Also, memorial of the Grand Army of the Republic, Department of Ohio, indorsing the measure to establish a military park at Vicksburg, Miss.—to the Committee on Military Affairs.

Also, petitions of George Nickels and 227 others, Peter Butterfield and 23 others, Harry Mackey and 25 others, H. H. Lininger and 25 others, all citizens of Galion; S. A. Michener and 89 citizens of Lykens; Ella Feaga and 23 others of Tiffin; David Snyder and 143 others of Bloomville; S. G. Nye and 84 citizens of Republic, all in the State of Ohio, praying for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, criminal, and pauper classes to the United States—to the Committee on Immigration and Naturalization.

Also, papers to accompany House bill relating to the case of Frances Delaplane—to the Committee on Invalid Pensions.

Also, papers to accompany House bill No. 7527, relating to the case of W. H. Stokes—to the Committee on Military Affairs.

By Mr. REED: Petition of the Woman's Christian Temperance Union of Casco, Me., for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in

original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

By Mr. ROBINSON of Indiana: Petition of R. J. Laser and 19 citizens of Fort Wayne, Ind., in opposition to the so-called anti-scalping bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SAYERS: Petition of the Methodist Episcopal Church South of Austin, Tex., in favor of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Methodist Episcopal Church South of Austin, Tex., for the passage of a bill to forbid interstate transmission of lottery and other gambling matter by telegraph—to the Committee on Interstate and Foreign Commerce.

Also, petition of the session of the First Presbyterian Church, Epworth League of the Tenth Street Methodist Episcopal Church, and the First Baptist Church, all of Austin, Tex., for the passage of a bill to substitute voluntary industrial arbitration for railway strikes—to the Committee on Labor.

Also, petitions of the Methodist Episcopal Church South and the Epworth League of the Tenth Street Methodist Episcopal Church, of Austin, Tex., urging the passage of a bill to prohibit the sale of liquors in Government buildings—to the Committee on Public Buildings and Grounds.

Also, petitions of the Methodist Episcopal Church South and Epworth League of the Methodist Episcopal Church of Austin, Tex., favoring the passage of a Sabbath law for the national capital—to the Committee on the District of Columbia.

Also, petitions of the Baptist Young People's Union, sessions of the First Presbyterian Church, First Baptist Church, Methodist Episcopal Church, and Epworth League, of Austin, Tex., praying for the enactment of legislation prohibiting the interstate transmission of newspaper descriptions of prize fights, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. SPALDING: Petition of the Woman's Christian Temperance Union of Adrian, Mich., for the passage of a bill to forbid interstate transmission of lottery and other gambling matter by telegraph—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Christian Temperance Union of Adrian, Mich., praying for the enactment of legislation substituting voluntary arbitration for railway strikes—to the Committee on Labor.

Also, petition of the Woman's Christian Temperance Union of Adrian, Mich., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Christian Temperance Union of Adrian, Mich., asking for the passage of a bill to forbid the sale of intoxicating beverages in all Government buildings—to the Committee on Public Buildings and Grounds.

Also, petition of the Woman's Christian Temperance Union of Adrian, Mich., urging the passage of a bill to prohibit the transmission by mail of newspaper descriptions of prize fights—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Christian Temperance Union of Adrian, Mich., in favor of legislation to prohibit kinetoscope reproductions of prize fights in the District of Columbia and the Territories and the interstate transportation of such brutalizing shows—to the Committee on Interstate and Foreign Commerce.

By Mr. STEWART of New Jersey: Petition of C. K. Shaw and 23 others, George E. Gilliam and 23 others, citizens of Paterson; C. B. Montayal and 23 others, of Bergen County; G. B. Wilson and 21 others, C. B. Halsey and 23 others, E. O. Pierce and 24 others, citizens of Passaic County, all in the State of New Jersey, in favor of the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

Also, petition of the Woman's Christian Temperance Union of the State of New Jersey, praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petitions of the Woman's Christian Temperance unions of Passaic and Pompton, and the Paterson Avenue Methodist Episcopal Church, of Paterson, N. J., urging the passage of a bill to prohibit the sale of liquors in Government buildings—to the Committee on Public Buildings and Grounds.

Also, petitions of the Woman's Christian Temperance Union of Pompton, N. J., and the Paterson Avenue Methodist Episcopal Church, of Paterson, N. J., asking for the passage of a bill to raise

the age of protection to 18 years in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Paterson Avenue Methodist Episcopal Church, of Paterson, N. J., and the Woman's Christian Temperance Union of Pompton, N. J., praying for the enactment of legislation prohibiting interstate gambling by telegraph, telephone, or otherwise—to the Committee on Interstate and Foreign Commerce.

By Mr. WILLIAM A. STONE: Petition of G. H. Bauer and other citizens of Allegheny, Pa., and vicinity, in favor of the passage of the Lodge bill to prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. SULLOWAY: Petition of the Woman's Christian Temperance Union of Franklin, N. H., praying for the enactment of legislation prohibiting interstate gambling by telegraph, telephone, or otherwise—to the Committee on Interstate and Foreign Commerce.

Also, petitions of the Woman's Christian Temperance unions of Newmarket, Franklin, and East Andover, N. H., praying for the enactment of legislation raising the age of protection for girls to 18 years in the District of Columbia—to the Committee on the District of Columbia.

Also, petitions of the Woman's Christian Temperance Union of Alton, the Congregational Church and Free Baptist Church, of Rochester, N. H., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Woman's Christian Temperance Union of Franklin, N. H., praying for the enactment of legislation to substitute voluntary arbitration for railway strikes—to the Committee on Labor.

Also, petition of the Woman's Christian Temperance unions of Newmarket, Franklin, and East Andover, Mass., for the passage of a bill to further protect the first day of the week in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Woman's Christian Temperance unions of Newmarket, Franklin, East Andover, and Newport, N. H., in favor of the passage of a bill to prohibit the sale of liquors in Government buildings—to the Committee on Public Buildings and Grounds.

Also, petition of the Woman's Christian Temperance Union of Newmarket, N. H., praying for the enactment of legislation prohibiting kinetoscope reproductions of prize fights in the District of Columbia and the Territories—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. E. Adams and other citizens of Exeter, N. H., for the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

By Mr. SUTHERLAND: Resolutions of the National Brotherhood of Electrical Workers No. 22, Carpenters and Joiners' Union, Lathers' Protective Union, and Building Trades Council, all of Omaha, Neb., in opposition to the passage of the anti-scalping bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Evangelical Church of Underwood, Nebr., praying for the enactment of legislation raising the age of protection for girls to 18 years in the District of Columbia and the Territories—to the Committee on the District of Columbia.

Also, petition of the Evangelical Church of Underwood, Nebr., for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Evangelical Church of Underwood, Nebr., praying for the enactment of legislation prohibiting interstate gambling by telegraph, telephone, or otherwise—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Evangelical Church of Underwood, Nebr., praying for the enactment of legislation prohibiting the sale of intoxicating liquors in all Government buildings—to the Committee on Public Buildings and Grounds.

By Mr. TERRY: Resolutions of Barbarossa Lodge, No. 12, Damon Lodge, No. 3, Bayard Lodge, No. 8, and Thomas Allen Lodge, No. 78, Knights of Pythias, all of Little Rock, Ark., in favor of the passage of House bill No. 6468, for Pythian sanitarium on Government reservation at Hot Springs, Ark.—to the Committee on the Public Lands.

Also, petition of the Willard Woman's Christian Temperance Union, of Little Rock, Ark., for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws—to the Committee on the Judiciary.

By Mr. VEHSLEGE: Resolutions adopted by the municipal

assembly of New York City, asking for the improvement of the harbor of New York—to the Committee on Rivers and Harbors.

Also, memorial of the Chamber of Commerce of the State of New York, for the erection of a new custom-house in New York City—to the Committee on Public Buildings and Grounds.

By Mr. YOUNG of Pennsylvania: Petition of the Pennsylvania Millers' State Association, favoring the passage of the pure-flour bill—to the Committee on the Judiciary.

Also, petition of William H. Smyser, for an increase of pension—to the Committee on Invalid Pensions.

Also, petition of the Philadelphia Yearly Meeting of Friends, asking the passage of House bill No. 479, Senate bill No. 478, also House bill No. 55—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Christian Endeavor Society of St. Matthew's Methodist Episcopal Church, Philadelphia, Pa., in favor of House bill No. 479—to the Committee on Public Buildings and Grounds.

Also, petitions of U. F. Spader, John H. Kenney, and others; Howard W. Dilgan and others; Fred Urban and others; Isaac Thackray and others; Charles C. Uhde and others; Charles L. Jones and others, all citizens of Philadelphia, in favor of the enactment of legislation which will more effectually restrict immigration and prevent the admission of illiterate, pauper, and criminal classes to the United States—to the Committee on Immigration and Naturalization.

SENATE.

TUESDAY, *March 1, 1898.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on motion of Mr. RAWLINS, and by unanimous consent, the further reading was dispensed with.

MRS. MARY CAMPBELL.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with accompanying papers, recommending the necessary legislation to authorize the issuance of a patent in fee to Mrs. Mary Campbell, a Nez Percé Indian allottee, for that portion of her allotment which is situated within the limits of what was formerly known as the "Langford claim;" which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of Headquarters Encampment No. 2, Union Veteran Legion, of Philadelphia, Pa., extending sympathy to the relatives of those who lost their lives in the destruction of the U. S. battle ship *Maine*; which was referred to the Committee on Naval Affairs.

He also presented the petition of Thomas M. Steep, of the city of Washington, praying for the payment of a judgment rendered in his favor by the Court of Claims against the District of Columbia; which was referred to the Committee on Claims.

Mr. FAIRBANKS presented a petition of the Young People's Christian Union of the Universalist Church of Pleasant Valley, Ind., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of Branch No. 85, Quarrymen's National Union of the United States, of Oolitic, Ind., and a petition of Local Union No. 14, Union Mine Workers of America, of Linton, Ind., praying for the passage of the so-called eight-hour bill and the prison-labor bill; which were referred to the Committee on Education and Labor.

He also presented a petition of Local Union No. 677, United Mine Workers of America, of Knightstown, Ind., praying for the passage of the so-called eight-hour bill, the prison-labor bill, the anti-injunction bill, and the bill for the relief of American seamen; which was referred to the Committee on Education and Labor.

Mr. McMILLAN presented a petition of the Woman's Christian Temperance Union of Adrian, Mich., and a petition of the Woman's Club of Adrian, Mich., praying for the enactment of legislation to prohibit interstate gambling by telegraph, telephone, or otherwise; which were referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union of Adrian, Mich., and a petition of the Woman's Club of Adrian, Mich., praying for the enactment of legislation to prohibit the interstate transmission and mailing of pictures and descriptions of prize fights; which were referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union of Adrian, Mich., and a petition of the Woman's Club

of Adrian, Mich., praying for the enactment of legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which were referred to the Committee on Interstate Commerce.

He also presented a petition of the Woman's Christian Temperance Union of Adrian, Mich., and a petition of the Woman's Club of Adrian, Mich., praying for the enactment of legislation to prohibit kinetoscope reproductions of prize fights in the District of Columbia and the Territories and the interstate transportation of materials for the same; which were ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Adrian, Mich., and a petition of the Woman's Club of Adrian, Mich., praying for the enactment of legislation to substitute voluntary arbitration for railway strikes; which were referred to the Committee on Education and Labor.

He also presented petitions of the Woman's Christian Temperance Union of Adrian, of the Woman's Christian Temperance Union of Vassar, and of the Woman's Club of Adrian, all in the State of Michigan, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the congregation of the Memorial United Brethren Church, of the city of Washington, praying for the enactment of a Sunday-rest law for the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. BURROWS presented petitions of the Woman's Christian Temperance Union of Sparta, of the congregation of the Methodist Church and of the Woman's Christian Temperance Union of Wyandotte, all in the State of Michigan, praying for the enactment of legislation to prohibit the interstate transmission of newspaper descriptions of prize fights, etc.; which were referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union of the Methodist Church of Wyandotte, Mich., praying for the enactment of legislation to prohibit interstate gambling by telegraph, telephone, or otherwise; which was referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Christian Temperance Union of Penn. of the Woman's Christian Temperance Union of Sparta, and of the Woman's Christian Temperance Union of the Methodist Episcopal Church of Wyandotte, all in the State of Michigan, praying for the enactment of legislation to raise the age of protection for girls to 18 years in the District of Columbia and the Territories; which were ordered to lie on the table.

He also presented petitions of the congregation of the Methodist Episcopal Church of Muskegon; of the Woman's Christian Temperance Union of Battlecreek; of the Woman's Christian Temperance Union of Coldwater; of the Woman's Christian Temperance Union of Wyandotte, and of the congregation of the Methodist Episcopal Church of Wyandotte, all in the State of Michigan, praying for the enactment or legislation to protect State anti-cigarette laws by providing that cigarettes imported in original packages on entering any State shall become subject to its laws; which were referred to the Committee on Interstate Commerce.

He also presented petitions of the congregation of the Methodist Episcopal Church of Wyandotte; of the Woman's Christian Temperance Union of Wyandotte; of the Young People's Christian Endeavor Society of Concord; of the Woman's Christian Temperance Union of Sparta; of the Woman's Christian Temperance Union of Penn.; of the Young People's Christian Union of Manchester; of the congregation of the Methodist Episcopal Church of Muskegon; of P. J. Connell and 23 other citizens of Muskegon, and of James Newcomb and 47 other citizens of Marcellus, all in the State of Michigan, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

Mr. LODGE presented resolutions adopted by the Commonwealth of Massachusetts, favoring the enactment of legislation to protect the insignia of the Red Cross; which were ordered to lie on the table.

He also presented a petition of Typographical Union No. 224, of Brockton, Mass., praying for the passage of the so-called eight-hour bill, the prison-labor bill, the anti-injunction bill, and the bill for the relief of American seamen; which was referred to the Committee on Education and Labor.

He also presented a petition of the Chamber of Commerce of Boston, Mass., praying for the enactment of legislation to protect both the traveler and the carrier against fraudulent and irregular practices; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Universalist Young People's Christian Union of Massachusetts, praying for the enactment of