amending the interstate-commerce law—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the San Diego (Cal.) Chamber of Commerce, for the passage of House bill No. 7097, providing for a reorganization of the consular service—to the Committee on Foreign Affairs.

By Mr. NORTON of Ohio: Petition of E. B. Hubbard and other druggists of Tiffin, Ohio, for the repeal of the stamp tax on medicines, etc.—to the Committee on Ways and Means.

Also, papers to accompany House bill No. 7798, for the relief of Denton Whips—to the Committee on Military Affairs.

Also, resolution of the Ohio Association of Local Fire Insurance Agents, urging the passage of House bill No. 6252, relating to the collection of tax on fire-insurance policies—to the Committee on Ways and Means.

Also, resolution of Manville Moore Post, No. 525, of Fremont, Ohio, and Moses Martin Post, No. 649, of Huron, Grand Army of the Republic, Department of Ohio, in support of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

Also, resolution of Subordinate Association No. 19, Lithographers' International Association, Coshocton, Ohio, to print the label of the Allied Printing Trades on publications of the Government—to the Committee on Printing.

By Mr. ROBERTS: Petition of William B. Eaton Post, No. 199, Grand Army of the Republic, of Revere, Mass., favoring the passage of House bill No. 7094—to the Committee on Military Affairs.

By Mr. ROBINSON of Nebraska: Petition of citizens of Niobrara, Nebr., for an appropriation of $10,000 for the purpose of improving the Missouri River at and below the mouth of the Niobrara River, etc.—to the Committee on Rivers and Harbors.

By Mr. RUSSELL: Petition of Grand Army of the Republic post at Mystic, Conn., favoring the establishment of a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. STARK: Petition of L. B. Martin and 54 others, of Crete, Nebr., favoring the enactment of a clause in the Hawaiian constitution forbidding the manufacture and sale of intoxicating liquors and a prohibition of gambling and the opium trade—to the Committee on the Territories.

Also, petition of W. A. Carpenter and other citizens of York, Nebr., favoring the passage of House bill No. 3717, amending the oleomargarine law—to the Committee on Agriculture.

By Mr. STEVENS of Minnesota: Resolution of the St. Paul Chamber of Commerce, asking for a United States supervising inspector of steam vessels at St. Paul—to the Committee on the Merchant Marine and Fisheries.

Also, petition of J. J. Roseman, of St. Paul, Minn., favoring the anti-canteen bill—to the Committee on Military Affairs.

Also, petition of Company E, Fourth Infantry National Guard of State of Minnesota, in favor of House bill No. 7936, making an increase in the appropriation for arming and equipping the militia of the States and Territories—to the Committee on Militia.

By Mr. WACHTER: Affidavit to accompany House bill No. 8190, for the relief of Henry Miller—to the Committee on Pensions.

By Mr. WHITE: Petition of J. W. Reynolds and others, of Texas, and John W. Fox and 36 others, of Massachusetts, against the crime of lynching and mob violence—to the Committee on the Judiciary.

Also, petition of Mary E. Norman, for a pension—to the Committee on Invalid Pensions.

By Mr. WISE: Papers to accompany House bill for the relief of P. F. Eagan—to the Committee on Claims.

SENATE.

SATURDAY, *March 31, 1900.*

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. DAVIS, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. H. L. OVERSTREET, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7941) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1901.

The message also announced that the House had passed the bill (S. 739) for the relief of the estate of George W. Lawrence.

PETITIONS AND MEMORIALS.

Mr. HANSBROUGH. I present resolutions adopted at a meeting of citizens of South Minnewaukon Township, in the county of Ramsey, N. Dak., declaring in favor of the Boers in South Africa, against a tariff as to Puerto Rico, against the ship-subsidy bill, and against the war in the Philippines. I ask that the resolutions, which can not be sent to any particular committee, be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

SOUTH MINNEWAUKAN TOWNSHIP, N. DAK., *March 13, 1900.*

To the Senators and Representative of North Dakota in Congress:

The residents of South Minnewaukan Township in mass meeting assembled. The following resolutions were unanimously adopted:

Resolved, That we sympathize with the brave and valiant Boers in the manly struggle for freedom and independence, and hereby declare that the people of South Africa and the Orange Free State are and of right ought to be free and independent: Therefore, be it

Resolved, That we hereby request our Senators and Representative in Congress to take such active measures as shall insure immediate mediation by the President of these United States as shall lead to a speedy termination of the unholy and unjust war now waged by England in an unjust cause—a war of greed and conquest.

Resolved, That we are in favor of such treatment being accorded to the people of Puerto Rico as is now accorded to the peoples of every State in the Union; that no discriminating tariff duties should be imposed upon any of their products entering into competition with like products of the United States. We favor executing honorably every pledge or promise that may have been made to the peoples of Puerto Rico.

Resolved, That we are opposed to the useless shedding of the blood of American soldiers in the war of conquest against the Philippines.

Resolved, That the peoples of the Western States are producers and have to depend on foreign markets for fixed prices and sale of their products; therefore we are opposed to all forms of tariff protection that tends to foster trusts and combinations of aggregated capital which compels consumers to pay exorbitant prices for such protected commodities.

Resolved, That we favor ship subsidy, but are opposed to the "Hanna-Payne bill" now under consideration; if special favors must be granted, let such favoritism be extended toward ships on the Pacific, not on the Atlantic Ocean.

Resolved, That copies of these resolutions be forwarded to the Senators and Representative of North Dakota in Congress.

Mr. COCKRELL presented a petition of the Merchants' Exchange of St. Louis, Mo., and the Business Men's League of St. Louis, Mo., praying for the adoption of certain amendments to the interstate-commerce law; which was referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. WARREN, from the Committee on Claims, to whom was referred the bill (S. 1373) for the relief of George F. Roberts, administrator of the estate of William B. Thayer, deceased, surviving partner of Thayer Brothers, and others, reported it without amendment, and submitted a report thereon.

Mr. KENNEY, from the Committee on Pensions, to whom was referred the bill (H. R. 3775) granting an increase of pension to Robert Boston, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 6885) granting an increase of pension to Horace B. Durant, reported it without amendment, and submitted a report thereon.

JOHN H. STREETER.

Mr. GALLINGER. I am directed by the Committee on Pensions, to whom was referred the bill (S. 3797) granting an increase of pension to John H. Streeter, to report it without amendment, and as this is a bill proposing to give relief to a very sick soldier, I ask immediate consideration for it.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to place on the pension roll the name of John H. Streeter, late of Company F, Sixth Regiment New Hampshire Volunteer Infantry, and to pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

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

BILLS INTRODUCED.

Mr. MORGAN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 3925) for the relief of the estate of Caswell B. Derrick, deceased;

A bill (S. 3926) for the relief of the estate of Bradford Hambrick, deceased;

A bill (S. 3927) for the relief of the estate of James Campbell, deceased; and

A bill (S. 3928) for the relief of the estate of A. J. Underwood, deceased.

Mr. COCKRELL introduced a bill (S. 3929) for the relief of Sidney J. Wetherell, assignee of A. V. Davis; which was read twice by its title, and referred to the Committee on Claims.

Mr. FORAKER introduced a bill (S. 3930) to increase the salary of the United States marshal for the southern district of Ohio; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 3931) to correct the military record of Forrest C. Briggs; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SPOONER introduced a bill (S. 3932) to provide compensation for injuries received by George E. Giles, of Watertown, Wis., at the Ford's Theater disaster, which occurred June 9, 1893; which was read twice by its title, and referred to the Committee on Claims.

Mr. BAKER introduced a bill (S. 3933) for the protection of cities and towns in the Indian Territory, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 3934) to provide for the sale of isolated and disconnected tracts or parcels of the Osage trust and diminished reserve lands in the State of Kansas; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Public Lands.

Mr. HALE introduced a bill (S. 3935) granting an increase of pension to James Ryan; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SHOUP introduced a bill (S. 3936) for the relief of Caroline V. English; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. McMILLAN introduced a bill (S. 3937) to amend an act entitled "An act to regulate, in the District of Columbia, the disposal of certain refuse, and for other purposes," approved January 25, 1898; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. McBRIDE introduced a bill (S. 3938) reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SULLIVAN introduced a bill (S. 3939) for the relief of the estate of Mary P. Govan, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 3940) for the relief of Sally G. Billups; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 3941) granting an increase of pension to John Hutchins; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HAWLEY introduced a bill (S. 3942) for increasing the efficiency of the Signal Corps of the Army of the United States; which was read twice by its title, and referred to the Committee on Military Affairs.

AMENDMENT TO PUERTO RICAN BILL.

Mr. GALLINGER submitted two amendments intended to be proposed by him to the bill (H. R. 8245) temporarily to provide revenues for the relief of the island of Puerto Rico, and for other purposes; which were ordered to lie on the table and be printed.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. HALE. I submit a concurrent resolution, which is simply to correct an error in the enrollment of an appropriation bill, and I ask for its adoption.

The concurrent resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H. R. 7941, "An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1901," the Clerk of the House of Representatives be directed to omit the word "Ottawa," in line 22, page 11, of the engrossed bill.

READJUSTED SALARIES OF POSTMASTERS IN IOWA.

Mr. GEAR submitted the following resolution; which, with the accompanying papers, was referred to the Committee on Post-Offices and Post-Roads:

Resolved, That the Postmaster-General be, and he hereby is, directed to report upon a schedule to the Senate the readjusted salaries of all postmasters who served in the State of Iowa between July 1, 1864, and July 1, 1874, whose names as claimants appear in the Court of Claims in the case entitled "Ebenezer H. Swinney and others *vs.* The United States, No. 18213," each such stated account to conform in all respects to the order of the Postmaster-General published by circular under date of June 9, 1883, and to the requirement of the act of March 3, 1883, as said requirement was published by the Postmaster-General in the newspapers of the country under date of February 17, 1884, and with such report transmit to the Senate a full copy of the text of the construction by the Postmaster-General of the act of March 3, 1883, embodied in the said circular and publication in the newspapers and in circular form No. 1223, the text of each of which, under date of November 8, 1897, was transmitted by the Postmaster-General to the Attorney-General for use in the case of Jane Yarrington and others *vs.* The United States, No. 16345.

INSULAR SURVEYS.

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

Resolved, That the Secretary of the Navy be, and he is hereby, directed to submit to the Senate of the United States a report stating what surveys the Navy Department has made in the islands recently acquired by the United States.

READJUSTED SALARIES OF POSTMASTERS IN ILLINOIS.

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

Resolved, That the Postmaster-General be, and he hereby is, directed to report upon a schedule to the Senate the readjusted salaries of all postmasters who served in the State of Illinois between July 1, 1864, and July 1, 1874, whose names as claimants appear in the Court of Claims in the case entitled "Albert Dickerson and others *vs.* The United States, No. 17058," each such stated account to conform in all respects to the order of the Postmaster-General published by circular under date of June 9, 1883, and to the requirement of the act of March 3, 1883, as said requirement was published by the Postmaster-General in the newspapers of the country under date of February 17, 1884, and with such report transmit to the Senate a full copy of the text of the construction by the Postmaster-General of the act of March 3, 1883, embodied in the said circular and publication in the newspapers, and in circular form No. 1223, the text of each of which, under date of November 8, 1897, was transmitted by the Postmaster-General to the Attorney-General for use in the case of Jane Yarrington and others *vs.* The United States, No. 16345.

RECOMMITTAL OF A BILL.

Mr. McMILLAN. I move that the bill (S. 3663) authorizing and requiring the Metropolitan Railroad Company to extend its lines on old Sixteenth street be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

NOTES ON TERRITORIAL EXPANSION BY CARMAN F. RANDOLPH.

Mr. ALLEN. I ask unanimous consent to have published as a miscellaneous document a legal argument made by Mr. Carman F. Randolph, of the New York bar, citing the authorities very fully on the subject of the legal status of our new possessions. It is an argument that was made for the benefit of the Judiciary Committee of the Senate.

The PRESIDENT pro tempore. The Senator from Nebraska asks unanimous consent to have printed as a document the argument of Mr. Randolph touching——

Mr. SPOONER. What does the Senator mean by saying that it was made for the benefit of the Judiciary Committee?

Mr. ALLEN. If the Secretary will be kind enough to read the title, the Senator will see. I do not remember the exact title.

The PRESIDENT pro tempore. The title will be read.

The Secretary read as follows:

Notes on the law of territorial expansion, with especial reference to the Philippines, submitted to the Committee on the Judiciary of the Senate of the United States March 16, 1900, by Carman F. Randolph, of the New York bar.

The PRESIDENT pro tempore. Is there objection to printing the paper as a document?

Mr. McCOMAS. I trust that may not be done. We have many arguments in respect to that matter, and it might be very well to have them brought together and printed in a collection. I believe that this argument, which I have read——

Mr. ALLEN. I can not hear the Senator.

Mr. McCOMAS. I think that the request had better go over; and if arguments before committees are to be thus printed, I should like to see a collection, including this one with others that are more cogent.

Mr. ALLEN. I will take back the paper and put it in one of my speeches, and then the Senator will have the benefit of it.

Mr. McCOMAS. If the Senator wishes to do that, very well.

Mr. SPOONER. I do not know but that the paper ought to be referred to the Committee on the Judiciary if it was prepared for that purpose.

Mr. ALLEN. I withdraw it. The Senator from Maryland seems to be afraid of that legal question.

Mr. McCOMAS. I have no objection to having it printed as a part of a collection.

Mr. ALLEN. No; of course you want to suppress it. That is the purpose of sending it to a committee.

Mr. McCOMAS. I have read it myself, and there are several other arguments that I would like to see printed with it if it is to be printed.

Mr. ALLEN. If it has the approval of the distinguished legal

judgment of the Senator from Maryland it ought to be printed without any objection.

Mr. CULLOM. It does not have his approval, as I understand it.

SCHOOL LANDS IN ALABAMA.

Mr. MORGAN. I ask unanimous consent for the consideration of the bill (S. 3421) to grant lands to the State of Alabama for the purposes of education of colored students at Montgomery, Ala.

There being no objection, the bill was considered as in Committee of the Whole. It authorizes the governor of the State of Alabama to select, out of the unoccupied and uninhabited lands of the United States, not held for public purposes, within the State, 25,000 acres of land, and shall certify the same to the Secretary of the Interior, who shall forthwith, upon receipt of the certificate, issue to the State of Alabama patents for the lands. But the proceeds of the lands, when sold or leased, shall forever remain a fund for the use of the State normal school for colored students at Montgomery, Ala.

It also authorizes the governor of Alabama to select, out of the unoccupied and uninhabited lands of the United States, not held *for public* purposes, within the State, 25,000 acres of land, and shall certify the same to the Secretary of the Interior, who shall forthwith, upon receipt of the certificate, issue to the State patents for the lands. But the proceeds of the lands, when sold or leased, shall forever remain a fund for the use of the State normal college at Troy, Ala.

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

The title was amended so as to read: "A bill to grant lands to the State of Alabama for the use of the State normal school for colored students at Montgomery, Ala., and of the State normal college at Troy, Ala."

W. T. SCOTT AND OTHERS.

Mr. CULBERSON. I ask unanimous consent for the present consideration of the bill (S. 3554) for the relief of W. T. Scott and others.

There being no objection, the bill was considered as in Committee of the Whole. It proposes to refund to W. T. Scott and William Umdenstock, of Harrison County, Tex., or to their heirs or legal representatives, $2,750 each, that being the amount erroneously paid by them severally into the Treasury of the United States on the 17th day of September, 1881, in compromise of a judgment recovered against them as sureties on the official bond of Davis B. Bonfoey, late collector of internal revenue for the fourth district of Texas, in the circuit court of the United States for the western district of Texas December 11, 1873.

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

LIGHT AND FOG SIGNAL AT BROWNS POINT, PUGET SOUND.

Mr. FOSTER. I ask unanimous consent for the present consideration of the bill (H. R. 8128) to establish a light and fog signal at Browns Point, in Puget Sound.

There being no objection, the bill was considered as in Committee of the Whole. It provides that a light and fog signal shall be established and constructed at Browns Point, on Commencement Bay, in Puget Sound, being at the entrance of the harbor of the city of Tacoma; the light and fog signal not to exceed the cost of $6,000.

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

ESTATE OF GILMAN SAWTELLE.

Mr. SHOUP. I ask unanimous consent for the present consideration of the bill (S. 257) for the relief of Gilman Sawtelle.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in line 4, after the word "to," to insert "the legal representative of;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay to the legal representatives of Gilman Sawtelle, Priest River, Idaho, out of any money in the Treasury not otherwise appropriated, the sum of $2,070, for remuneration for damages done to his property by United States troops while camping on his ranch at Henrys Lake, Idaho, in 1877.

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.

The title was amended so as to read: "A bill for the relief of the legal representatives of Gilman Sawtelle."

JAMES AND WILLIAM CROOKS.

Mr. SPOONER. Some time ago I entered a motion to reconsider the vote by which the Senate passed the bill (S. 631) for the relief of James and William Crooks, of Canada. I have examined the case since then, and in view of the fact that the court held the original seizure to have been void, I regard the principle which it seemed to me ought to prevent the passage of the bill to be inapplicable. I therefore ask unanimous consent to withdraw the motion to reconsider.

The PRESIDENT pro tempore. The Senator from Wisconsin withdraws the motion to reconsider the vote by which Senate bill 631 was passed. The bill stands passed.

JOHN COLLINSON.

Mr. DAVIS. I ask unanimous consent that the bill (S. 3723) to enable John Collinson, a subject of Her Majesty the Queen of Great Britain, to dispose of his right, title, and interest to and in certain lands situate in the Territory of New Mexico, be now considered.

The Secretary read the bill.

Mr. BERRY. From what committee does the bill come?

The PRESIDENT pro tempore. The Committee on Foreign Relations.

Mr. COCKRELL. I should like to ask the Senator a question. Would the bill authorize Mr. Collinson to sell the lands to another citizen of England?

Mr. DAVIS. Yes.

Mr. COCKRELL. Then would that authorize the purchaser to hold and convey it indefinitely to other citizens?

Mr. DAVIS. The same as if it were sold to a citizen of the United States.

I will say to the Senator that the bill received the very careful consideration of the Committee on Foreign Relations. We heard an explanation of the history of the matter from Senator ELKINS. It seems that Mr. Collinson acquired this property in 1873. The act of Congress forbidding the purchase of property by aliens was passed in 1887; but upon looking at the facts and circumstances, Mr. Collinson having large business interests in this country, we concluded that it was a proper case in which to grant relief from the operation of the act. He can make a sale to people in London and can not make it here. We thought on the whole it was a proper thing to do.

Mr. COCKRELL. In other words, it would enable this piece of property to be held indefinitely and to be transferred by citizens of England from one to the other?

Mr. DAVIS. Just as if it were held by a citizen of the United States. Mr. President, considering the treaty we made the other day, and considering the very questionable policy of such sweeping legislation, I think this is a proper and fit bill to pass under the circumstances of the case.

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

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported from the Committee on Foreign Relations with amendments.

The amendments were, in section 1, page 1, line 8, after the word "Bosque," to insert "del Apache;" and on page 2, line 2, after the word "act," to insert "or statute of the United States;" so as to make the section read:

That John Collinson, of London, England, a subject of Her Majesty the Queen of Great Britain, be, and he hereby is, authorized and empowered to sell, convey, transfer, and deliver, either as a whole or otherwise, all his right, title, and interest in and to certain lands situate in the Territory of New Mexico, known briefly as the "Bosque del Apache grant," to any person or persons or corporation or corporations, and that such person or persons or corporation or corporations be, and it or they hereby are, authorized and empowered to take, receive, hold, transfer, and deal with the lands and interests so acquired, notwithstanding the provisions of any Territorial act or statute of the United States now in force respecting the holding of lands in Territories of the United States.

The amendments were agreed to.

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

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

SENATOR FROM PENNSYLVANIA.

Mr. CHANDLER. Mr. President, I desire to give notice, with reference to the unanimous-consent agreement that the resolution No. 107, in reference to the vacant seat in this body from the State of Pennsylvania, shall be proceeded with on Tuesday next, after the conclusion of the morning business, that I shall defer asking the Senate to act under that consent agreement on Tuesday next, out of deference to the discussion of the Puerto Rican bill, but I shall ask the Senate to proceed under that order on the next day, Wednesday, after the conclusion of the routine morning business,

or, if not under that order, to proceed with the resolution as the highest possible question of privilege.

GOVERNMENT OF PUERTO RICO.

The PRESIDENT pro tempore. The first bill on the Calendar will be announced.

Mr. FORAKER. I move that the Senate take up the unfinished business, being House bill 8245.

The PRESIDENT pro tempore. The Senator from Ohio moves that the Senate proceed to the consideration of the bill (H. R. 8245) temporarily to provide revenues for the relief of Puerto Rico, and for other purposes.

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

Mr. FORAKER rose.

Mr. BACON. Will the Senator from Ohio pardon me a moment?

Mr. FORAKER. Certainly.

Mr. BACON. Mr. President, I wish to make a statement that I would have made yesterday afternoon but for the fact that time would not then permit. Just as the Senate was on the eve of going into executive session I offered an amendment, announcing at the time that it was in the nature of a substitute. I do not wish to appear to be the appropriator of that which I am not really the original owner of. I desire to state that the substitute which I offered was not drawn by myself; that it is the original bill offered by the Senator from Ohio [Mr. FORAKER] for the establishment of civil government in the island of Puerto Rico, and that it is the product of the brain of the Senator from Ohio and not of myself.

I wish to state that in one or two minor particulars two changes were introduced by myself, and I desire to call attention to what they were.

In the first place, the provision which the Senator from Ohio will remember in the original bill, requiring that franchises granted in Puerto Rico should, when granted by the authorities in the island, be submitted for the approval of the President, was changed by me to the extent of making it conform to the present pending bill, making such franchises subject to the approval of Congress and reserving the right of Congress to annul.

Another change was that in the original bill, as to the district court of the United States organized there, it provided for what might be understood to be a constitutional judge with a life tenure of office. This bill was to the extent changed that it is made a Territorial judge with a four years' tenure of office.

But, Mr. President, as both of those changes are taken from the pending bill, they may also be said to be the product of the Senator from Ohio, and that, therefore, there is no line or letter in the bill or in the substitute proposed by me which is not the bill of the Senator from Ohio.

I desire to state, Mr. President, that there are one or two other minor particulars in which I shall desire to make a change. One of them which I intended to make, and inadvertently omitted to do so, is that the salary of the governor is fixed at $10,000, which seems to me to be excessive, and unless some good reason can be shown to the contrary I shall ask the permission of the Senate to strike out "ten" and insert "five" before "thousand."

One other matter inadvertently omitted by me when presenting the substitute was that section 38, which prescribes the time when the bill shall take effect, ought to have been stricken out before it was offered, and it will be stricken out by me, with the permission of the Senate.

The PRESIDENT pro tempore. The Senator has a right now to modify the amendment as he pleases.

Mr. BACON. I will modify it in the points indicated. I desire to state, with the permission of the Senator, that I thought it was due to him and to myself that I should make this statement, because, of course, anyone familiar with the two measures would naturally see their identity and might suppose it was my purpose to appropriate it without giving due credit to the author.

I want to say another thing; that I have offered the amendment in the utmost good faith; that I shall be more than delighted if it can be passed, and passed not as my amendment or substitute, but as the bill of the Senator from Ohio. I have examined it with great care, and I have compared it with the Territorial bills, copies of which are included in the pamphlet which has been gotten up as a Senate document, and it is my deliberate judgment that in comparison with them it is superior to any of them in care and in the symmetry and harmony of its provisions, and in its entire correspondence in all of its particulars with the great fundamental principles of our Government and with the institutions of our Government.

I desire, Mr. President, to call attention to the particulars in which this bill has so radically commended itself to me that I have felt that it should not be discarded, and that even if it were discarded by those who originally favored it, I myself should have the opportunity, and others who think like me should have the opportunity, to vote for it.

In this original bill of the Senator from Ohio, which has been presented by me now as a substitute after it has been practically put aside by those who originally favored it, there is a declaration that the inhabitants of Puerto Rico are citizens of the United States. It imposes upon imports into Puerto Rico from foreign lands the duties levied by the Dingley tariff law. It specifically declares that there shall be no tariff duties between Puerto Rico and any other part of the United States as to goods coming from Puerto Rico or going to Puerto Rico. It establishes a legislative assembly in the island and denominates it the legislative assembly of the island of Puerto Rico, United States of America. The provision of the bill requires that in the enactment of laws by that Territorial legislature the following language shall be used: *Be it enacted by the legislative assembly of the island of Puerto Rico, United States of America.*

It further prescribed that there shall be no legislation inconsistent with the Constitution of the United States, and it provides that the existing laws of the island shall continue in force except so far as inconsistent with the Constitution of the United States.

It provides that the officers of the judicial courts shall be officers of the United States—the judges, the district attorneys, and the marshals.

There is another point which I omitted to mention. It extends over the island the internal-revenue system of the United States. Finally, it gives to the people of Puerto Rico a Delegate in Congress.

Now, I will not stop at this time to contrast that with the present measure which is now urged upon the Senate, but I desire to say that if the Senator from Ohio and those who act with him should see fit to bring to a vote in the Senate the bill as originally introduced by him with such minor amendments as may be found necessary, while I am not authorized to speak for all on this side of the Chamber, I know there are a number who would vote for it, and I do not believe there would be a dissenting voice on this side of the Chamber in support of that measure, for the reason that it accomplishes what we think ought to be accomplished.

It established in Puerto Rico a free Territorial government, just as free, just as perfect, just as satisfactory in all its provisions—as measured by the requirements of republican principles and republican institutions—as the Territorial governments which now exist in this country over the Territories of the United States known technically as such. The only possible exception which now occurs to me being in the constitution of what is known as the council, which is not an unusual feature in the inauguration of new Territorial governments, where the inhabitants have not possibly the experience which would enable them to enjoy the full measure of representative government which they are expected to enjoy afterwards.

Now, Mr. President, I repeat that I have introduced this measure in the utmost good faith, not only that we may have the opportunity to vote for it, but that, if possible, those who agree that there should be this free government for Puerto Rico may have the opportunity to vote for it, and I have made this full announcement of the origin of this bill because I know the fact that Senators who are in the majority are necessarily sensitive upon the subject of supporting a measure which comes from the minority.

This, therefore, Mr. President, is presented not as a measure coming from the minority, but as one which was introduced and appears in its original shape upon the Calendar as the offspring of a leading member of the majority, and I desire to assure the Senator from Ohio that in taking this liberty with his property I do so, in the first place, because as it appeared it was the only way in which it could be again brought before the Senate, and because in the utmost good faith I desire that, if possible, it shall be enacted into law.

Mr. FORAKER. Mr. President, I am not insensible to the compliment paid me by the Senator from Georgia, both in adopting as his amendment the bill originally introduced on this subject by me and particularly in the employment by him of the kind language he has seen fit to use in making reference to the bill and to myself in connection with it. I thank him for all that.

And, Mr. President, at the same time I desire to congratulate the Senator from Georgia that he has, in the short space of two months, caught up to the place where I was in regard to this matter when I introduced this bill some six or eight weeks ago. But this is to be said:

The bill as it was introduced by me was simply a first draft. It expressed my idea at that time, without having heard the testimony that we have since listened to as to the conditions in Puerto Rico and the character of government that was suitable to Puerto Rico. It does not, however—and for that reason it would not be satisfactory now—provide for many difficulties there that must be provided for by any legislation that we may enact looking to the establishment of a civil government. I refer to matters about which I was not informed when I made this draft.

In many particulars, if it were necessary, I could point out that this draft is inadequate because entirely silent with respect to such matters. One will illustrate, and that is the subject of an

exchange of the coinage, about which we had so much debate in the Senate yesterday and the day before. This bill makes no provision on that point. A number of other provisions that are now in the bill as pending and under consideration are not to be found in this original draft.

But, Mr. President, the points to which the Senator desires to call particular attention, and does call particular attention, as making this bill satisfactory to him are those in relation to citizenship, free trade, the title to be given to the legislative assembly, and the other particulars to which he called special attention. When I made this original draft I had the same opinion that I have now as to the relation of Puerto Rico to the United States. I regarded it as a possession or as a dependency and not as a part of the United States. But I recognized that the Congress had a right to make it a part of the United States if the Congress saw fit to do so, and in the framing of this bill I had that in view, and I accordingly extended the Constitution and proceeded generally upon that theory.

When, however, that question came up for consideration and discussion it was thought by my colleagues that we could at any time make it a part of the United States; that it was not wise policy to make it so now; and that for that reason such provisions in this bill as looked in that direction should be eliminated, and that the legislation with respect to Puerto Rico should be as legislation for a dependency and not as a Territory or a part of the territory of the United States in any other sense than that it belongs to the United States. For that reason all the expressions in the bill to which the Senator has called attention were eliminated. The general provisions are the same, but the expressions to which he refers, that would carry with them the idea that we were incorporating it into the Union and making it in effect a Territory if not in name a Territory, thus putting it in a state of pupilage for statehood, have been purposely eliminated.

That, Mr. President, is the reason why these changes have been made and the reason why I would not now agree to such legislation as I myself proposed when this bill was originally introduced, at least not in those particulars.

Now, Mr. President, before we consider the substitute that has been offered by the Senator from Georgia, I desire to have disposed of the amendment proposed by the Senator from Nebraska [Mr. ALLEN] which we had under consideration when the Senate adjourned yesterday. As I remember, the Senator from Nebraska proposed that certain words be inserted at the end of section 25, on page 17 of the reprint. I ask that the Secretary may read the amendment.

The PRESIDENT pro tempore. The Secretary will read the proposed amendment.

The SECRETARY. In section 25, on page 17, line 23, after the word "of," insert the words "the Territory of;" so that the sentence would read:

The legislative assembly of the Territory of Puerto Rico.

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

Mr. ALLEN. Mr. President, that was the amendment pending last night, I believe, when we adjourned, upon which I requested the Senator from Ohio [Mr. FORAKER] to enlighten the Senate as to why we should not treat Puerto Rico the same as any other Territory, which, in my judgment, he failed to do. We were discussing at that time the all-important question of the relation of that island under the treaty of Paris to the United States. Mr. Carman F. Randolph, an eminent member of the New York bar and a distinguished writer on constitutional subjects, has recently addressed a paper to the Committee on the Judiciary of the Senate, and it is of that important character that I will read it and make it a part of my remarks.

Mr. ALLEN thereupon proceeded to read the paper.

Mr. SPOONER. Will the Senator yield to me?

Mr. ALLEN. I yield to the Senator from Wisconsin.

Mr. SPOONER. The Senator from Nebraska is proceeding to read a very elaborate document, which I suppose he has a right to do, but I think that he ought to be permitted to append it as part of his remarks without reading it, and I ask unanimous consent that it may be printed as a part of the Senator's remarks, without putting him to the trouble of reading it.

The PRESIDENT pro tempore. The Senator from Wisconsin asks unanimous consent that the Senator from Nebraska may be permitted to print in the RECORD, as a part of his speech, the paper he holds in his hand. Is there objection?

Mr. CHANDLER. What is the document, Mr. President?

Mr. ALLEN. The argument of Mr. Carman F. Randolph submitted to the Judiciary Committee of the Senate. It is a brief or argument on the law of territorial expansion, with especial reference to the Philippines.

Mr. MCCOMAS. I shall not object to the printing of the pamphlet to which the Senator refers as a part of his remarks, but I desire to have read in connection with these proceedings a statement of President Havemeyer, of the American Sugar Refining Company, which was made yesterday, in favor of free trade between Puerto Rico and the United States, consisting of about fifteen lines. I desire to have it read, as it is rather pertinent to the present argument.

Mr. ALLEN. Mr. President, I have no desire to bargain with the Senator, and I will proceed to read this document.

Mr. CHANDLER. If the Senator from Nebraska will allow me, I should like to ask him whether I entered into any bargain with him? I simply asked what the document was.

Mr. ALLEN. I was not speaking of the Senator from New Hampshire.

Mr. CHANDLER. I was about to ask the Senator of how many pages the pamphlet consists?

Mr. ALLEN. Fifty-four pages.

Mr. CHANDLER. Mr. President, while I regret that the Senator from Nebraska wishes to put so long a document in the RECORD, he has an undoubted right to read it as a part of his speech, and then it will go into the RECORD. Therefore, I do not see any wisdom in making objection to it.

Mr. ALLEN. I have never known until within the last three or four weeks of any objection being made to the printing of documents in this Chamber. If there is no objection, I will submit this pamphlet to be printed as a part of my remarks.

The PRESIDENT pro tempore. Is there objection to the printing of the pamphlet without its being read by the Senator from Nebraska? The Chair hears none, and it is so ordered.

The pamphlet referred to is as follows:

NOTES ON THE LAW OF TERRITORIAL EXPANSION, WITH ESPECIAL REFERENCE TO THE PHILIPPINES.

[Submitted to the Committee on the Judiciary of the Senate of the United States, March 16, 1900, by Carman F. Randolph, of the New York bar.]

Before the treaty of Paris became effective the disposition of the Philippines was an open question. Then the islands were foreign territory. The United States controlled their disposition, but stood in the broad ways of war and diplomacy uncommitted and uncompelled to a particular course. Now the islands are part of the United States, and our relation to them is defined by the law of the Constitution, complemented by treaty provisions and principles of public law conformable to its supreme authority. This statement is challenged, and the foremost challenger is the Administration, which would hold the islands in firm possession, yet aloof from the United States and beyond the ægis of the Constitution.

THE STATUS OF THE PHILIPPINES.

THE TRANSFER OF THE SPANISH TITLE.

According to the principles recognized by civilized nations as determining national title to land, Spain possessed the Philippines in exclusive sovereignty. That she had not reclaimed all parts of the archipelago nor bent all its savage tribes to her will no more affected her title than did like shortcomings affect our right to the far West in the early days. Nor was her title divested by insurrection, for the principles of public law affirm the right of a State to territory as against insurgents who do not maintain a recognized government. Besides, the insurrection must be viewed in connection with our campaign. Our hostile preparations revived it, our fleet brought back its leader, our aid made it so formidable that, when Manila fell, Spain was mistress only of the few towns in which her troops were huddled. Finally, the United States have put all question of Spain's title beyond discussion. They have determined its sufficiency by accepting the islands from her hands?

Being thus entitled to the Philippines, Spain had the legal right to cede them. The United States had the legal right to accept them. The treaty of Paris expressed the lawful intentions of the signatory powers and brought the islands under the sovereignty of the United States. And it must be insisted that our title to all the land acquired as a result of the war with Spain is derived from Spain exclusively. The President says in his message: "The authorities of the Sulu Islands have accepted the succession of the United States to the rights of Spain, and our flag floats over that territory." (Page 43.) This statement may convey the wrong impression that our interest in the Sulus differs in derivation and quality from our interest in the rest of the Philippines—in derivation, because it is strengthened by the consent of the Sultan; in quality, because the statement may imply, what has indeed been asserted, that "the rights of Spain" in the Sulus were those of a protector rather than a sovereign proprietor. The article of cession in the treaty of Paris was submitted by the American commission in what proved to be its accepted form, and its precise delimitation of the "Philippine Archipelago" embraced the unmentioned Sulu group.

The assertion of the Spanish commissioners that the "Philippines" did not include the Sulus and the great island of Mindanao was a play for better terms. They said in effect, "You are willing to pay $20,000,000 for the 'Philippines.' Here are the 'Philippines;' if you want Mindanao and the Sulus as well you must pay more." The American commissioners replied in effect, "The 'Philippines' we demand, and which you will cede without change in terms, include Mindanao and the Sulus." Of course the victors proved to be better geographers than the vanquished. Throughout the negotiations Spain's ability to transfer the complete sovereignty of all the land demanded by the United States was never questioned, and, whatever may have been her actual relation to this or that island, she assumed to cede and the United States accepted sovereignty over all. We can not afford to esteem that sovereignty as less than perfect and all-embracing. We can not go behind the treaty of Paris for confirmation of our title to any part of the Philippines. As we have not sought "the consent of the governed" from the people of Luzon, we can not even appear to recognize its necessity in dealing with slaveholding and polygamous barbarians who are only restrained from piracy by gunboats and blackmail.

This brief certificate of title sufficiently demonstrates our legal right to possess the Philippines, and with legal rights only are we at present concerned.

THE EFFECT OF CESSION.

Despite our acquisition of the Philippines there is a disposition to balk at its real effect. The islands are called a "colony," a "dependency," a "province," or other name suggestive of detachment from the United States, but it will appear that by virtue of the character of our occupation they are United States territory.

The United States may happen to control land actually or constructively

without making it domestic territory. An occupation of new-found or abandoned or hostile territory involves a certain assumption of sovereignty in respect of the land itself, and also in an international sense, for among the nations the state in visible control of a country is accounted its sovereign for important purposes. (Thirty Hogsheads of Sugar *vs.* United States, 9 Cranch, 191, 195; Fleming *vs.* Page, 9 Howard, 603, 615.) Land occupied through enterprise or conquest does not thereby become United States territory in a domestic sense, even though the act be prompted or approved by the President. The President can not enlarge the boundaries of the Republic. (See Fleming *vs.* Page, 9 Howard, 603, 614.)

These boundaries mark the territorial jurisdiction of Congress, and Congress can not be forced to extend its jurisdiction at the pleasure of the President. Land is annexed to the United States when and only when its occupation has been authorized or confirmed by some act of legislation, a statute or treaty, asserting territorial sovereignty. Such an act is the treaty of Paris by which "Spain cedes to the United States the archipelago known as the Philippine Islands," and "cedes" her "sovereignty" thereof. If the assent of the House of Representatives is necessary to a perfect acceptance, it is given by the appropriation of $20,000,000 to carry out the treaty.

At this point we meet the suggestion that if the treaty-making body has full power to determine the status of ceded territory, the omission from the treaty of Paris of a specific designation of the Philippines as United States territory differentiates them from land heretofore acquired by a treaty or an act of Congress recognizing it in more or less definite phrase as incorporated in the United States. I think this suggestion is rebuked by the treaty itself. The ninth article declares that the Spanish-born residents of the ceded islands who shall not elect to retain their old allegiance within a given time shall be deemed to have adopted "the nationality of the territory in which they may reside."

Must not "the nationality" of Philippine territory be that of the United States, since we do not recognize the existence of a Philippine nation? And what is land impressed with United States nationality but United States territory? But, apart from this article, the suggestion is discredited by a conclusive presumption of law. The treaty-making body has, without doubt, a large discretion as to the interest it may acquire in land on behalf of the Republic, or the relation it may cause the Republic to assume toward another country. For example, our rights over Pearl River, in Hawaii, and Pago Pago, in Samoa, were not the rights of unlimited sovereignty; and by this very treaty of Paris we assume a peculiar relation toward Cuba, wholly distinguishable from sovereign proprietorship. Assuredly we may gain an interest in a country or assume a certain control over it without making it United States territory. But when land is brought within the complete and exclusive sovereignty of the Republic I find no argument of inconvenience strong enough to overcome the presumption that it is United States territory by force of the supreme tenure by which it is held.

The Philippines are not only within the United States in a general sense; they are not distinguished organically from the rest of our territory. Prior to the treaty of Paris the common property of the States of the Union, called the territory of the United States, comprised New Mexico, Arizona, Oklahoma, Indian Territory, Alaska, Hawaii, and a number of islets. To these are now added the Philippines, Puerto Rico, and Guam. These districts present different characteristics. All are not governed in the same way. Some will become States or parts of States. Others will not. Some, indeed, have been acquired under what has been called a promise of ultimate statehood (see New Orleans *vs.* De Armas, 9 Peters, 224, 235), but these are not distinguishable in law from the others, for the admission of new States is an act of policy within the unlimited discretion of Congress. Hawaii, annexed without promise, may enter the Union before Indian Territory, carved out of that Louisiana purchase in regard to which the so-called promise was made nearly a century ago.

All are held by the United States in sovereign proprietorship, and although we unite now in protesting the everlasting unfitness of the Philippines for admission to the Union, our prejudice does not prevent their being, in point of law, as eligible as New Mexico, nor would their admission by the next generation involve a more radical and surprising reversal of prejudice than the admission of millions of negroes to political equality by the last generation. All the districts I have named are organically alike, because each is owned by the United States in sovereign proprietorship, and when this likeness is determined all differences in condition, location, and probable destiny must be purely circumstantial.

The Constitution and the Philippines.

An anxiety to rule the Philippines free from constitutional restrictions is even more marked than the unwillingness to consider them United States territory. Indeed, this unwillingness is due to the apprehension that throughout all this territory the Constitution must be the supreme law. And so keen is the fear that we shall be obliged to administer the Philippines by constitutional rules that ingenious arguments are advanced to prove that the Constitution is really quite as foreign to these islands, unquestionably ours, as though they belonged to another nation.

Furthermore, the gravity of the issues at stake has created an impression that the question of the Philippines is not properly a question of law, but lies within that domain of policy into which the Supreme Court will not intrude; or, as some having greater respect for the powers than for the integrity of the court say, its judgment will reflect what they assume is the popular desire to exploit the islands with a free hand. The Philippine question is political, and until it be adjudicated the Administration will probably persist in misconstruing the Constitution to suit its policy. But whenever a person having access to the Federal courts alleges that one of his constitutional rights is invaded, what may have been a political question becomes an issue in a suit at law—the suitor must pay a tax, or he need not; his property has or has not been wrongfully taken. The decision may displease a faction; it may thwart a novel policy or even forbid a practice of long standing; yet the court will see only the parties to the suit and judge the cause according to the law of the Constitution.

Arguments against constitutional rule examined.

It is contended that the Constitution is not in the Philippines because it has not been carried there by an act of Congress. This argument attributes unlawful powers to the Federal Legislature. Congress is the creature of the Constitution, not its master; bound to obey it wherever it is supreme, not privileged to decide where, within the jurisdiction of the United States, it shall be supreme. Probably the argument is suggested by an improper estimate of legislative practice. Certain acts of Congress organizing Territories purport to extend the Constitution to the new district. The Supreme Court has recognized such legislation, but has never treated it as carrying the Constitution to a new field. In fact, the court in a recent case practically ignored an act of Congress purporting to establish the right to trial by jury in Utah Territory, declaring that the right was established by the Constitution. (Thompson *vs.* Utah, 170 U. S., 343, 346.) The acts in question are not of constitutional dignity. If the Constitution is in the Territory by its own force, they affirm an actual condition in a spirit of abundant caution; if it is not, they are merely repealable laws couched in the phrase of the Constitution, and an act of Congress dispensing with trial by jury, for example, would abrogate the privilege granted by the so-called extension of the Constitution. Of all the heresies that embarrass the fair discussion of the Philippine question few are more mischievous than the notion that Congress is competent to grant and, if to grant, to take away or withhold the Constitution at pleasure.

It is suggested that the Constitution will not affect the Philippines until Congress shall establish civil government there. Mr. Webster expressed perhaps somewhat the same idea when he said in the Senate on February 24, 1849, "I do not say that while we sit here to make laws for these Territories we are not bound by every one of the great principles which are intended as general securities for public liberty. But they do not exist in Territories till introduced by the authority of Congress." (Curtis's Life of Webster, II, 366.) Even Webster's name can not sustain the proposition that constitutional guaranties demand respect only when the establishment of civil order under the auspices of Congress renders them less likely to be needed. A monstrous doctrine indeed that the President may rule United States territory during the inaction of Congress free from the restraints which, it is conceded, affect both himself and Congress after the territory shall have been duly organized! Even a King of England can not do so much; for, as Lord Mansfield said, "If the King (and when I say the King I always mean the King without the concurrence of Parliament) has a power to alter the old and introduce new laws in a conquered country, this legislation being subordinate, that is, subordinate to his own authority in Parliament, he can not make any new change contrary to fundamental principles." (Campbell *vs.* Hall, Cowper, 204, 209.)

The annual report of the Secretary of War for 1899 contains the following passage:

"The treaty of Paris provides: 'The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.' I assume, for I do not think that it can be successfully disputed, that all acquisition of territory under this treaty was the exercise of a power which belonged to the United States because it was a nation, and for that reason was endowed with the powers essential to national life, and that the United States has all the powers in respect of the territory which it has thus acquired and the inhabitants of that territory which any nation in the world has in respect of territory which it has acquired; that as between the people of the ceded islands and the United States the former are subject to the complete sovereignty of the latter, controlled by no legal limitations except those which may be found in the treaty of cession; that the people of the islands have no right to have them treated as States, or to have them treated as the Territories previously held by the United States have been treated, or to assert a legal right under the provisions of the Constitution which was established for the people of the United States themselves and to meet the conditions existing upon this continent, or to assert against the United States any legal right whatever not found in the treaty." (Page 26.)

If I read this passage aright, it suggests two arguments against the rule of the Constitution. One is predicated on a provision of the treaty of Paris which will be considered presently; the other is suggested by the words: "The people of the islands have no right to have them treated as the Territories previously held by the United States have been treated, or to assert a legal right under the provisions of the Constitution, which was established for the people of the United States themselves, and to meet the conditions existing upon this continent," and we read later that the Puerto Ricans can not demand uniform tariff duties as between Puerto Rico and the United States because the constitutional provision of uniformity was "solely adapted to the conditions existing in the United States upon the continent of North America." In other words, the Constitution is supposed to have been ordained for the present and future dominions of the United States upon the continent of North America and nowhere else. The preamble, it is true, entitles our Republic "the United States of America," but I understand the suffix to be merely a descriptive term aptly chosen at the time, and not a legal restriction; otherwise we could not have lawfully annexed the Philippines. The "continental" theory is not even derived from the preamble, for it restricts the Constitution to North America. Upon what basis of fact is a constitution conceded to be adapted to the diverse physical, social, and economic conditions of our continental domain deemed to be essentially unfit for Puerto Rico? Upon what principle of law can there be read into the Constitution this or any other geographical limitation on its authority?

The last clause of Article XI of the treaty of Paris reads: "The civil rights and political status of the native inhabitants of the territory hereby ceded to the United States shall be determined by the Congress." This clause is cited to show that the Constitution is not in the ceded territory, for, it is argued, were the Constitution supreme, the rights and status of the islanders would not be left to the will of Congress. This argument is based on the premise that the President and Senate may determine whether or not the Constitution shall prevail in territory annexed by their treaty. It has been shown that Congress is incompetent to grant or withhold the Constitution, and if the power denied to the Federal Legislature be vested in the special legislative body designated for the making of treaties, it must be upon the theory that this body differs from Congress in being free from constitutional restraints.

The theory that treaty provisions are a law unto themselves has a certain attraction because engagements with foreign states are presumably sacred, but this ethical principle does not necessarily bind our courts, and if Congress passes an act inconsistent with a treaty pledge, they will enforce the act and not the treaty, holding simply that an old law has been repealed by a new one. (Head Money Cases, 112 U. S., 580; Fung Yue Ting *vs.* United States, 149 U. S., 698; United States *vs.* Old Settlers, 148 U. S., 427.) And in this relation it should be noted that the clause we are considering is not an engagement with Spain, but is merely a reservation of a matter of domestic interest.

Another argument for attributing arbitrary powers to the treaty-making body is that it must be competent to act quickly and decisively in the most serious emergencies. What agreements and concessions the President and Senate might be forced to make and the Republic be forced to accept by a conqueror, suggests a circumstance too humiliating and too remote to affect the interpretation of their powers in normal cases. And the treaty of Paris is on our part a normal act, requiring no sacrifice of constitutional principle to the law of necessity.

The theory of the independence of the treaty-making power finds no place in our jurisprudence. Though the Supreme Court has never been obliged to declare a treaty provision unconstitutional, and would do so with peculiar reluctance (see Ware *vs.* Hylton, 3 Dallas, 199, 237), it holds, as a matter of course, that treaties are subordinate to the Constitution. (See United States *vs.* The Peggy, 1 Cranch, 103, 110; New Orleans *vs.* United States, 10 Peters, 662, 736; Lattimer *vs.* Poteet, 14 Peters, 414; Doe *vs.* Braden, 16 Howard, 635, 657; Geofroy *vs.* Riggs, 133 United States, 267; Thomas *vs.* Gay, 169 United States, 264, 271.) "It need hardly be said," says the court, "that a treaty can not change the Constitution or be held valid if it be in violation of that instrument. This results from the nature and fundamental principles of our Government." (The Cherokee Tobacco, 11 Wallace, 616, 620.) Even in Great Britain it is doubtful whether the courts would respect a treaty provision repugnant to "the law of the land." (See The Parlement Belge, 4 P. D., 129; 5 P. D. (C. A.), 197; Walker *vs.* Baird, [1892] A. C., 491; Dicey, Law of the Constitution, first ed., 391.)

In view of the subordination of treaties to the Constitution it must be

assumed that the clause in question was drafted with due respect to the higher law, and that the President and Senate did not pretend to set bounds to a Constitution not at their disposition, but simply declared the powers of Congress in regard to status and rights of less than constitutional rank.

A most objectionable yet the only plausible argument against the rule of the Constitution in the Philippines is that the Constitution was ordained for the States of the Union alone. This proposition was advanced in the Senate debates on the acquisition of Louisiana in 1803, and on the question of slavery in California in 1849. On August 12, 1848, Mr. Webster said in the Senate that Congress in governing territory "is subject, of course, to the rules of justice and propriety, but it is under no constitutional restraints;" but in the debate of 1849 Mr. Calhoun forced him to abandon this position and concede, as we have seen, that Congress is bound by the constitutional guaranties in legislating for the Territories.

The theory that the Constitution is operative in the States only appears to have consciously affected the past government of outlying territory so slightly, if at all, that there is no warrant for the boast that in denying the Constitution to our new territory the Administration emulates its predecessors.

The present policy of definitely excluding new territory from the great customs district of the Republic is contrary to precedent. (Infra, pages 23-26.)

As to the estimation of the general guaranties of the Constitution we find that in the case of Louisiana the inhabitants complained that self-government was not accorded at once, and that American rulers did not understand the local laws they were expected to administer. But it does not appear that our Government ever denied the efficacy of the guaranties in Louisiana, and the Supreme Court practically recognized their existence in Bollman's case. (See infra, page 13.)

Whatever we did in Florida before we took possession under the completed treaty of cession was done in a foreign land, and so is immaterial to this inquiry. Upon the cession General Jackson was commissioned, by the authority of Congress, "with all the powers and authorities" theretofore enjoyed by the Spanish rulers. (21 Niles Weekly Reg., 135.) Jackson was not affected, however, with a Spanish officer's irresponsibility in regard to our Constitution (see the citation from Pollard *vs.* Hagan, infra, page 35), though he is said to have declared that his powers were those "that no one under a republic ought to possess" (21 Niles Weekly Reg., 136); and if during his brief term he was justly chargeable with arbitrary actions, they are not evidence of a general policy.

The obligatory force of the Constitution in California was maintained by President Polk's Administration, whose position was attacked by Webster and Benton because Calhoun assumed that it permitted the carrying of slaves into the new Territory. If Calhoun argued for the Constitution in California with an unworthy motive, he at least contemplated the enjoyment of its rights by white men, while these rights are now denied to all people in the islands in order to facilitate administration, and, above all, to check industrial rivalry.

I am not aware of any act of the Government which can be construed as denying the authority of the Constitution in Alaska.

A keen search for arbitrary acts in unorganized territory may not be wholly unsuccessful; but the search is a discreditable waste of time when its purpose is to parade such acts for our commendation.

In reply to the assertion that the theory of the restriction of the Constitution to the States has the sanction of judicial opinion, I am justified in stating that it is unsupported by a single dictum of the Supreme Court, hardly countenanced, indeed, by a questioning phrase, and has been repeatedly discredited in that seat of authority.

In its opinion in Callan *vs.* Wilson the Supreme Court maintained the law of the Constitution beyond the States in the only case where an act of Congress disregarding it was forced upon the court's attention. The suggestion that the principle of this decision is limited to the District of Columbia, to which the act applied, is refuted in the following paragraph of the opinion: "In Reynolds *vs.* United States (98 U. S., 145, 154) it was taken for granted that the sixth amendment of the Constitution secured to the people of the Territories the right of trial by jury in criminal prosecutions; and it had been previously held in Webster *vs.* Reid (11 Howard, 437, 460) that the seventh amendment secured to them a like right in civil actions at common law. (See also American Publishing Company *vs.* Fisher, 166 U. S., 464; Springville *vs.* Thomas, 166 U. S., 707; Thompson *vs.* Utah, 170 U. S., 343.) We can not think that the people of this District have, in that regard, less rights than those accorded to the people of the Territories of the United States. (Callan *vs.* Wilson, 127 U. S., 540, 550.)" The notion that, because the District once belonged to States which ceded it for a Federal capital, its people enjoy constitutional rights denied to the people of the Territories is quite as fanciful as the conceit of the early days of the civil war, that if Maryland should secede she would carry the Federal capital with her by operation of law! If the District is held by the United States subject to a possibility of reverter for condition broken it is too remote to affect the status of the inhabitants. There is no reason of law or policy why they should be preferred to the people of Oklahoma.

When General Wilkinson arrested Bollman and Swartwout in Orleans Territory (Louisiana) upon a charge of treason and sent them to Washington for trial, all without civil warrant, the Supreme Court discharged them (Bollman's Case, 4 Cranch, 75), and Judge Story termed the arrest "a very gross violation of the fourth amendment" (Commentaries, section 1902, note).

Among the justices who have recognized the Constitution as having a broader dominion than the States are Chief Justices Marshall (Loughborough *vs.* Blake, 5 Wheaton, 317, 324), Taney (Scott *vs.* Sandford, 19 Howard, 393, 450), Waite (Bank *vs.* County of Yankton, 101 U. S., 129, 133), and Fuller (Mormon Church *vs.* United States, 136 U. S., 1, 67), and Justices Curtis (Scott *vs.* Sandford, 19 Howard, 393, 614, 624), Miller (Slaughterhouse Cases, 16 Wallace, 36, 72), Bradley (Mormon Church *vs.* United States, 136 U. S., 1, 44), Harlan (McAllister *vs.* United States, 141 U. S., 174, 188), Matthews (Murphy *vs.* Ramsey, 114 U. S., 15, 44), and Gray (Capital Traction Company *vs.* Hof, 174 U. S., 1). This consensus of opinion represents every theory of constitutional interpretation that has been expounded in the Supreme Court. Several decisions cited in opposition are readily distinguished.

In Benner *vs.* Porter the court held that Territorial courts are not courts of the United States within the meaning of the judiciary clauses of the Constitution. (9 Howard, 242.) This decision simply affirms the absolute discretion of Congress in creating the machinery of Territorial government. The Mormon Church case (136 U. S., 1) involved an act of Congress applying to educational uses certain property of the dissolved Corporation of Latter-Day Saints in Utah Territory. Three justices declared the act to be invalid because spoliative, thus affirming their conviction of the authority of the Constitution in the Territory. The court conceded that the constitutional guaranties were effective in Utah, but held that the disposition of the property was justified by the law of charitable uses. In Ross's case (140 U. S., 453), the petitioner had been convicted of murder before our consular court in Japan. The conviction was affirmed, though the act of Congress authorizing the court under a treaty with Japan did not provide for presentment and trial by jury.

The judge of the court was an American, yet it was not, from the constitutional standpoint, essentially different from a tribunal of mixed nationality like the one in Egypt, and in either case there is no question of carrying our Constitution to a foreign land where, as the Supreme Court said, "it can have no operation." Such tribunals are created for the protection of foreigners in uncivilized countries. As they exist, in theory of law, by the permission of the local sovereign, albeit the permission is commonly extorted, their jurisdiction is entirely a matter of arrangement. As they dispense justice in a strange environment, their procedure is largely a matter of discretion. Our former privilege in Japan does not interpret our present duty in the Philippines, for we claim territorial sovereignty over the islands, not extra-territorial privilege; the whole authority of the United States, not a fragment of authority wrung from a foreign government.

The textual criticism by which territory beyond the States is read out of the Constitution upon the theory that the "United States" covered by the Constitution comprises the States of the Union only is as harsh and artificial as that of the most strict constructionists of the old school, whom the new school resembles in denying the national and commercial unity of all who owe allegiance to the Republic. And the new school is subject to a reproach not imputable to the old. It reverses the great rule of the common law by making every presumption against the individual and in favor of the State, by attributing to the Federal Government absolute dominion over all persons and property lying beyond what it is pleased to call the "United States" of the Constitution. Unquestionably the "United States," whose people framed the Constitution and retained for themselves and the States all powers not delegated to the Federal Government, are the States of the Union only. These States and their people wield the whole political power of the Republic. In the words of Chief Justice Marshall, "the members of the American Confederacy only are the States contemplated in the Constitution." (Hepburn *vs.* Ellzey, 2 Cranch, 445, 452.) Unquestionably the Constitution contains clauses relating exclusively to States either in terms or by necessary implication. Other clauses embody principles of universal value and unrestricted range, and these are operative throughout the larger "United States," described by Marshall as "our great Republic, which is composed of States and Territories. The District of Columbia or the territory west of the Missouri is not less within the United States than Maryland or Pennsylvania." (Loughborough *vs.* Blake, 5 Wheaton, 317, 319.)

SOME IMPORTANT QUESTIONS AFFECTED BY THE EXTENSION OF THE CONSTITUTION.

Slavery.—The first section of the thirteenth amendment of the Constitution reads: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Slavery exists in the Philippines, especially, perhaps exclusively, among the Mohammedan tribes, and although we shall see that these tribes may be classified as "Indians" and left with a large discretion in the management of their domestic affairs, they are within the purview of this amendment, which, in fact, has been held to forbid a system of serfdom found among the Indians of Alaska. (Sah Quah's case, 31 Federal Reporter, 727.)

Concerning an agreement negotiated with the Sultan of Sulu, the President says in his message:

"Article X provides that any slave in the archipelago of Jolo shall have the right to purchase freedom by paying to the master the usual market value. The agreement by General Bates was made subject to confirmation by the President and to future modifications by the consent of the parties in interest. I have confirmed said agreement, subject to the action of the Congress, and with the reservation, which I have directed shall be communicated to the Sultan of Jolo, that this agreement is not to be deemed in any way to authorize or give the consent of the United States to the existence of slavery in the Sulu Archipelago. I communicate these facts to the Congress for its information and action." (Page 43.) As the article in question purports to accord a qualified recognition of slavery, it is outlawed by the Constitution. We may not handle slavery with gloves. The gradual emancipation tolerated by England in Zanzibar is not permitted to us. There is not even a lawful process of emancipation. The amendment declares sharply that slavery shall not "exist," and the Supreme Court has pronounced it to be "undoubtedly self-executing without any ancillary legislation, so far as its terms are applicable to any existing state of circumstances. By its own unaided force and effect it abolished slavery and established universal freedom." (Civil Rights Cases, 109 U. S., 3, 20.)

The full effect of the prohibition of "involuntary servitude" has not been determined by the Supreme Court, which has decided, however, that it does not abrogate the ancient rule of the sea whereby a sailor shipping for a voyage may be compelled to perform his contract under pain of imprisonment, nor is intended to introduce "any novel doctrine with respect to certain descriptions of service which have always been treated as exceptional, such as military and naval enlistments, or to disturb the right of parents and guardians to the custody of their minor children or wards; * * * services which from time immemorial have been treated as exceptional shall not be regarded as within its purview." (Robertson *vs.* Baldwin, 165 U. S., 275, 282.) Nor is it necessary to insist that a person can in no case be compelled to complete a particular undertaking; an engineer who should be prevented from wilfully abandoning a pump forcing air into a mine would not be held in "involuntary servitude." But after making all exceptions warranted by inveterate usage or emergency, the thirteenth amendment appears to declare that an employer can not, of his own motion or by the assistance of *the State*, force an unwilling workman to perform his contract.

As Judge Cooley says, "Contracts for personal services can not, as a general rule, be enforced, and application to be discharged from service under them on habeas corpus is evidence that the service is involuntary." (Constitutional Limitations, 6th ed., 363, note.) And the Supreme Court has said, "If Mexican peonage or the Chinese coolie labor system shall develop slavery of the Mexican or Chinese race within our territory, this amendment may be safely trusted to make it void." (Slaughterhouse Cases, 16 Wallace, 36, 72; cited in U. S. *vs.* Wong Kim Ark, 169 U. S., 649, 677. For a description of peonage see Jaremillo *vs.* Romero, 1 New Mexico, 190.) What effect the enforcement of the thirteenth amendment against the coolie system would have upon agriculture in some of our new possessions can not be known until the labor conditions are thoroughly understood. It is noteworthy, however, that Great Britain finds it expedient to maintain the coolie system in several of her colonies, shorn of many abuses, it is true, yet retaining the essential feature of compulsory service during an agreed period. And in the report on British New Guinea for 1897-98 we read (pages 10, 11) that Ordinance No. II, of 1897, "rendered it compulsory on a native to perform the work for which he may be duly engaged;" and Ordinance No. VIII, of 1897, "provides that a deserting laborer may be returned to his employer."

However, in view of the state of labor in Hawaii, we are not free at present to criticise British policy. In June, 1899, the supreme court of Hawaii confirmed the order of a district magistrate who, under the masters and servants act, had sentenced a man to imprisonment at hard labor "until he should consent to return to his master and consent to serve according to law." (Honomu Sugar Company *vs.* Zeluch, 60 Albany Law Journal, 213.) The prisoner was an Austrian who had been "imported" by the company under contract to work for three years. The court did not attempt to

distinguish the imprisonment from the "involuntary servitude" forbidden by the thirteenth amendment, but dismissed the amendment with a curt reference to earlier opinions, in which it had pronounced the Constitution of the United States to be of no force during "the transition period."

If it shall be finally determined that in the United States Territory of Hawaii a plantation hand may be imprisoned until he is ready to perform his contract to labor, perhaps a like system will be some day established in the cotton States that have already practically disfranchised the negro.

Citizenship and civil rights.—All persons born in the Philippines after annexation and subject to our jurisdiction are citizens of the United States, though, as we shall see, they are not members of the voting body of the Republic.

This proposition is denied not only on the ground already noted that the Constitution is wholly ineffective beyond the States, but upon a peculiar interpretation of the first sentence of the fourteenth amendment, which reads: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." The last clause, "and of the State wherein they reside," is said to restrict the words "United States" to the several States. We are told that had the framers of the amendment contemplated a broader field than the States, they would have written, "and of the State and Territory where they reside." This, certainly, they would not have done. Citizenship involves allegiance. Allegiance is due only to a sovereign. The Territorial governments have no attribute of sovereignty, because they are created by Congress and exist during its pleasure. The clause is to be understood as a distinct command rather than as part of a general description. Its sole purpose is to compel each State to recognize as its citizens all persons residing therein whom the United States recognize as their citizens.

The narrow construction of the amendment that would restrict United States citizenship to persons born or naturalized within a State is disapproved by the Supreme Court, which has said that a man "must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union." (Slaughterhouse Cases, 16 Wallace, 36, 72.) And Justice Bradley said in the same case: "The question is now settled by the fourteenth amendment itself, that citizenship of the United States is the primary citizenship in this country, and that State citizenship is secondary and derivative, depending upon citizenship of the United States and the citizen's place of residence." (Page 112.) In a late opinion the court says: "The words 'in the United States, and subject to the jurisdiction thereof' in the first sentence of the fourteenth amendment of the Constitution, must be presumed to have been understood and intended by the Congress which proposed the amendment and by the legislatures which adopted it in the same sense in which the like words had been used by Chief Justice Marshall in the well-known case of The Exchange, and as the equivalent of the words 'within the limits and under the jurisdiction of the United States,' and the converse of the words 'out of the limits and jurisdiction of the United States,' as habitually used in the naturalization acts." (United States *vs.* Wong Kim Ark, 169 U. S., 649, 687.) A scrutiny of the naturalization acts, beginning with the act of 1795, will show that "the United States," wherein an applicant for citizenship must have resided for a prescribed period, and in which he may be naturalized, includes the Territories

The terms "citizen," "citizen of the United States," and "citizens of the United States" are employed elsewhere in the Constitution to describe a larger body than the people of the States. The Constitution prescribes that a Congressman must have been seven years a "citizen of the United States," and a Senator nine years. Is the State of Utah unlawfully represented in the Senate on the theory that her Senators have only been citizens of the United States since Utah was admitted to statehood in 1896? Only a natural born citizen who has reached the age of 35 years and resided fourteen years "within the United States" is eligible to the Presidency. Will it be contended that a man born in Colorado Territory in 1864 was not born in the United States? Or that a man born in Ohio the same year and taken in infancy to what is, since 1889, the State of Washington has not resided fourteen years in the United States?

The fifteenth amendment reads: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." This amendment plainly contemplates a power in Congress to confer the suffrage. Now Congress can neither confer, deny, nor abridge the suffrage in any State, for each State has the exclusive power to designate its voting body subject only to the limitation of this amendment. (See United States *vs.* Cruikshank, 92 U. S., 542, 555.) The field of Federal action in the matter of suffrage is then beyond the States, and the amendment declares in effect that if Congress shall create a voting body in a Territory it can not deny the suffrage to any citizen of the United States therein, that is to say, to any person owing allegiance to the United States, because of "race, color, or previous condition of servitude."

We need not rely upon an inspection of constitutional texts alone to sustain our broad definition of a natural born citizen of the United States. The Supreme Court declares that recourse must be had to the common law to determine who are native-born citizens (United States *vs.* Wong Kim Ark, 169 U. S., 649), and the common law, ignorant of our State boundaries, makes all persons born within the dominion and jurisdiction of the sovereign natural born subjects, or, in our republican phrase, "citizens." The court says in the case cited: "Passing by questions once earnestly controverted but finally put at rest by the fourteenth amendment of the Constitution, it is beyond doubt that before the enactment of the civil-rights act of 1866 or the adoption of the constitutional amendment all white persons, at least, born within the sovereignty of the United States, whether children of citizens or of foreigners, excepting only children of ambassadors or public ministers of a foreign government, were native-born citizens of the United States." (United States *vs.* Wong Kim Ark, 169 U. S., 649, 674.) This statement presents the opening words of the fourteenth amendment in their true light. They do not create citizenship of the United States, but affirm the preexisting common-law rule of citizenship by birth, and assure to "all persons" the benefit of this rule, which as applied by the Federal courts of this country in the past appears to have ignored the dark races.

Persons who, though born in the United States, are not citizens, because not subject to the jurisdiction, are the children of foreign ministers, of Indians, and of alien enemies in occupation of our soil. (See United States *vs.* Wong Kim Ark, 169 U. S., 649, 693.)

Tribal Indians within the domain of the original States were set apart by the Constitution as a peculiar people, and with each extension of territory other tribes have been surrounded. Congress can not make a man an "Indian" by calling him one, because, though the status of the Indian is in some respects indeterminate, and in all respects anomalous, it is settled at least that he is a person born in the allegiance of a tribe of barbarous or savage origin, having its seat in United States territory, yet being, in the language of the Supreme Court, "a distinct political community." (Elk *vs.* Wilkins, 112 U. S., 94, 99.) There are natives in the Philippines who appear to have maintained their political organization during the overlordship of Spain, as had the Seminoles in Florida, and who, like the Seminoles, will be segregated as Indians.

"Alien enemies" is not a legal description of the Filipinos in arms. Without suggesting a general likeness between them and the Confederates of 1861, in one respect their positions are not altogether dissimilar. Said the Supreme Court of the insurgent State of Texas and its people: "The State did not cease to be a State nor her citizens to be citizens of the Union. If this were otherwise, the State must have become foreign and her citizens foreigners. The war must have ceased to be a war for the suppression of rebellion and must have become a war of conquest and subjugation." (Texas *vs.* White, 7 Wallace, 700, 726.) In point of fact, the war in Luzon is waged for conquest and subjugation, yet it is not a foreign war. Like the civil war, it is an insurrection against the United States, and the status of the insurgents is determined, like that of the Confederates, by our assertion of sovereignty, and not by their assertion of independence.

The Chinese and other foreigners in the Philippines are within the protection of the rule that while an alien "lawfully remains here he is entitled to the benefit of the guaranties of life, liberty, and property secured by the Constitution to all persons, of whatever race, within the jurisdiction of the United States. His personal rights when he is in this country and such of his property as is here during his absence are as fully protected by the supreme law of the land as if he were a native or naturalized citizen of the United States." (Lem Moon Sing *vs.* United States, 158 U. S., 538, 547.)

What is the status of the natives living in the islands at the time of annexation, and who are not within the constitutional definition of Indians? Like the Mexicans of New Mexico, these have come under the sovereignty of the United States as former subjects or citizens of a State which has ceded the land of their residence. They have a right to reside in their native land, and they must possess in permanence at least the primary rights affirmed by the Supreme Court to aliens during their sojourn.

Having ascribed to the Filipinos the rights confirmed by the Constitution to all human beings within the jurisdiction of the United States, we come to the question of their political status. Treaties of annexation frequently provide that the subjects or citizens of the ceding state may elect to retain their old allegiance, either unconditionally or upon condition that they emigrate within a certain time. This election is sometimes called and usually treated as a right (see Cogordan, La Nationalité, 321), and it is, I think, the nearest approach to a recognition in international law of the ethical principle that government should exist with the consent of the governed in its relation to the cession of territory. This principle is not recognized to the extent of entitling the inhabitants of the territory to determine its destiny by their vote. Though the plebiscite is not unknown in such cases, it is uncommon and is not always a free expression of the people's will. (See Phillimore, International Law, I, 585, 604.)

Nor is the so-called right of election anything more than a privilege, either, granted by a conqueror, who thereby waives his right to forbid the emigration of persons whom he may hold as new subjects or citizens (see United States *vs.* Repentigny, 5 Wallace, 211, 260), or arranged by parties negotiating on an equal basis, and in each case often depending for its real value upon the ability of the people to find homes elsewhere. This privilege we properly accorded to the Spanish-born residents in the Philippines, for these have a fatherland to receive them should they choose to return and a government to protect them should they choose to remain. It was properly withheld from the Filipinos, as its allowance would have greatly embarrassed the United States without holding out any substantial advantage to the islanders.

The Filipinos, then, remain in the islands absolutely divested of their allegiance to Spain, and by the rules of public law they owe allegiance to the United States. Said Chief Justice Marshall of the inhabitants of Florida after its cession to the United States: "The same act which transfers their country transfers the allegiance of those who remain in it." (American Insurance Company *vs.* Canter, 1 Peters, 511, 542.) And the Supreme Court said in a later case: "Manifestly the nationality of the inhabitants of territory acquired by conquest or cession becomes that of the government under whose dominion they pass, subject to the right of election on their part to retain their former nationality by removal or otherwise as may be provided." (Boyd *vs.* Thayer, 143 U. S., 135, 162.) The Supreme Court has recognized a power to create citizens en masse by process of collective naturalization "as by the force of a treaty by which foreign territory is acquired." (Elk *vs.* Willkins, 112 U. S., 94, 102.)

Now, the treaties of annexation considered by the court purport to confer citizenship expressly, and so Chief Justice Marshall significantly said of the citizenship of the people of Florida who remained there after cession: "It is unnecessary to inquire whether this is not their condition, independent of stipulation." (American Ins. Co. *vs.* Canter, 1 Peters, 511, 542.) The treaty of Paris contains no such stipulation, but because it operates to transfer the allegiance of the Filipinos from Spain to the United States it appears to naturalize them collectively by implication. We have no word other than "citizens" to describe persons whose relation to the United States involves the reciprocal obligations of loyalty and protection. (See Chisholm *vs.* Georgia, 2 Dallas, 419, 456.)

The tariff.—The authority of the Constitution in the Philippines has an important bearing upon the question of the taxation of commerce. (See infra, pages 39-40.)

First, of commerce between the islands and foreign countries. After our occupation of California had been confirmed by the ratification of the treaty of cession, the Administration abandoned the military tariff imposed during the belligerent occupation, and proceeded to collect upon foreign imports the duties of the general tariff act. (Cross *vs.* Harrison, 16 Howard, 164.) A different practice prevails in our new territory, where the Administration imposes duties at discretion. Now, even if Congress were authorized to levy peculiar taxes upon foreign goods brought into annexed territory, the President would have no right to do so. His ability to collect duties at all rests upon a presumed intention of Congress evidenced by a tariff act, though it is not clearly decided that even such collections are valid unless they are ratified by Congress. (See infra, page 40.) To admit his right to levy taxes at discretion because of a latent power in Congress to do this would imply the existence of an Executive power to originate revenue legislation in territory belonging to the United States, in derogation of the fundamental principle that taxes shall not be imposed by Executive proclamation, and of the particular provision of the Constitution that "all bills for raising revenue shall originate in the House of Representatives."

We come now to the question whether Congress itself may impose special duties upon foreign goods brought into the Philippines. As a matter of fact Congress has never exacted peculiar duties in new districts, but has always extended the existing tariff laws either about the time of annexation or shortly thereafter. As a matter of law, the Administration insists that the constitutional provision that "all duties, imposts and excises shall be uniform throughout the United States," does not apply to the new islands. The Secretary of War says in his report for 1899 (page 27): "The provision of the Constitution prescribing uniformity of duties throughout the United States was not meant for them (the Puerto Ricans), but was a provision of expediency solely adapted to the conditions existing in the United States upon the continent of North America." I should call a law assuring equal taxation and freedom of trade throughout the Republic a provision of justice, not of expediency, and I fail to understand upon what principle a court must hold this provision to be operative in Maine, Louisiana, Alaska, and Ohio, and in Mexico and Labrador, should we one day annex them, yet inoperative in

Puerto Rico. From this makeshift interpretation of the Constitution we turn with confidence to Chief Justice Marshall's impregnable definition of the "United States" contemplated by this very clause—"our great Republic, which is composed of States and Territories. The District of Columbia, or the territory west of the Missouri, is not less within the United States than Maryland or Pennsylvania: and it is not less necessary, on the principles of our Constitution, that uniformity in the imposition of imposts, duties and excises should be observed in the one, than in the other." (Loughborough *vs.* Blake, 5 Wheaton, 317, 319.) Here is the law of the commercial unity of the Republic expounded by its foremost interpreter, and the Philippines being within the Republic are within the law.

We have next to consider the question of duties upon commerce between the islands and our mainland. A statement of the court in Fleming *vs.* Page (9 Howard, 603, 617) is often cited in this relation: " * * * Under our revenue laws every port is regarded as a foreign one, unless the custom-house from which the vessel clears is within a collection district established by act of Congress, and the officers granting the clearance exercise their functions under the authority and control of the laws of the United States." This statement misleads in so far as it lends color to the assertion that precedent sanctions the taxation of this commerce. It is conceded that a port is foreign in a fiscal sense, though the United States claim title to it, if they have not gained possession, as in the case of Baton Rouge, in the Louisiana territory, ceded by Spain to France and by France to us, but actually held by Spain for some time after we had taken possession of New Orleans; or have lost possession, as in the case of Castine, in Maine, seized by the British forces in 1814 (United States *vs.* Rice, 4 Wheaton, 246); and a port is foreign, too, though the United States have possession, if they await the ratification of a treaty to perfect their title, as in the case of San Juan, in Puerto Rico, or if they hold it by mere force of arms, as in the case of Tampico, in the Mexican war, which was the matter before the court in Fleming *vs.* Page.

But a scrutiny of administrative practice down to the end of the Mexican war shows that with perhaps trifling and peculiar exceptions, as in the case of New Orleans (see Cross *vs.* Harrison, 16 Howard, 164, 199), duties were not collected upon goods carried between old and new possessions after our right to the latter had been confirmed by the ratification of a treaty of cession. The notable illustration of the rule of free intercourse, however, is the case of California after the Mexican war. Upon the ratification of the treaty ceding California to the United States the Administration promptly recognized the trade between the new territory and the rest of the country as domestic, as appears by the following passage from a letter of the Secretary of State quoted by the Supreme Court in Cross *vs.* Harrison (16 Howard, 164, 185): "This government de facto (the temporary government of California) will, of course, exercise no power inconsistent with the provisions of the Constitution of the United States, which is the supreme law of the land. For this reason no import duties can be levied in California on articles the growth, produce, or manufacture of the United States, as no such duties can be imposed in any other part of our Union on the productions of California. Nor can new duties be charged in California upon such foreign productions as have already paid duties in any of our ports of entry, for the obvious reason that California is within the territory of the United States." And the court also refers to a dispatch from the Secretary of the Treasury "providing for the reciprocal admission of goods which were the growth, etc., of California and the United States, free of duty, into the ports of each."

The California precedent was followed upon the annexation of Alaska, the Secretary of the Treasury deciding that furs and oils brought in from the new Territory were not subject to duty. (Synopsis Treasury Decisions, 1868, pages 10 and 20.) The present Administration disregards these precedents. It treats the commerce between our islands and our mainland as foreign, and collects duties in each upon the imported products of the other, exacting in the former place a tax determined by itself, and in the latter the duties of the tariff act. It is ungenerous and unlawful to treat our new citizens as foreigners in their commercial relations and hamper an intercourse whose promotion should be our first concern. So disastrous has this practice proved to Puerto Rico that the President has said to Congress, "Our plain duty is to abolish all customs tariffs between the United States and Puerto Rico and give her products free access to our markets." (Message 1899, page 50.) But as the distress is caused by his refusal to follow the constitutional practice of his predecessors, he may relieve it at once. The President is not authorized to hamper internal commerce by laws of his own making, and this he has done in levying duties on merchandise carried from our mainland to our islands. Nor is he authorized to enforce a tariff act against merchandise brought in from islands which, since its enactment, have become United States territory.

The tariff act of 1897 is entitled "An act to provide revenue for the Government and to encourage the industries of the United States," and by the enacting clause its operation is limited to "articles imported from foreign countries." As the islands have been made domestic territory by the treaty of Paris, they are not within the purview of an act intended to impose burdens upon foreign products exclusively. And this construction of the act is required by the Constitution, for the rule of uniformity which, as we have seen, forbids Congress to impose different duties upon foreign imports in different sections of the United States, forbids it to impose any duties whatever on commerce between them.

Our inquiry into the subject of the tariff leads to these conclusions: Under no circumstances can duties be lawfully collected in the annexed islands or the mainland upon the imported products of either. Duties collected upon foreign goods brought to the islands must be the same as imposed in the rest of the United States.

ALLEGED IMPOSSIBILITY OF CONSTITUTIONAL GOVERNMENT.

The considered arguments against the Constitution for the Philippines affect the sanction of law, but they are really arguments of inconvenience, for they rest upon the assumed impossibility or, at least, the impropriety of constitutional government rather than upon approved legal principles. The assumption can not be disproved by reciting opinions of the Supreme Court, for it suggests a question of fact determinable only by experience, but it will be shown that our constitutional powers are not presumptively insufficient and our constitutional obligations not presumptively unendurable.

The Constitution permits the pacification of the Philippines by any method which public opinion should tolerate. Surely a Government that suppressed the revolt of 11 States is competent to deal with an insurrection in Federal territory. And when reconstruction shall follow pacification, a Government that "reconstructed" the South can not decently complain of lack of power in the Philippines. It will be shown that the Constitution permits the President to govern the islands after a fashion until Congress shall exert its powers, and does not hamper Congress in providing a government for them. And the local affairs of the Philippines may be administered with as single a regard to their peculiar interests as are the affairs of a State, for the Constitution does not prescribe that all Territories shall be administered from a common standpoint, but permits the peculiar needs of each to be considered.

There is bitter opposition to applying to the Philippines the constitutional rule of uniform tariff taxes. It is asserted that Congress can not impose uniform duties on foreign imports that will be equally fair to the islands and to the mainland; but this suggests merely a phase of the persistent tariff controversy. Doubtless the new phase presents new difficulties, yet recalling that one tariff act drove South Carolina to the edge of rebellion and that another led Louisiana to the Treasury for sugar bounties, we need not apprehend more extreme results from extending our revenue system to the Philippines. Moreover, the Philippines will have no voice in making a United States tariff, and this exclusion of an interested section from the work of bargain and compromise that usually accompanies tariff legislation will make the task somewhat easier. Exclusion is not so great a hardship as it seems, for in any event an insular tariff would be dictated in Washington and not in Manila, and the islanders will be quite as well off with an assurance of equal taxation as with a possibility of lighter taxation. Federal taxation without representation may be inevitable under the Territorial system, but it is shorn of its worst possibilitie swhere the taxpayer can not be singled out for special burdens.

The rule of uniformity that forbids Congress to impose different duties on foreign goods imported into the Philippines and into the mainland of course forbids it to impose any duties whatever on commerce between them, and here we find the chief motive for resisting its application to our new territory. Free trade between the Philippines and Puerto Rico and the mainland may affect important agricultural interests here. Should Cuba be annexed, notwithstanding our promise, serious disturbance would be inevitable. If manufactures can be established in the islands, the wave of disturbance will cover a wider area. But these results, however unwelcome, can not influence the interpretation of the Constitution. They must be accepted as practical consequences of annexation.

There is no evident absurdity in attributing the civil rights of the Constitution to the Filipinos when the nature and limitations of these rights are understood. Surely the Republic must regard life, liberty, and property everywhere as rights, not as privileges. Even these primary rights are not absolute. Each one may be forfeited for crime. Each is held subject to the legitimate claims of the State.

Of course the right to liberty confers the freedom of the Republic, and no law can check the orderly migration of Filipinos to any part of the country. "We are all citizens of the United States," says the Supreme Court, "and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own State." (1 Crandall *vs.* Nevada, 6 Wallace, 35, 49.) A man's right to work in any part of the Republic and his right to send the lawful product of his labor to any part rest upon precisely the same foundation of personal liberty. As for liberty of speech and of the press, expressly guaranteed by the Constitution, why should not a Filipino speak and write his mind when he may be punished for abusing his rights, and hung if, like the Chicago anarchists, his utterances are linked to the crimes they are intended to provoke?

The Filipinos are entitled to bear arms, but the Constitution affirms this right for "the security of a free state," not for the benefit of insurgents; they may assemble and petition for redress of grievances, but the Constitution requires them to do so "peaceably."

Citizens of the United States not residing in States have no voice in Federal affairs, nor have they a constitutional right to regulate their own. The whole political power of the Republic, whether directed to Federal, State or Territorial affairs, is vested exclusively in the voting citizens of the several States, and each State may prescribe such qualifications for suffrage as it pleases, so long as it bars no one because of "race, color, or previous condition of servitude." The entire sovereignty over territory beyond the States is vested in the Federal Legislature. This proposition was questioned in the Dred Scott case (19 Howard, 393, 501) and Senator Douglas and other statesmen declared that the people of the Territories possessed sufficient "popular sovereignty" to decide for themselves whether slavery should be allowed within their borders.

The doctrine of "popular soverignty" in the Territories was a political device for taking the question of slavery out of Federal politics. It was wholly incompatible with the fundamental conception of the union of States, and is now thoroughly discredited. (See National Bank *vs.* County of Yankton, 101 U. S., 129, 133; Murphy *vs.* Ramsey, 114 U. S., 15, 44; Mormon Church *vs.* United States, 136 U. S., 1, 44.) The definition of Filipinos as "citizens" carries no right to participate in governing the Republic, nor any State, nor even the Philippines. They can become members of the voting body of the United States only by coming into a State and satisfying the requirements of the local law of suffrage. They can exercise in the islands only such political franchises as Congress may grant. In the language of the Supreme Court: "The personal and civil rights of the inhabitants of the Territories are secured to them, as to other citizens, by the principles of constitutional liberty, which restrain all the agencies of government, State and National; their political rights are franchises which they hold as privileges in the legislative discretion of the Congress of the United States." (Murphy *vs.* Ramsey, 114 U. S., 15, 44.)

VALUE OF THE CONSTITUTION IN NEW TERRITORY.

In affirming the authority of the Constitution in the Philippines, I am far from anticipating the transformation of an Asiatic dependency of Spain into a well-ordered section of the United States by any magical power of written law. Constitutional rule will not prevail throughout the islands until the authority of the United States shall be as supreme in fact as it is in theory.

The gap between fact and theory, so marked in the Philippines, is not a novel circumstance in our history. A Southern Confederacy once denied the Constitution, and temporarily suspended its active authority throughout a wide area; yet the Supreme Court said of the insurrectionary State of Tennessee: "She never escaped her obligations to the Constitution, though for a while she may have evaded their enforcement." (Keith *vs.* Clark, 97 U. S., 454, 461.) Again, the influence of the Constitution spread slowly throughout the vast domains we have annexed from time to time; isolated communities made their own laws, sparsely peopled regions had none.

These conditions, after all, illustrate merely the general proposition that constitutional guaranties are not thoroughly efficient unless persons injured by their violation have recourse to competent tribunals for redress. How far such courts as may now sit in the islands are thus competent I do not discuss, for it may be admitted that until Congress shall institute Federal tribunals constitutional rights will receive imperfect protection. But this admission must be made in regard to the whole Republic. The only court named in the Constitution is the Supreme Court, whose original jurisdiction is strictly confined to "all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party." (See Marbury *vs.* Madison, 1 Cranch, 137.) Whether Congress may destroy the Supreme Court should forever be an academic question, but certainly this tribunal of limited original jurisdiction is the only one specifically contemplated by the Constitution. What inferior courts there shall be, what their jurisdiction, when and how their judgments involving the questions mentioned in the Constitution as reviewable by the Supreme Court shall be carried up, are determinable by Congress, which can not be coerced into creating a court or directed in defining its jurisdiction, or prevented from abolishing it. Broadly speaking, the American people depend upon the facilities afforded by the judiciary acts for the orderly enforcement of their constitutional rights. And the judiciary acts are but one of many examples of legislative aid to the Constitution, for although its presence in a particular territory

does not depend on the pleasure of Congress, as I have shown, many of its provisions are partially or wholly ineffective anywhere until Congress shall have effectuated them by legislation.

Before leaving the subject of the jurisdiction of courts it will be profitable to note a marked difference between the American and English systems. The judicial committee of the privy council affirmed an ancient rule when they said in Bishop Colenso's case: "It is the settled prerogative of the British Crown to receive appeals in all colonial causes." (The Lord Bishop of Natal, 3 Moore P. C., N. S. 115.) The royal prerogative, however, has long been required to be exercised in accordance with the judgment of the judicial committee, a court selected from the council according to rules established by Parliament.

This court of appeal has a broad and varied jurisdiction. For example, it will entertain an appeal from the act of a colonial governor in imprisoning an African chief (Sprigg *vs.* Sigcau [1897], A. C., 238); from the order of a colonial court denying certain powers and privileges to a colonial legislature (Speaker, etc., *vs.* Glass L. R. 3, P. C. 560); from the judgment of a police magistrate in a petty colony (Falkland Islands Company *vs.* The Queen, 1 Moore P. C., N. S. 299); and it will receive appeals in criminal cases generally whenever it appears that "by a disregard of the forms of legal process, or by some violation of natural justice or otherwise, substantial and grave injustice has been done" (Dillet's case, 12 Appeal Cases, 459).

Under the British system, then, the subjects of the Queen in all parts of her dominion may appeal for redress of injuries to a permanent tribunal whose territorial jurisdiction expands with the expansion of the Empire. There is no such tribunal in the United States. Citizens in an annexed district have no recourse to the Federal courts until Congress shall so provide. In these circumstances it behooves Congress to extend promptly the Federal judicial system to the annexed Territories.

After the authority of the United States shall have been established in the Philippines, Federal courts opened, and necessary laws enacted, after the Government shall have done its part toward confirming the rule of the Constitution, the islanders must learn to live up to it before it can mean to them what it means to us. We do not hand down the Constitution to the Filipinos in the anticipation of an early acceptance of its principles. Indeed, the unanimous protest that the islands shall never be admitted to statehood affirms our conviction that the islanders can never be trusted with a share of the political power of the Republic. We do not believe, we do not wish to believe, the enthusiastic prophecy with which the Philippine Commissioners close their preliminary report: "When peace and prosperity shall have been established throughout the archipelago, when education shall have become general, then, in the language of a leading Filipino, his people will, under our guidance, 'become more American than the Americans themselves.'"

A hostile environment does not annul the Constitution, although it may impair its efficiency. In the Philippine Archipelago, as in all United States territory, the Constitution confers rights upon the ignorant and the unwilling as well as upon those who value them; enjoins our public servants to respect it in all their dealings; justifies resistance to acts forbidden by it; and, in theory of law, renders void every command and illegal every act disregarding its prohibitions.

EFFECT OF DENYING THE CONSTITUTION TO THE PHILIPPINES.

I do not belittle the inconvenience of governing the Philippines under the Constitution, but, having acquired the islands, we had better accept constitutional responsibilities in their regard than face the consequences of rejecting them. Rejection would mean to the Filipinos the rule of a new master of higher purpose, of greater ability, of kindlier disposition then the old one, yet equally free from the restraints of law. Defining the so-called rights of the islands under such a régime, the Secretary of War proffers "moral right," and "the nature of our government," and "implied contract" as efficient substitutes for legal guaranties (see Report for 1899, pages 26, 27), in disregard of the fact that the Constitution demonstrates our conviction of their inefficiency, our determination that neither prejudice of race, or class, or religion, nor the power of one or of many shall overcome the rights of man so far as the written law, enforced by the courts, can maintain them. And who shall say that the constitutional restraints so necessary in the self-governing sections of the Republic are superfluous in the Philippines? Who shall say that abuse of power decreases with the increase of opportunity in the face of the unprincipled bill now pending in Congress, discriminating against our fellow-citizens in Puerto Rico?

Were the Filipinos alone concerned, we might perhaps be seduced to try our hand at absolutism, but the evil course would have far-reaching consequences.

Should the Constitution be denied to the Philippines on the ground that it is only effective in the States, the people of the Territories and the District of Columbia would be deprived of its protection, and they would suffer this wrong not because of their deserts, but by the operation of a rule fabricated for the handling of a host of Malays over whom we have hastily asserted dominion. If to live beyond the States is to live beyond the Constitution, New Mexico, Arizona, Oklahoma, Alaska, and Hawaii and Puerto Rico as well, will instantly present a moral claim to statehood that we may find it difficult to disregard.

Should the Constitution be denied to the Philippines upon any pretext, a drawback from indiscriminate expansion will be removed. While acquisition of territory means the enlargement of the United States and the reception of new citizens, while Congress must govern all country within its jurisdiction as a commercial and social unit, the American people will not covet outlying land if its acquisition means fellowship with uncongenial multitudes.

THE CONSTITUTION AND A COLONIAL POLICY.

We are told that the United States are a nation and are therefore competent to deal with the Filipinos as any other nation, especially Great Britain, might deal with them under the circumstances. This is true in the sense that there is an ultimate authority in the Republic substantially similar to the authority of the British nation. It is not true in the intended sense that this authority is lodged in the Federal Government. The British Parliament is the British nation for every purpose. The Federal Government is the American nation only for the purpose of exercising the powers delegated in the Constitution by the people of the several States, who have reserved to themselves or to the States all powers not delegated and the right to amend the Constitution.

The immeasurable difference between the limited powers of Congress and the omnipotence of Parliament is recognized by our courts (see Van Horne's Lessee *vs.* Dorrance, 2 Dallas, 304, 307; Justice Harlan's opinion in Robertson *vs.* Baldwin, 165 U. S., 275, 296), and it can not be too strongly emphasized at this moment, when a sudden admiration for English colonial policy has begotten the desire to imitate it.

The will of Parliament is the fundamental law of the British Empire whose parts are united by their common subjection to it, and Parliament governs the scattered lands and the polyglot people with equal and unfettered power. England and the Gold Coast, the citizen of London and the native of India, are on an equal footing before an authority that knows no legal restraint. The Constitution is the fundamental law of the United States. So long as its broad guaranties run throughout their territory all the people are equal before the law in respect of their civil rights. But if these guaranties are not general all are not equal before the law. There is the law of the Constitution for some, the pleasure of Congress for others. The difference between British and American legislative systems shows how repugnant the British colonial policy would be to the spirit of our institutions even were it agreeable to their letter. An opportunist colonial policy, so harmonious with the British scheme of government, would be a strange graft on American institutions, which are distinguished, and, as I think, admirably distinguished, from all others by their imposition of real restraints upon governmental power.

By the law of the Constitution all land within the sovereignty of the United States is one country; all people within their jurisdiction are one people, who enjoy life, liberty, and property of constitutional right without regard to which side of a boundary line between State and Territory or of lines of latitude or longitude they happen to live; these lines can not be made a hindrance to the course of legitimate commerce. A few months ago this statement was generally accepted as good law and policy, and it might not be so seriously questioned to-day had the treaty of Paris limited our acquisitions to American territory. It is the circumstance of conquest in Asia, with its suppressed but inevitable suggestion of further aggrandizement in the East, for while we talk of the Philippines we are thinking of China, that provokes the assertion that at last we have gone beyond the proper sphere of the Constitution.

Assuming, for the sake of argument, that the assertion is true, or at all events expresses the deliberate wish of the American people, how shall we deal with the question it presents? Certainly not by accepting an injurious rule as a perpetual obligation or by refusing to admit that the Constitution must come at last to reflect a matured public opinion. If the supremacy of the Constitution in the Philippines will cause serious embarrassment, the approbation of law will not make it endurable. Or, if the American people are unwilling to treat the islands as United States territory in any circumstances, no rule of law will long compel them. I am convinced that either event should move us to relinquish sovereignty over the country we can not or will not govern according to our Constitution. Any abandonment of constitutional for arbitrary rule must weaken the moral supremacy of the Republic, and the taking over of millions of Asiatics who are deemed unfit for fellowship must increase its burdens without bringing new strength to bear them.

But should these considerations be overborne by a determination to hold the Philippines as a subject province at all cost, let the Constitution as it stands remain unspoiled by interpretations restricting it to the States or conditioning its efficacy in Federal territory upon the pleasure of Congress or the treaty-making body. Let us frankly admit that in ruling without the restraint of organic law the Government would assume an office requiring the approval of imperial standards for its acceptance, the delegation of imperial powers for its administration, and then approve these standards and delegate these powers in a special amendment of the Constitution. I have seen no considered suggestion that the Constitution be amended, yet it must come to this if the United States are to embark upon a colonial policy with lawful, adequate, and unquestioned powers. A short amendment would serve to distinguish the Republic, governed under the old organic law, from outlying provinces, ruled as policy shall dictate.

THE GOVERNING OF THE PHILIPPINES.

The incorporation of the Philippines into the United States, and their subordination to the Constitution, are legal results of our acquisition of territorial sovereignty through the operation of the treaty of Paris. Whether sovereignty should have been acquired is strenuously disputed. That it has been acquired is the controlling factor in the situation, and while it is maintained we must address ourselves to practical questions of government and policy involved in the administration of United States territory, some of which have been already considered.

EFFECT OF ANNEXATION UPON THE OLD ORDER.

One of the first questions suggested by the coming of a new sovereign to a country has regard to the fate of that old order which is evidenced by the local law. Chief Justice Marshall says, "The law which may be denominated political is necessarily changed." (American Insurance Company *vs.* Canter, 1 Peters, 511, 542.) This statement is true in the broad sense that the peculiar attributes and powers of the old sovereign are not transmitted to the new one, nor do the laws through which such powers have been exercised become its laws. As the Supreme Court said in a later case (Pollard *vs.* Hagan, 3 Howard, 212, 225; see also New Orleans *vs.* United States, 10 Peters, 662, 736), "It can not be admitted that the King of Spain could, by treaty or otherwise, impart to the United States any of his royal prerogatives; and much less can it be admitted that they have capacity to receive or power to exercise them. Every nation acquiring territory, by treaty or otherwise, must hold it subject to the constitution and laws of its own government, and not according to those of the government ceding it." And other parts of the law termed "political" may, for one reason or another, lapse upon a transfer of sovereignty.

Although the new sovereign has a right to change all the political institutions of the annexed district, Chief Justice Marshall did not mean that the act of annexation necessarily effects this sweeping result, and governmental agencies consistent with the new order may be utilized without confirmatory legislation. The vitality of municipal agencies, for example, is illustrated in the case of California, where the State courts have even sustained grants of pueblo (town) land made during the existence of the military government by ayuntamientos acting under the old Mexican law. (Hart *vs.* Burnet, 15 California, 530, 559. See also Townsend *vs.* Greeley, 5 Wallace, 326.) So the courts of a country are not necessarily closed by its cession. The treaty of Paris recognizes this in the provision that civil suits undetermined at the time of the exchange of ratifications may be prosecuted to judgment in the court in which they are pending, or in such court as may be substituted therefor. And the courts of California have affirmed the validity of proceedings in tribunals of Mexican origin acting under the military government. (Mena *vs.* Le Roy, 1 California, 216; Ryder *vs.* Cohn, 37 California, 69.) In regard to civil as distinguished from political law it is well settled that a system of jurisprudence already established in annexed territory is not supplanted by the system of the acquiring State by the mere act of transfer, but subsists until the new sovereign shall see fit to change it. (Campbell *vs.* Hall, Cowper, 204; United States *vs.* Percheman, 7 Peters, 51, 80; Strother *vs.* Lucas, 12 Peters, 410, 436.) And the United States observe both the rule of public law and the obligations of the Constitution in respecting private property and rights in annexed territory which have become duly vested under the old laws. (United States *vs.* Percheman, 7 Peters, 51, 86; United States *vs.* Moreno, 1 Wallace, 400.)

Except as they are the foundation of private rights already vested and compatible with the Constitution, the laws of annexed territory impose no permanent obligation upon the United States, yet all may not be in one category.

Laws conflicting with the Constitution impose no obligation whatever.

If an act of Congress extends of its own force to the ceded territory, it displaces all laws inconsistent with its provisions. This statement is made rather for the sake of precaution than with a definite suggestion as to its

practical bearing, for, while certain acts may be, perhaps, in some sense self-extending (see Cross vs. Harrison, 16 Howard, 164, 197), there has not been established a general rule according to which this quality shall be attributed. Certainly self-extending acts must be exceptional, for it is presumed that a legislature enacts a law with regard to the known requirements of the country then within its jurisdiction, and not to the unknown requirements of after-acquired territory. This presumption is sustained by the common practice of our Government, and by our observance of the rule, just mentioned, that the laws of annexed territory generally subsist until they are definitely superseded; a rule of little value did the general statutes of the United States extend to the territory of their own force.

All other laws stand until changed by the authority of Congress.

THE POWERS OF THE PRESIDENT.

The President is in possession of the Philippines and governs them by military agents. This government originated in a belligerent occupation of foreign territory, and, agreeably to the precedent approved by the Supreme Court in the case of California, it was not dissolved by the transfer of the islands at the end of the war, but continues until superseded by Congress. (Cross vs. Harrison, 16 Howard, 164, 193.)

The rightful existence of this government being conceded, we must determine its powers. The President's message states that the government of Puerto Rico is maintained by the executive department "under the law of belligerent right" (page 50), and of course this statement includes the Philippines, since both districts are in like case. It is not perceived how the President can act under this law in any territory acquired from Spain. Belligerent right is predicated upon a state of war. Puerto Rico is at peace. Chief Justice Chase declared the invariable rule when he said in Milligan's case (4 Wallace, 2, 140), "Where peace exists the laws of peace must prevail." Belligerent right is predicated upon a state of formal war. There is an insurrection in the Philippines, but there is not a formal war. We have carefully refrained from treating the insurgents as belligerents. What powers the President might enjoy under the law of belligerent right I do not discuss, for it is as inapplicable in the ceded territory as it was in the like case of California, of which President Polk said:

"Upon the exchange of ratifications of the treaty of peace with Mexico * * * the temporary governments which had been established over New Mexico and California by our military and naval commanders by virtue of the rights of war ceased to derive any obligatory force from that source of authority. * * *" (Messages of the Presidents, IV, 638.) The President's governments in Puerto Rico and the Philippines are precisely alike in origin and powers. They are, indeed, military as distinguished from civil governments established by Congress, but they are not to be administered according to the laws of war. In the disturbed Philippines, as in quiet Puerto Rico, the President is the steward of territory belonging to the United States, in virtue of his office, and the fact that this territory is under the jurisdiction of Congress, though not yet organized under its laws, goes far toward indicating the duties, the powers, and the limitations of his stewardship.

The President is bound to uphold the sovereignty of the United States, and they magnify his office who urge him to recognize a Filipino republic or declare a protectorate or acknowledge in any way the existence of a local sovereign. The islands are in his charge, not at his disposition. They have been annexed by treaty and, unless wrested from us, can not be dissevered except by legislation of equal solemnity.

Of the strictly military powers of the President it need only be said that in the face of insurrection he enjoys precisely the same authority in the Philippines as elsewhere in the territory of the United States. And these powers extend, of course, to the maintenance of peace generally.

Although the authority of the President is called "military," it has a civil side. We have seen that the annexation of a country does not necessarily abolish all its old laws and governmental agencies, and perhaps some laws of Congress may extend to it by their own force. Unquestionably the President is competent to enforce these laws and utilize these agencies, as far as circumstances permit. Thus far the President's powers are normal, being wholly of an executive nature.

There remains the question whether the President may exercise legislative powers in the ceded territory pending action by Congress, and I mean by legislative powers the enactment of new laws and the repeal, alteration, or suspension of old ones, the extension of acts of Congress, the creation of offices, the imposition of new taxes and the appropriation of their revenue—in fine, the powers of Congress. Sir William Anson says of English practice: "Colonies acquired by conquest or cession fall at once under the legislative powers of the Crown in council, subject always to these limitations, that Parliament might intervene and make provision for the government of the colony, and that the Crown could not make laws 'contrary to the fundamental principles' of English law, nor presumably enforce such laws if found among the colonists at the time of cession." (The Law and Custom of the Constitution, The Crown, 2d ed., 274.) The power to legislate for ceded territory thus vested in the Crown in council is not enjoyed by the President when the United States acquire territory; it vests in Congress, whose jurisdiction attaches at once, and within this jurisdiction there is no room for an executive prerogative of legislation even by the permission of Congress. In the words of the Supreme Court, "That Congress can not delegate legislative power to the President, is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution." (Field vs. Clark, 143 U. S., 649, 692.)

The prohibition against executive legislation in United States territory is not affected by the judgment of the Supreme Court upon the Kearny Code of New Mexico. This code was promulgated by Gen. Stephen M. Kearny in 1846, while in command of our forces in hostile occupation of New Mexico. It was argued that the code lapsed upon the termination of the belligerent status of the territory by its formal cession to the United States, leaving the old Mexican law as the law of the land. But the court held that the Kearny Code was entitled to respect as the law in force at the date of cession. (Leitensdorfer vs. Webb, 20 Howard, 176.) Here was a code of purely executive, indeed of belligerent, origin recognized by the court, yet the decision is not an authority for the exercise of general legislative powers in annexed territory, for this is a part of the United States, while the Kearny Code was proclaimed in a foreign land. In other words, the powers of legislation which, according to Leitensdorfer vs. Webb, may be exercised by the President as Commander in Chief of our forces in belligerent occupation of foreign territory, where Congress has no jurisdiction, are not enjoyed in the United States, where Congress is supreme. Nor is the prohibition affected by the decision in Cross vs. Harrison (16 Howard, 164): After the ratification of the treaty ceding California to the United States had been communicated to our military governor in occupation of the territory he ordered that the duties of the tariff act should be collected upon foreign imports, created the office of collector, and appointed a civilian thereto with a salary.

In dismissing a suit for the recovery of duties paid under protest the court sustained these acts of a legislative nature, saying, "It has been sufficiently shown that the plaintiffs had no right to land their foreign goods in California at the times when their ships arrived with them, except by a compliance with the regulations which the civil government were authorized to enforce—first, under a war tariff, and afterwards under the existing tariff act of the United States. By the last, foreign goods, as they are enumerated, are made dutiable—*they are not so because they are brought into a collection district, but because they are imported into the United States.* The tariff act of 1846 prescribes what that duty shall be. Can any reason be given for the exemption of foreign goods from duty because they have not been entered and collected at a port of delivery? * * * The right claimed to land foreign goods within the United States at any place out of a collection district, if allowed, would be a violation of the provision in the Constitution which enjoins that all duties, imposts, and excises shall be uniform throughout the United States. Indeed, it must be very clear that no such right exists, and that there was nothing in the condition of California to exempt importers of foreign goods into it from the payment of the same duties which were chargeable in the other ports of the United States." (Page 198. The italics are mine.) The gist of this paragraph is that a tariff act is so far binding upon territory acquired after its passage that the President, in possession, is expected to collect the duties, but the court did not appear to be thoroughly satisfied with this position, for at the close of the opinion we read:

"We do not hesitate to say, if the reasons given for our conclusions in this case were not sound, that other considerations would bring us to the same results;" and the last of these considerations, which are generally of a practical nature, is "that the Congress has by two acts adopted and ratified all the acts of the government established in California upon the conquest of that Territory, relative to the collection of imposts and tonnage from the commencement of the late war with Mexico to the 12th November, 1849, expressly including in such adoption the moneys raised and expended during that period for the support of the actual government of California after the ratification of the treaty of peace with Mexico. This adoption sanctions what the defendant did. It does more—it affirms that he had legal authority for his acts."

From the opinion in Cross vs. Harrison we gain the impression that the acts of the President in California were made good by Congress rather than warranted by his own powers.

In applying the rule that the President is without legislative power in United States territory to the present case I do not suggest an invariable test by which administrative decrees issued from Washington directly, or through the military government in the islands, are to be approved as executive regulations or condemned as acts of legislation. It is sufficient for our purpose, however, to note that decrees plainly of the forbidden sorts are promulgated in the annexed territory. (See General Davis's Report on Puerto Rico, October 13, 1899, pages 107–158.)

Perhaps some examples of Executive usurpation of the powers of Congress may be unearthed, but the present Administration appears to be the first that has ever made laws for United States territory under claim of right. The incapacity of the executive department to legislate for unorganized territory was recognized by President Jefferson in the case of Louisiana (Messages of the Presidents, I, 363), and by President Polk in the case of California (Messages, etc., IV, 589, 638), and the wretched plight of Alaska, a Territory neglected by Congress for more than thirty years, has been laid before Congress by every President, none of whom has supposed, however, that the inactivity of the Legislature has given him the right to act in its stead. Yet, while President McKinley's last message recites that, "there is practically no organized form of government in the Territory [Alaska]. There is no authority except in Congress to pass any law no matter how local or trivial. * * *" (page 48). We find no expression of doubt as to his powers to legislate for the unorganized Philippine territory, and that these powers are not really assumed upon the plausible though mistaken ground of the existence of insurrection is shown by the fact that the same powers are exercised in the peaceful territory of Puerto Rico.

As the Administration declares that its government of the islands "is maintained by the law of belligerent right" (supra, page 37), it may harbor the idea that it enjoys the broad powers of a conqueror. Or, as it seems to be committed to the doctrine that the Constitution is inoperative in the ceded territory, it may arrogate to itself all governmental powers upon the theory that the constitutional separation of powers does not affect the President as the custodian of the Philippines. Neither of these positions is tenable, as I have shown. Whenever the Administration has legislated for Puerto Rico and the Philippines since their annexation it has invaded the province of Congress, and all arguments of extenuation must come at last to the plea of necessity.

In considering this plea we must dismiss at the outset the notion that the assembling of Congress in stated session worked a change in the President's powers as administrator of the annexed territory by depriving him of legislative functions enjoyed of necessity during the recess. These powers are the same in recess as in session, as in the theory of law the President never lacks the cooperation of the Legislature, except perhaps during the brief time needed to convene it in special session. If, then, the President possessed legislative powers of necessity when he might have called Congress but did not, his right must be based upon the mere inaction of Congress, and not upon the physical impossibility of its acting, for this was due to his failure to convene it, and on this theory he would possess legislative power now while Congress sits, but does not act. And this appears to be the opinion of the Administration, for the Secretary of War has lately decreed an order forbidding the foreclosure of mortgages in Puerto Rico for six months, unless Congress shall otherwise provide. In opposition to this theory, I submit the proposition that no legislative powers accrue to the President because of the inaction of Congress. If, in his judgment, legislation for annexed territory is necessary, he may commend it to Congress in regular or special session. If Congress shall not legislate on his motion or its own, it is presumed to be satisfied with the existing body of law comprising the Constitution, the old law of the territory, and such United States statutes as may extend of their own force.

Whatever moral weight a plea of necessity may have when in a recess of Congress instant action is required to avert a threatened peril, it has none in this case. The governing of the islands is not an emergency in itself. Congress had provided for their acquisition before it adjourned in March, 1899, and must be presumed to have anticipated that the President would probably take charge of them during the usual recess. If, before the next regular session, there had arisen a need for legislation, the President should have convened Congress. He can not plead the emergency of a condition caused by his failure to call the Legislature.

Breaches of the rule against Executive legislation are not condoned by the good intentions of a Chief Magistrate or by the excellence of his decrees.

When the people commenced the Constitution with the law, "All legislative powers herein granted shall be vested in a Congress of the United States," they laid a prohibition upon all Presidents at all times. Yet breaches are not always beyond repair.

The redeemable legislative acts of a President are those which Congress could have passed and can ratify. For these President McKinley should seek legislative approval, as President Taylor sought it for some acts of the military government of California (Messages of the Presidents, V, 19) and as the British Government sought it in the case of "the forty days' tyranny" in 1766, during which it suspended the laws permitting the export of corn. Irredeemable acts are those which Congress is constitutionally incompetent to ratify.

THE POWERS OF CONGRESS.

Congress is supreme in the Philippines, and it acquired jurisdiction the moment the islands became United States territory. The impression that Congress will not be supreme until it actually legislates for the islands is erroneous. Congress is paramount over all United States territory, and in legislating for the Philippines it will not newly take jurisdiction, but will exercise jurisdictional right already vested in it by the operation of the treaty of Paris.

Whether the power of Congress to govern territory be derived from the provision of the Constitution which reads: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State" (American Insurance Company *vs.* Canter, 1 Peters, 511, 542), a provision plainly relating to the management of property, especially in public lands, and not to the governing of people, or whether the power be derived, logically, from the "right to hold territory" (Sêre *vs.* Pitot, 6 Cranch, 332, 336; Scott *vs.* Sandford, 19 Howard, 393, 443; United States *vs.* Kagama, 116 U. S., 375, 380), all will agree with Chief Justice Marshall that "whichever may be the source whence the power is derived, the possession of it is unquestioned" (American Insurance Company *vs.* Canter, 1 Peters, 511, 543). And the scope of the power must be the same whichever its source.

The scope of Federal power over territory beyond the States is thus defined by the Supreme Court: "By the Constitution, as is now well settled, the United States have rightfully acquired the Territories, and being the only government which can impose laws upon them, have the entire dominion and sovereignty, national and municipal, Federal and State, over all the Territories so long as they remain in a Territorial condition." (Shively *vs.* Bowlby, 152 U. S., 1, 48; see aiso National Bank *vs.* County of Yankton, 101 U. S., 129, 133.) In virtue of these powers Congress enjoys a wide discretion in prescribing a government for the Philippines. Any form is permissible, from an organization chosen by the islanders to a governor or commission appointed by the President. But a Territorial government is essentially subordinate and precarious. Congress remains the sovereign body, and may alter or abolish it at will and exert superior legislative powers during the term of its existence. The unquestioned power of Congress to establish a Territorial government without enlisting the cooperation of the people, or even consulting them, results from the necessary denial of popular sovereignty in the Territories; but this government, however arbitrarily imposed, can not be arbitrary in conduct, for it must obey the law of the Constitution.

The current session affords Congress the first opportunity to exert its constitutional powers in the Philippines, and though it should not legislate freely in respect of the islands in advance of reliable information of their requirements, a general policy of deliberation will not excuse neglect of prompt efforts to ameliorate some of the worst conditions.

Each day of unrest in the Philippines makes our presence more hateful and postpones our opportunity for helpfulness; indeed, if resistance be greatly prolonged we may learn one day that we have demoralized a people we promised to benefit. The Republic itself may be menaced by persistent disaffection, for if it shall be involved presently in a new and greater war, the enemy will find allies in the Philippine territory. The Administration is blameworthy for having belittled the strength of the insurrection. If the President shall now call for troops to garrison the islands thoroughly, he will not be blamed for exaggerating it. But whatever may be the state of the insurrection, the peace we want is contentment—not merely the end of strife; and we can not hope that one will follow the other while we treat disaffection as wanton opposition to a benign sovereign, and armed resistance to its authority as unnatural rebellion.

The attitude of regretful surprise that Filipinos should resist our benevolence is a dishonest pose. When we recall that a few months ago we knew nothing of the Philippines, know little now in fact, we may comprehend how ignorant must be the islanders of the institutions and spirit of our Republic, how possible it is that with their experience of white rulers they should view the United States as more dreadful than Spain because more powerful. In these circumstances conciliation is not an improper overture to rebels. It is a generous effort to allay the mistrust of a strange people, and to assure mutual comprehension between parties brought unexpectedly into a difficult relation. In pursuance of these ends let Congress cause proclamation to be made that the Philippines are not a dependency, but are part of the Republic and within the protection of the Constitution; and especially that citizenship and civil rights are bestowed in the Philippines as in all other United States territory, and that trade between all parts of the Republic is free. This proclamation should not be withheld because proclamations of the President and his representatives have failed, for as a message from Congress declaring the law of the Constitution it will be of higher dignity and promise. Nor should it be issued with an exaggerated hope of its influence, since the sending of a message is, after all, but a one-sided dealing at arm's length with a situation that requires intimate discussion. Representative Filipinos should be invited to attend a conference to be held at Washington, and they should be received neither as traitors nor as heroes, but as people of a new territory come to discuss the vital question of its government.

If it be objected that any intercourse with insurgents is beneath our dignity let us remember that President Lincoln left his capital to talk with Confederate leaders at Hampton Roads, set in his own opinions, with no expectation of changing theirs, but determined that no chance for peace should be lost through lack of consideration on his part.

The President's government in the Philippines is so incompetent that Congress should supersede it at once. A bill has been introduced providing "That when all insurrection against the sovereignty and authority of the United States in the Philippine Islands, acquired from Spain by the treaty concluded at Paris on the 10th day of December, 1898, shall have been completely suppressed by the military and naval forces of the United States, all military, civil, and judicial powers necessary to govern the said islands shall, until otherwise provided by Congress, be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of said islands in the free enjoyment of their liberty, property, and religion."

A precedent for this bill is said to be found in the action of Congress after the annexation of Louisiana. On October 31, 1803, ten days after the exchange of the ratifications of the treaty of cession, Congress passed an act authorizing the President to take possession of Louisiana and providing "that until the expiration of the present session of Congress, unless provision for the temporary government of the said Territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion." (2 Stat. L., page 246.) The Louisiana act was followed substantially in the case of Florida (3 Stat. L., 523), and may have inspired a part of the act annexing Hawaii (30 Stat. L., 750), but it will be shown that it is not a precedent for the Philippine bill.

The government of Louisiana, such as it was, was established definitely. The Philippine government is to be called into being by the President upon the happening of an event of which he is to be the sole judge—the suppression of insurrection. And in this relation the bill is open to the serious objection that it recognizes, inferentially, the law of belligerent right as the present foundation of Executive jurisdiction in the islands.

The Louisiana act continued the old government of Louisiana and merely authorized the President to fill its offices. The Philippine bill enables the President to erect a government at will, manned by "such person and persons * * * as he may direct."

The Louisiana act did not purport to confer legislative powers upon the President, and Governor Claiborne's first proclamation expressly recognized the obligation of the old laws and municipal regulations. The Philippine bill seems to concede to the President full legislative powers.

The Louisiana government was to last no longer than the then session of Congress, though the new government ordained by Congress on March 24, 1804, was not actually installed until October 1, 1804. The Philippine government is without term.

Viewing the bill as an Administration measure and recalling the opinion of the Administration that the Constitution is not law in the Philippines, it seems that it purposes to invest the President with the right, or perhaps I should say to recognize that he has the right, to hold all legislative powers in the island and exercise them at his pleasure. If this be the purpose of the bill, it approves the powers of the British Crown over dependencies not regulated by Parliament without imposing the checks upon their abuse which obtain in the British system, where the Crown can do nothing "contrary to the fundamental law" (see supra, page 38), and where relief from injustice may be had through an appeal to the judicial committee of the privy council. (See supra, page 30.)

The Philippine bill is a halting measure of doubtful legality. It merely conveys an impression that some day, in some way, something ought to be done for the Philippines, whereas it is the duty of Congress, and well within its power, to act at once. Probably Congress is not now in a position to prescribe an elaborate system of government; but it is able to substitute for the present makeshift an organization that will be in all respects at least lawful and competent. Congress could ordain a government modeled broadly upon the act of March 24, 1804, creating a temporary government for Orleans Territory, composed of a governor, a legislative council, and a court, all appointed by the President and vested with sufficient powers. Such a government would serve until Congress shall perfect a scheme for a permanent government.

THE DISPOSITION OF THE PHILIPPINES.

I have defined the status of the Philippines and partially outlined the law governing our relation to them in order to determine the responsibilities of the Federal Government in their regard. I have written as though there were no question of renouncing sovereignty over these islands, because the opportunity for renunciation in nowise lightens the obligations now cast upon us; yet my conviction of the impolicy of annexation, expressed before the ratification of the treaty of Paris (see Notes on the Foreign Policy of the United States, June, 1898; A Note on the Question of the Philippines, October, 1898; Constitutional Aspects of Annexation, December, 1898; Harvard Law Review, January, 1899, reprinted in the CONGRESSIONAL RECORD January 11, 1899), has been so strengthened by later events that I would have the voting citizens of the Republic view the disposition of the Philippines not as settled by destiny, but as an open question.

As it is the purpose of these notes to deal chiefly with legal questions, I shall pass over the moral and political principles that enjoin us to relinquish sovereignty over the Philippines, and simply point out the undoubted right and the probable method of relinquishment.

THE RIGHT OF DISPOSITION.

Although the law requires us to treat the Philippines as part of the United States, it does not compel us to hold them forever. The implied right of acquisition under which we annexed the islands has its opposite in an implied right of disposition, at all events in the case of territory beyond a State.

Voluntary relinquishment of territory is not unexampled. Witness the cession of Louisiana by France to the United States; of Alaska by Russia to the United States; of Java and Heligoland by Great Britain to Holland and Germany, respectively; of St. Bartholomew by Sweden to France. The right of disposition is conceded by the Administration in the agreement with the Sultan of Sulu, which provides that the United States will not sell the Sulu Islands without his consent. The concession is important as showing that, in the opinion of the Administration, the annexation of the Philippines has not closed discussion as to their future disposition, but the provision itself is derogatory to our sovereignty. We acquired the Sulus from Spain without the consent of the Sultan, and we shall not require his permission to sell them.

There is, however, a presumption against the ability and willingness of a State to give up a section of its territory, and this is strengthened where the section has been deliberately acquired or long occupied or, above all, is identified with the rest of the country through national unity or community of interest. At the outbreak of the war the American people neither wished nor expected to annex the Philippines, and, whatever individual hope of aggrandizement lurked behind the plan of campaign in the East, the Administration maintains that aggrandizement was not the purpose, though it was well advised of the probable opportunity. (See Admiral Dewey's letter from Hongkong, March 31, 1898, Senate Document 73, Fifty-sixth Congress, first session.) Indeed, the prevailing argument for annexation is apologetic: The law of war forced us to the islands; the law of necessity has chained us there. Our occupation of the Philippines is not only of yesterday, but will probably be, during an indefinite period, merely an armed occupation. Not only is national unity beyond prophecy, but race hatred confronts us, and we are so far from even desiring community of interests that we actually tax the trade between the islands and the mainland, and would view an immigration of Filipinos as an Asiatic plague. When we add that the Philippines are not even an outer line of defense, but rather a vulnerable outpost, and are neither the home of American colonists nor the seat of American investments it is perceived that we are not embarrassed by considerations that usually place relinquishment of territory beyond the pale of discussion.

THE PROTECTORATE.

The United States relinquishing sovereignty over the Philippines may have a choice of courses, but, as at present advised, they will be persuaded to a protectoral relation. The President says in his message:

"The suggestion has been made that we could renounce our authority over the islands and, giving them independence, could retain a protectorate over them. This proposition will not be found, I am sure, worthy of your serious attention. Such an arrangement would involve at the outset a cruel breach of faith. It would place the peaceable and loyal majority, who ask nothing better than to accept our authority, at the mercy of the minority of armed insurgents. It would make us responsible for the acts of the insurgent leaders and give us no power to control them. It would charge us with the task of protecting them against each other and defending them against any foreign power with which they choose to quarrel. In short, it would take from the Congress of the United States the power of declaring war and vest that tremendous prerogative in the Tagal leader of the hour." (Page 44.)

The humiliating relation here depicted is a travesty of a real protectorate. A brief examination of the law and custom of protectorates will show that the United States may assume the office of protector without allowing a minority of armed insurgents to terrorize the peaceable islanders or permitting an Aguinaldo to call the American people to arms at his whistle.

A protectoral relation always suggests the comparative weakness of the protected country, but not, in its broadest sense, supervision by a guardian. In this sense perhaps the United States may be called the protector of Central and South American states, because in the Monroe doctrine they declare their intention to resist foreign aggrandizement upon this continent. An extension of the Monroe doctrine to the Philippines would not enable us to fulfill our present responsibilities in their regard. We should establish a closer relation—a protectorate.

"Protectorate" is a name for so great a variety of political relationships that of itself it defines none accurately, but a few general observations will suggest the relation I have in view. The protectorate will be founded upon a treaty or agreement with a Philippine state whose organization and fundamental law shall be satisfactory to the United States. I do not mean that we should draft an ideal constitution for the islands, as did Locke for the Carolinas, nor commend as of course our own as the perfect model, but we must condition our protection upon the adoption of a practicable scheme of government as enlightened as we have a right to expect.

The Philippine state will not be an exception to the rule that a protected state is never sovereign in all respects. It will not be officially known in the family of nations, for it will hold no relations with foreign states, neither making treaties nor exchanging ministers, nor will it fly a national flag upon the high seas. At every point of contact between the state and the world at large the United States must stand the promoter of its interests, the defender of its rights, the surety for its good behavior. This denial of official foreign intercourse is necessary if only for the reason that as the protector must defend the protected, it must deprive the latter of opportunity to embroil itself with a foreign state, and in anticipation of the possibility of payment of damages by the United States on Philippine account, the treaty should provide a method of recoupment.

As the responsibility for the defense of the island requires that the means be within our control, the establishment of a protectorate will not be followed by the withdrawal of all our forces nor by the maintenance of a Philippine army at the discretion of the local government. The disposition of our troops will depend upon our own judgment, and so will the size and composition of a native force.

If it shall be advisable that foreigners be employed for a time in certain offices in the military and civil services in an advisory or responsible capacity, the employment must be open to Americans alone, for the admission of other foreigners might lead to bickering and intrigue.

A protector may commend, and, in fact, often dictates, a foreign commercial policy to the protected state, and any action of the United States in this direction should tend to open the door to the Philippines as wide as the exigencies of revenue will allow.

Should it appear that native courts ought not to administer civil or criminal justice where Americans or other foreigners are concerned, the treaty may provide and Congress maintain tribunals competent to try these cases.

To suggest in a general way the protectoral attitude of the United States toward the Philippines, it may be said that in matters of foreign concern our interest will be very broad, but in domestic affairs it will be limited to the maintenance of the Philippine state and the security of the protectorate. While it is to be hoped that the people of the northern islands will range themselves under a single government, if not of a national, at least of a confederate, character, race antagonisms may necessitate the recognition of more than one, and it is quite likely that the southern, or Mohammedan, islands will require a separate protectorate.

The study of the protectoral relations of other governments will be profitable, but it is not likely to suggest a model. Apart from the Mohammedan districts, which appear to be much like the protected states of the Malay Peninsula, the Philippines are quite dissimilar from any country now under protection, for we find there a population largely of Malay origin whose dominant portion has been Christianized and civilized to a degree by Spanish influence. More importantly, our action must be inspired by uncommon purposes. A protectorate frequently precedes annexation; ours would be the sign of disseverance. A protectorate is often a cloak for substantial ownership, but if ownership be our real purpose we must continue to govern the islands constitutionally as part of the United States, and not set up a mock state through which our Government may give arbitrary orders to a subject people.

A protectorate is usually established without period, though its end may be conditioned upon the happening of an unexpected event; thus it is written that Great Britain shall hold Cyprus until Russia shall surrender Kars. Our protection should be accorded in the expectation of its withdrawal. The battle of Manila Bay has opened up interests and opportunities in the East that will broaden with years, but our shortcomings at Washington have not necessarily saddled us with interminable responsibilities in the Philippines. Assuming that a protectorate will be declared with a reasonable anticipation that a Philippine state will one day be able to maintain a place among the smaller states of the world, the treaty of protection should fix its own duration, though some provisions might be accorded a longer or shorter term.

The exigencies of the protectorate may require the presence of a considerable force in the Philippines, which would thus be a practicable base of hostilities in the event of war, and for this reason would be open to attack. (See Despagnet, Essai sur les Protectorats, 343.) Yet it is hard that a country should be the theater of a war in which its people have no national interest, and to avoid this hardship the establishment of a protectorate over the Philippines should be accompanied by negotiations with the maritime powers looking to their neutralization. Moreover, an earnest attempt to neutralize the islands would prove that we are not in the East as the foe or the ally of any nation, and its success would give us substantial advantages. While the Philippines are open to assault, they are a remote and vulnerable outpost requiring the presence of a large force, and subject to the danger of a native uprising in aid of foreign invasion. Neutralized, they will require only a force commensurate with local necessities.

A protectorate is not necessarily unconstitutional. So long as it is an honest relation and not a subterfuge for complete control, it is one of those foreign relations maintainable by the United States as well because they are one of the family of nations as by the express contemplation of the Constitution. While the United States have never entered into a relation with another state like that commended in the case of the Philippines, they have occasionally assumed a protectoral office; notably in respect of the possible routes of interoceanic canals. And our relation to Samoa, now in process of alteration, is not only distinctly protectoral, but is complicated by partnership with Great Britain and Germany. It is open to criticism only for reasons of policy, and such reasons alone were given by President Cleveland for withholding the United States from participating in the Kongo Protectorate. (Messages of the Presidents, VIII, 330.)

Our courts have never been required to define the position of the United States in respect of protected territory, but it may be indicated. Bearing in mind that the establishment of a protectorate will mark our relinquishment of territorial sovereignty it is perceived that the Philippines will pass straightway from the territorial jurisdiction of Congress to that of the protected state, for as Justice Story states the rule, "The laws of no nation can justly extend beyond its own territories, except so far as regards its own citizens. They can have no force to control the sovereignty or rights of any other nation within its own jurisdiction. And however general and comprehensive the phrases used in our municipal laws may be they must always be restricted in construction to places and persons upon whom the legislature have authority and jurisdiction." (The Apollon, 9 Wheaton, 362, 370.)

Another statement of the Supreme Court will suggest our manner of dealing with the protected state. "By the Constitution a government is ordained and established 'for the United States of America,' and not for countries outside of their limits. * * * The Constitution can have no operation in another country. When, therefore, the representatives or officers of our government are permitted to exercise authority of any kind in another country, it must be on such conditions as the two countries may agree, the laws of neither one being obligatory upon the other." (Ross's case, 140 U. S., 453, 464.) This was written of our consular jurisdiction in Japan, now ended by limitation, but it applies to any protectoral relation we may assume toward the Philippines. Upon the establishment of a protectorate, the Federal Government will be no longer the government of the islands. Any authority it may have therein will be exerted in a foreign land by agreement with its sovereign. Our rights under this agreement will be maintained by the President like other treaty rights. Any legislation that Congress may enact in regard to the Philippines will be of an ancillary nature, based upon a general power to provide the means for maintaining the lawful rights and obligations of the United States without regard to locality.

This jurisdiction of Congress is not territorial jurisdiction in a foreign country, but is a power to be exercised in furtherance of rights lawfully acquired by the United States in that country. That is to say, Congress can not impose its will on a Philippine state because it is the Legislature of the United States only, but it may aid in effectuating the rights defined by the treaty of protection. Its aid may take the form of new legislation; for example, an act creating an international court and defining its jurisdiction. More often it will be given by an appropriation of money. For some years the act making appropriations for the diplomatic and consular service has contained this item: "For the execution of the obligations of the United States and the protection of the interests and property of the United States in the Samoan Islands, under any existing treaty with the government of said islands, and with the Governments of Germany and Great Britain, $6,000, or so much thereof as may be necessary, to be expended under the direction of the President."

I shall not sift the mass of conflicting opinion as to whether the Filipinos are able to administer a protected state, because the report of the Philippine Commission seems to bear sufficient testimony in their favor. The commissioners describe the Filipinos as being "of unusually promising material" (I., page 120); "strongly desirous of better educational advantages" (page 41); and say that, after the insurrection has been suppressed, the majority will be found to be "good, law-abiding citizens" (page 120). They testify to the marked ability of the educated class, who, "though constituting a minority, are far more numerous than is generally supposed, and are scattered all over the archipelago." (Page 120). In the matter of government the commissioners remark a striking likeness between the Filipino ideal and American achievement, going so far as to say that the leading Filipinos have selected "almost precisely the political institutions and arrangements which have been worked out in practice by the American people; and these are also, though less definitely apprehended, the political ideas of the masses of the Philippine people themselves." (Pages 91, 119.)

Finally, the commissioners cap their appreciation by earnestly recommending for the islands a Territorial government substantially of the first class. (Pages 111, 112.) It is true that in spite of these tributes to Philippine competency the commissioners are at some pains to discredit the possibility of establishing a protectorate (pages 99, 103); but, like the President, whose views they reflect, they narrow their consideration of protectorates to the obviously impracticable. And their disapproval must be weighed with due regard to the fact that a recommendation of a method of relinquishing sovereignty, or even an open-minded inquiry for practicable methods, would have been altogether foreign to their official instructions.

The American people, relinquishing sovereignty over the Philippines, still may fulfill every duty they can be truthfully said to owe to the islanders, and promote every legitimate interest in the commerce of the East. Best of all, in the face of a great temptation they will hold by the cardinal truth that a remote country teeming with people who, however competent to develop a nationality of their own under our protection, can never safely be admitted to statehood, is an undesirable possession for a republic whose strength is the "indestructible Union of indestructible States."

MARCH 8, 1900.

Mr. McCOMAS. I have asked in this connection to have published the statement of Mr. Havemeyer, the president of the New York sugar trust, published in the Chicago Tribune of March 30, 1900, which consists of about fifteen lines. I ask consent to have it read.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Maryland? The Chair hears none, and the paper will be read.

The Secretary read as follows:

NEW YORK BUREAU CHICAGO TRIBUNE,
New York, March 29.

President Havemeyer, of the American Sugar Refining Company, was the center of interest in speculative circles to-day, owing to the cut of 5 cents a hundred pounds announced by the Arbuckles and the possible action of the Havemeyer interests. The sugar king, in discussing the whole situation, was plain and outspoken regarding the position of Puerto Rico and the Philippines, and declared that there was no reason in the world why sugars should not be admitted free of duty from those countries.

"I am much in favor of it," he said, "and I believe the time is not far off when they will be admitted free of duty. Why, both of those countries are part and parcel of the United States, and no matter what action Congress takes, I am confident the Supreme Court will hold that the products of those colonies are entitled to free entry here.

"There is no more reason why a duty should be placed upon the products of Puerto Rico than on stuff coming into New York from Long Island. There is only a wide ditch between the United States and Puerto Rico. Well, if Puerto Rican sugars are brought in free, it will not be long before some similar policy is adopted with reference to Cuban products."

Mr. McCOMAS. I thought it was apt that it might appear from the highest authority that the distinguished Senator from Nebraska and the principal of the sugar trust were in entire accord in

respect of free trade in sugar between Puerto Rico and the United States.

Mr. ALLEN. I have never before known the opinion of a layman to be cited or read in this Chamber on a question of law. I do not know what knowledge Mr. Havemeyer may have or what the Supreme Court of the United States will finally decide, nor do I understand that it detracts from the opinion of Mr. Havemeyer that he and I agree upon one question, nor do I think it adds anything to the glory or the prestige of the most distinguished and learned jurist from Maryland that he should refer to that fact on this occasion.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Nebraska [Mr. ALLEN] to the amendment of the committee, inserting, as a new section, section 25.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question now is on agreeing to the amendment of the committee inserting section 25 as a new section.

The amendment was agreed to.

The next amendment of the Committee on Pacific Islands and Puerto Rico was, at the top of page 18, to insert as section 26 the following:

SEC. 26. That for the purposes of such elections Puerto Rico shall be divided by the executive council into seven districts, composed of contiguous territory and as nearly equal as may be in population, and each district shall be entitled to five members of the house of delegates.

The amendment was agreed to.

The next amendment was, on page 18, after line 5, to insert as a new section the following:

ELECTION OF DELEGATES.

SEC. 27. That the first election for delegates shall be held on such date and under such regulations as to ballots and voting as the executive council may prescribe; and at such elections the voters of each legislative district shall choose five delegates to represent them in the house of delegates from the date of their election and qualification until two years from and after the 1st day of January next ensuing; of all which thirty days' notice shall be given by publication in the Official Gazette or by printed notices distributed and posted throughout the district, or by both, as the executive council may prescribe. At such elections all citizens of Puerto Rico shall be allowed to vote who have been bona fide residents for one year and who possess the other qualifications of voters under the laws and military orders in force on the 1st day of March, 1900, subject to such modifications and additional qualifications and such regulations and restrictions as to registration as may be prescribed by the executive council. The house of delegates so chosen shall convene at the capital and organize by the election of a speaker, a clerk, a sergeant-at-arms, and such other officers and assistants as it may require, at such time as may be designated by the executive council; but it shall not continue in session longer than sixty days in any one year, unless called by the governor to meet in extraordinary session. The enacting clause of the laws shall be, "Be it enacted by the legislative assembly of Puerto Rico;" and each member of the house of delegates shall be paid for his services at the rate of $5 per day for each day's attendance while the house is in session, and mileage at the rate of 10 cents per mile for each mile necessarily traveled each way to and from each session of the legislative assembly.

All future elections of delegates shall be governed by the provisions hereof, so far as they are applicable, until the legislative assembly shall otherwise provide.

The amendment was agreed to.

The next amendment, was on page 19, after line 15, to insert as a new section the following:

SEC. 28. That the house of delegates shall be the sole judge of the elections, returns, and qualifications of its members, and shall have and exercise all the powers with respect to the conduct of its proceedings that usually appertain to parliamentary legislative bodies. No person shall be eligible to membership in the house of delegates who is not 25 years of age and able to read and write either the Spanish or the English language, or who is not possessed in his own right of taxable property, real or personal, situated in Puerto Rico.

The amendment was agreed to.

The next amendment was, on page 19, after line 24, to insert as a new section the following:

SEC. 29. That all bills may originate in either house, but no bill shall become a law unless it be passed in each house by a majority vote of all the members belonging to such house and be approved by the governor within ten days thereafter. If, when a bill that has been passed is presented to the governor for signature, he approve the same, he shall sign it, or if not he shall return it, with his objections, to that house in which it originated, which house shall enter his objections at large on its journal, and proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be considered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered upon the journal of each house, respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislative assembly by adjournment prevent its return, in which case it shall not be a law: *Provided, however*, That all laws enacted by the legislative assembly shall be reported to the Congress of the United States, which hereby reserves the power and authority, if deemed advisable, to annul the same.

The amendment was agreed to.

The next amendment was, at the top of page 21, to insert as a new section the following:

SEC. 30. That the legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities, so far as may be necessary, and to provide and repeal laws and ordinances therefor; and also the power to alter, amend, modify, and repeal any and all laws and ordinances of every character now in force in Puerto Rico, or any municipality or district thereof, not inconsistent with the provisions hereof: *Provided, however*, That all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature shall be made by the executive council, with the approval of the governor, and all franchises granted in Puerto Rico shall be reported to Congress, which hereby reserves the power to annul or modify the same.

Mr. PETTUS. Mr. President, I have an amendment to this proposed new section which I ask to submit at this time.

The PRESIDENT pro tempore. The Senator from Alabama [Mr. PETTUS] submits an amendment to the amendment of the committee, which will be stated.

The SECRETARY. At the end of the section it is proposed to insert:

Provided, however, That the legislative assembly of Puerto Rico shall have no power or authority to enact any law in conflict with the Constitution of the United States.

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

Mr. PETTUS. I do not desire to discuss the question at all, but I desire to have the yeas and nays on it.

Mr. GALLINGER. Let the amendment be again stated.

The PRESIDENT pro tempore. The amendment will be again stated.

The Secretary again read the amendment of Mr. PETTUS to the amendment of the committee.

The PRESIDENT pro tempore. The Senator from Alabama demands the yeas and nays on the adoption of the amendment to the amendment. Is the demand seconded?

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

Mr. BURROWS (when his name was called). I am paired with the senior Senator from Louisiana [Mr. CAFFERY].

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

Mr. MCBRIDE (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY], but I will transfer that pair to the junior Senator from New York [Mr. DEPEW] and vote. I vote "nay."

Mr. SCOTT (when his name was called). I am paired with the junior Senator from Florida [Mr. TALIAFERRO], but I will transfer that pair to the Senator from Nevada [Mr. JONES] and vote. I vote "nay."

Mr. WARREN (when his name was called). I have a pair with the senior Senator from Washington [Mr. TURNER], but it is suggested to me that I shall transfer that pair, so that the Senator from Washington may stand paired with the junior Senator from Rhode Island [Mr. WETMORE], and I will vote "nay."

The roll call was concluded.

Mr. KENNEY. I have a pair with the Senator from Pennsylvania [Mr. PENROSE], and the senior Senator from North Dakota [Mr. HANSBROUGH] has a pair with the senior Senator from Virginia [Mr. DANIEL]. I suggest to the Senator from North Dakota, as we have done heretofore, that we transfer those pairs, so that we can both vote.

Mr. HANSBROUGH. That will be agreeable to me.

Mr. KENNEY. Under that arrangement I am at liberty to vote, and vote "yea."

Mr. HANSBROUGH. I vote "nay."

Mr. JONES of Arkansas. I am paired with the Senator from Connecticut [Mr. PLATT], but I transfer that pair to the Senator from South Dakota [Mr. PETTIGREW], so that the Senator from Connecticut will stand paired with the Senator from South Dakota, and I vote "yea."

Mr. BURROWS. I have transferred my pair with the senior Senator from Louisiana [Mr. CAFFERY] to the junior Senator from California [Mr. BARD], and vote. I vote "nay."

Mr. ALLEN. I am paired with the Senator from North Dakota [Mr. MCCUMBER], who is detained from the Senate by sickness. If he were present, I should vote "yea."

Mr. COCKRELL. I desire to announce, once for all, that the senior Senator from Iowa [Mr. ALLISON] and I are paired. We are now necessarily engaged in the consideration of one of the appropriation bills, as we have been for the last two days, and that accounts for our not being recorded as voting. We have been paired with each other and will be for the balance of the day.

Mr. SULLIVAN. I inquire whether the junior Senator from Illinois [Mr. MASON] has voted?

The PRESIDENT pro tempore. The junior Senator from Illinois has not voted.

Mr. SULLIVAN. I have a general pair with that Senator, but I will transfer the pair to my colleague [Mr. MONEY], so that he and the Senator from Illinois will stand paired. I vote "yea."

Mr. NELSON. I have a general pair with the junior Senator from Missouri [Mr. VEST]; but I transfer that pair to the senior Senator from Idaho [Mr. SHOUP], and I vote "nay."

The result was announced—yeas 15, nays 31; as follows:

YEAS—15.

Bacon,	Cockrell,	Kenney,	Pettus,
Bate,	Culberson,	Lindsay,	Sullivan,
Berry,	Harris,	Martin,	Turley.
Clay,	Jones, Ark.	Morgan,	

NAYS—31.

Allison,	Deboe,	Hansbrough,	Perkins,
Baker,	Fairbanks,	Hawley,	Quarles,
Burrows,	Foraker,	Kean,	Ross,
Carter,	Foster,	Lodge,	Scott,
Chandler,	Frye,	McBride,	Simon,
Clark, Wyo.	Gallinger,	McComas,	Spooner,
Cullom,	Gear,	McMillan,	Warren.
Davis,	Hale,	Nelson,	

NOT VOTING—41.

Aldrich,	Hanna,	Penrose,	Teller,
Allen,	Heitfeld,	Pettigrew,	Thurston,
Bard,	Hoar,	Platt, Conn.	Tillman,
Beveridge,	Jones, Nev.	Platt, N. Y.	Turner,
Butler,	Kyle,	Pritchard,	Vest,
Caffery,	McCumber,	Proctor,	Wellington,
Chilton,	McEnery,	Rawlins,	Wetmore,
Clark, Mont.	McLaurin,	Sewell,	Wolcott.
Daniel,	Mallory,	Shoup,	
Depew,	Mason,	Stewart,	
Elkins,	Money,	Taliaferro,	

So the amendment of Mr. PETTUS to the amendment of the committee was rejected.

The PRESIDENT pro tempore. The question recurs on the adoption of the amendment of the committee, inserting section 30 as a new section.

The amendment was agreed to.

Mr. FAIRBANKS. Mr. President, there are two principal questions which lie at the very foundation of the pending bill. One is a question of Congressional power and the other a question of national policy. The first has been somewhat exhaustively discussed, particularly during the last few weeks, in both the Senate and the House. In fact, it has been discussed more or less since the Louisiana purchase, almost a century ago. It is impossible to recall a precedent or authority which has not been invoked in support of one or the other contention and with which the country and the Senate have not already become entirely familiar. The fact is, that so much attention has been devoted to the constitutional question by the able expounders of the Constitution that scant consideration has been given to the question of policy; and the urgency of the situation as respects relief for the Porto Ricans has been very largely overlooked.

I shall not detain the Senate by the citation of authorities which have been so frequently presented that its patience is already overtaxed, but shall content myself with some generalizations with respect to the power of the Congress over Porto Rico which are based upon what I conceive to be the overwhelming weight of authority and sound reason.

POWERS UNDER THE CONSTITUTION.

The Federal Government possesses in the most comprehensive manner all powers which pertain to the sovereignty of nations. It was not created by the fathers with any limitation upon those powers which are inherent in the sovereignty of the nations of the world.

It has been invariably recognized that one of the attributes of sovereignty is the right to acquire and govern territory as the result of war, and I am not disposed to read into the powers of the United States an abridgment of those rights which pertain to other sovereignties.

The Federal Government has very broad powers under the Constitution which are distinctly expressed or necessarily implied. The implied powers are such as are essential to give force and effect to those which are expressed and are of equal force and virtue with the latter.

The Constitution of the United States clearly vests in the Federal Government the exclusive function of declaring war and of making treaties. As an indispensable incident of this power, the Government is authorized to acquire territory. In the language of Chief Justice Marshall, territory may be acquired "either by conquest or by treaty." The authority to so acquire territory without the amplest power to govern and to legislate for it would be contradictory and abortive. Our right to govern it does not, however, rest upon *mere implication*, although that is quite sufficient, but has been distinctly conferred by the Constitution, wherein it is declared that—

> Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

No matter what doubts have arisen from time to time, they have been resolved in favor of the power of the Government to acquire territory. Such was the case when we acquired Louisiana in 1803, Florida in 1819, Texas in 1845, California in 1848, the Gadsden purchase in 1853, Alaska in 1867, and Hawaii in 1898—acquisitions which are now the strength, the pride, and the glory of the Republic. How richly has been vindicated the wisdom of the statesmen who invoked the powers of Government to extend the national sovereignty by the acquisition of territory, without which we would be unable to-day to successfully challenge leadership among the nations of the earth.

Whether the Constitution extends automatically to a territory acquired has been a much-debated question. Divergent views have been and still are sharply entertained upon the subject. Such differences of opinion will continue until the Supreme Court, in the serenity of yonder judicial chamber, shall, in a case raising squarely the issue, determine the question. Its supreme judgment will be accepted by the country, for in its wisdom and in the integrity of its purpose there exists no doubt. Until it shall interpret and define the powers of Congress under the Constitution the Congress should reserve to itself the widest possible liberty, the amplest discretion in dealing with the problems and conditions which are now facing us and which were not within the contemplation of the wise framers of the Constitution.

Our Constitution, for which the American people have a respect and veneration next only to their respect and veneration for Holy Writ, was framed for the government of a people who had in them the seed of self-government which had germinated and grown for centuries, a people who were familiar with the privileges conferred and the duties imposed by the Constitution, and who knew how to exercise and observe them. It was formed for a people whose wants and capacities were distinctly known and understood.

In its essential principles, in its most exalted purpose, the Constitution can be adapted to many peoples and many countries who are without preliminary training or experience; but as to others it would be illy adapted, and some modification as to details would become necessary, if it were to be applied to them. The spirit of that immortal instrument may go everywhere, but many of its fixed and absolute provisions would rest imperfectly upon those peoples and races whose traditions and conditions are entirely unlike our own.

GOVERNMENT OF NEW POSSESSIONS.

We are charged with the responsibility of providing a government for new possessions and new peoples. We are only partially informed as to their necessities and capacities. There is no one, I dare say, who approaches the task before us with that complete confidence in the information before him which is so essential to wise decision. While we have a sympathetic interest in the people who have come to us and a profound desire and purpose to lift them into as full enjoyment as possible of the priceless liberties which we cherish, we should have the wisdom to know that we should proceed with caution and sound judgment; that we should advance according as we have light and information, always looking toward granting them the amplest privileges consistent with their capacities and the welfare of our own country. There is no thought or desire in this Chamber, or elsewhere, to subordinate these people, to impose upon them any arbitrary or unjust rule, or to withhold from them for a moment the enjoyment of religious freedom and all of the opportunities which shall make for their greatest social and commercial progress.

The greatest danger, Mr. President, in dealing with the new problems which engage our attention is undue haste, inconsiderate action. There will be no difficulty in solving them if we will be content to act only upon ample information, and be willing to retrace our steps if we go wrong. There is no mind so gifted as to be able to see the end from the beginning. We must obtain the best lights possible and follow them in the settlement of the questions before us, actuated always by the exalted purpose to deal justly and liberally with those who, through one of the great revolutions in history—may I not say evolutions—are committed to our care.

We should remember that free government did not spring Athene-like into existence, but is the fruit of centuries of trial and tribulation, and that education and experience are essential before any people can appreciate and exercise that government which we enjoy and which we believe is the best that human wisdom has devised.

Congress can not instantly create a form of government for the island which shall meet the requirements and satisfy fully the demands of the people. Time is required to formulate a scheme and put it in full operation.

We should proceed with all reasonable dispatch, it is true, but the form of government, its adaptability to these people, with whom we are more or less unfamiliar, is the essential and should be the first consideration.

They are not without present insular government. True, it is a military government, but it has so rapidly adapted itself to the needs of the people that there is more of liberty in it, more of republicanism in it, more of justice in it, than any which they have ever enjoyed.

NOT A PARTY QUESTION.

Another danger which now besets us is that our course with respect to the people for whom we must provide government may be controlled by purely partisan considerations. The questions are of such high moment that they should be settled free from partisanship. They should not be determined in the heat of

political contests or made the football of purely partisan contention, but under our system of government, where party so largely controls, we must expect to find parties dividing upon questions affecting the administration of the newly acquired territory. The danger is that parties will divide, not so much upon the merit of the questions which may concern the domestic welfare of the people of such territory, but as shall seem to promise the greatest party advantage in the exigency of a political campaign in the United States.

Mr. President, the responsibility of administering for the present the islands committed to our keeping rests upon the party in power. I regret to see a disposition on the part of those in opposition to assume an attitude of antagonism to measures proposed for the welfare of the people of these islands.

I am not concerned lest the Congress of the United States, created by the people and directly responsible to them, shall not decide the questions before us wisely. I have no fear, sir, that it will not now, and in the future, patriotically carry into all its laws and acts the spirit of the Constitution, and that it will not carry that great charter into the new territory as soon as the people therein are fitted for its enjoyment, and that it will not be observant of the rights and liberties of those, even to the humblest, who are committed to us by a treaty of peace at the close of a triumphant war.

HISTORY OF THE ISLAND.

Mr. President, we are now immediately concerned with the administration of Porto Rico. There were ceded to the United States by the treaty of Paris the island of Porto Rico and other islands under Spanish sovereignty in the West Indies. Aside from Porto Rico there were some three small islands embraced in the cession. The principal one of these is Vieques, distant 13 miles from the eastern shore of the main island. It is quite 21 miles in length, with an average width of about 6 miles. It is now under cultivation. There are one or two other smaller islands of no great importance.

Porto Rico embraces about 3,668 square miles. It is some 90 miles in length, with an average width of about 35 miles. Although the interior is mountainous, the entire island is more or less arable and productive.

It has been under Spanish rule for some three hundred and ninety years. The population is, according to the best statistics obtainable, about 950,000 people. There is much wealth and intelligence among certain classes of the people, but the great mass are poor and ignorant. Fully 85 per cent are unable to either read or write. There is only one modern schoolhouse in the island, and that has been built within the last six months. There is a great desire among the people for the establishment of schools. They are anxious for the education of their children, and by the extension of the American school system there is every warrant for the belief that the people will rapidly avail themselves of the opportunity offered for education. The people are docile, kind, and courteous, and accept with pleasure the change from the blight of Spanish government.

COMMERCE.

The commerce of the island has heretofore been chiefly with Spain. Prior to American occupancy fully 40 per cent of the exports and imports was between it and the mother country, and about 21 per cent was with the United States. The exports and imports of the island for the period of five years prior to 1898 averaged about $11,000,000 a year each, making approximately a total of $22,000,000 per annum. During the year 1899 about 40 per cent of the commerce of the island was with the United States. The exports to the United States were $3,416,686, and the imports were $3,499,356.

The chief articles of export are coffee, sugar, and tobacco.

Coffee, which constituted about $\frac{7}{10}$ per cent of the exports, has found a market chiefly in Europe. It is a superior article, ranking with the best.

A slight export duty was imposed upon it by Spain, but this has been abolished by Executive order since American occupation.

In order to protect the Porto Rican interests against the cheap Brazilian coffee, a duty will be necessary, solely in the interest of Porto Rico. The pending bill fixes the rate at 5 cents per pound.

Sugar is next in importance to the coffee crop. The average production has been about 60,000 tons per annum, but this year the yield for export is estimated at about 45,000 tons. The Dingley duty upon this product this year would average about $30 per ton, and, according to the Ways and Means Committee, it would aggregate about $1,350,000.

The proposed duty of 15 per cent of the Dingley rates would reduce this to $4.50 per ton, so as to yield for the administration of the island the sum of $202,500, a saving to the owners of sugar, on the basis of the Dingley rates, of $1,147,500.

There were consumed by us last year some 2,000,000 tons of sugar, of which only about 600,000 tons were produced in the United States. It is obvious that the 45,000 tons imported from Porto Rico this year will have no appreciable effect upon the price of our domestic product, nor will the island, if cultivated to its full capacity, yield sugar sufficient to concern our domestic producers.

The tobacco crop is estimated at 4,000,000 pounds per annum, and under the existing rates will pay a duty of 35 cents per pound, or $1,400,000. On a basis of 15 per cent of the present rates, or 5¼ cents per pound, the duty will yield $210,000. The amount of tobacco which would be imported from Porto Rico if the entire crop were sent here would have no perceptible impression upon the tobacco interests of the United States, which amount to about 450,000,000 pounds per annum.

By reducing the duties now in force under the Dingley law to 15 per cent, it will be seen from what has preceded that there will be derived from the duty on tobacco and sugar the sum of $412,500, while under the rates fixed by the Dingley law the amount would be $2,750,000—a total reduction in Porto Rican sugar and tobacco of $2,337,500.

Aside from coffee, sugar, and tobacco, the island produces cattle and tropical fruits.

The total imports into the United States during the calendar year 1899, as heretofore observed, amounted to $3,416,681. Of this amount there was admitted free of duty $268,727, leaving the total dutiable imports $3,147,954. Estimated duties under the rates of the present tariff, $2,051,574.52.

The total value of the exports for the year ending December 31, 1899, was $3,499,356. Upon the basis of existing rates the duty thereon would have been $1,210,104.68. But by order of the President, breadstuffs, provisions, and some other articles necessary for the poor were placed upon the free list.

Duties will continue under existing law until reduced or repealed by act of Congress. By a reduction to 15 per cent, according to the present measure, the estimated duty on the basis of last year's commerce will be only $489,271.89.

THE HURRICANE.

A hurricane visited Porto Rico on the 8th of last August and wrought great havoc and destruction throughout the island, especially to the coffee plantations, and it is estimated that quite five years must elapse before there is a complete restoration of the coffee-growing industry. Other crops were seriously injured and the homes of many of the people destroyed. At the request of the President, the people of the United States made quick response, as they always do, and sent relief to the suffering. The War Department rendered prompt assistance to relieve the distress in no illiberal or parsimonious way.

MILITARY RÉGIME.

Porto Rico since the treaty of peace has been under military control. There has been a general improvement in administration throughout the island. Municipalities are better governed than under the Spanish régime; the insular government has been conducted with improved results and at greatly diminished cost. There has been an improvement in the civil and criminal judicial administration.

At the time of American occupancy the prisons were filled, some two thousand persons awaiting trial, being held upon trivial and often false complaint. Corruption and injustice attended the whole judicial administration. Under the improved system the number of jails has been reduced, speedy trial has been given the accused, and the number of persons awaiting trial has decreased nearly one-half. The number of judicial officers has been reduced and the cost of administering justice has been diminished and a large saving in money has been effected for the people.

A large number of useless and expensive officials, favorites of the Crown, has been dispensed with, and the civil expenditure has gradually been brought more and more to conform to the standard maintained in the States and Territories of the Union.

The task of changing from a monarchical to a republican system has been an arduous and tedious one. The habits of the people can not be changed in a day. The process of educating them to the new order of things, to the new duties and responsibilities, is necessarily slow and attended with difficulties.

It should be our policy to educate the Porto Ricans in public administration as rapidly as possible, and, so far as the best interests of the service will warrant, appoint them to fill their own public offices.

The Porto Ricans have shown a commendable willingness, in fact a desire, to conform to the views and methods of the authorities of the United States in the island.

A gentleman in the island familiar with the situation informs me that—

> Almost without exception the native Porto Ricans, and many Spaniards as well, made haste to express gratification over the change of government, and to avow their loyalty to the United States. All had a thorough understanding of what they had changed from, but very few had any sort of true conception of what they had changed to. The responsibility of citizenship was a new and novel idea to them, and it was plain to be seen that their expectations were paternal. They confidently relied on the Government of the United States to take care of them. From this condition there must be an awakening—rude, too, it may have to be—and then, at best, it will become effective only gradually, as generations pass away.
>
> I base this belief on the fact that the Government of Spain in her possessions has ever been paternal. She ground the natives to earth for centuries, wrenched from them in taxes, imposts, fines, or bribes the rewards of their

toil, but ever held before them the assurance that they were the children of the Crown and its constant care. By keeping them in ignorance and poverty, with a plentiful display of military effulgence to awe them, * * * it is easy to understand why we found them in this condition and to appreciate the burden of lifting them up to a realization of their rights, duties, and responsibilities as American citizens. The wise legislator will recognize in this a stumbling block in the path of progress toward even a Territorial form of government for Porto Rico.

The *whole policy* and example of the Spanish régime was calculated to teach the natives immorality, dishonesty, deception, and chicanery. Spanish officials came here to accumulate wealth to carry back to Spain for future enjoyment. The quicker each could gather in the amount that would satisfy his cravings the sooner he could return home. Every possible department of government, with minor positions galore, was instituted, and Spaniards, almost without exception, filled the offices. If a native did creep in it was through sycophancy and fawning, and because he could be used to further the schemes of the chief. The Spanish administration was always rotten, woefully rotten. Money was extorted from the people in every way possible and boldly diverted to the enrichment of officials.

The selection of General Davis as military governor has been fully justified by the results. He has enlisted the cooperation of the Porto Ricans more and more in administering the affairs of the island. He appreciates the desirability of establishing a system of government in which the natives shall participate in the fullest possible measure. He has not been a military autocrat, but at all times a wise and conservative executive.

The reports of the governor-general as to the conditions and needs of the island have been ample, although the report as to the results of the hurricane made on the 5th of last September was found by his subsequent and more careful investigation to be incomplete. The deficiencies of that report were supplemented by his report to the Secretary of War on the 15th of December, after the President's annual message to Congress. In his later report he shows that the results of the hurricane were more destructive and conditions were less favorable than he had at first believed.

The President has desired that the Porto Ricans should be given the amplest possible measure of local self-government. In his annual message of December 5, 1899, he brought the subject earnestly and distinctly to the attention of Congress.

It is desirable—

said he—

that the government of the island under the law of belligerent right, now maintained through the executive department, should be superseded by an administration entirely civil in its nature. For present purposes I recommend that Congress pass a law for the organization of a temporary government, which shall provide for the appointment, by the President, subject to confirmation by the Senate, of a governor and such other officers as the general administration of the island may require, and that for legislative purposes upon subjects of a local nature not partaking of a Federal character a legislative council, composed partly of Porto Ricans and partly of citizens of the United States, shall be nominated and appointed by the President, subject to confirmation by the Senate, their acts to be subject to the approval of the Congress or the President prior to going into effect. In the municipalities and other local subdivisions I recommend that the principle of local self-government be applied at once, so as to enable the intelligent citizens of the island to participate in their own government and to learn by practical experience the duties and requirements of a self-contained and self-governing people. I have not thought it wise to commit the entire government of the island to officers selected by the people, because I doubt whether in habits, training, and experience they are such as to fit them to exercise at once so large a degree of self-government; but it is my judgment and expectation that they will soon arrive at an attainment of experience and wisdom and self-control that will justify conferring upon them a much larger participation in the choice of their insular officers.

From the message it appeared that $392,342.63 had been expended through the War Department for the relief of the Porto Ricans.

TARIFF FOR REVENUE.

According to the best estimates thus far made it will require $2,000,000 for the ordinary civil administration of the island for the current year. The necessity for the construction of schoolhouses, the inauguration of a comprehensive system of education, and the construction and improvement of public roads all appeal strongly for the appropriation of money and more than $3,000,000 could be judiciously spent. The committee thought it wise and entirely just, without going into any comprehensive taxing system, that some measure should be provided for supplying the island with some portion of the revenue so obviously needed. It seemed to it that one method of providing a part of the revenue was through the customs offices. It recommends, therefore, a reduction in the existing tariff duties of 85 per cent, leaving in operation a duty of 15 per cent.

Some criticism is indulged in because the present measure does not completely abolish the existing duties, but merely makes a reduction of 85 per cent.

The committee regarded the Dingley rates as protective, and excessive under the circumstances, and the 15 per cent to which they are reduced as purely and simply a very moderate revenue duty. The amount realized is to be used for the support of the insular government. Every dollar is to be faithfully dedicated to the benefit of the Porto Ricans; not a cent is to be retained and used for the benefit of the United States.

Their commerce is not restricted in any wise for our benefit, but is to all intents and purposes absolutely unrestricted so far as we are concerned, the small duties being imposed for the purpose of raising needed revenue for the benefit of the people of the island. On the basis of last year's commerce a reduction of the Dingley rates to 15 per cent would yield, as I have heretofore observed, a total sum of about $489,271.89, or an average of less than 50 cents per capita of the people of Porto Rico. And yet there are those on the opposite side of the Chamber who challenge the duty as if it were conceived in an ungenerous spirit and for an unholy purpose.

The necessity of providing revenue for the support of the island was more manifest the more familiar we became with the actual conditions prevailing, and with what was needed to rehabilitate it. Upon a closer and more minute inquiry it seemed impossible, or at least inadvisable, to attempt to raise the entire amount required to support the insular administration by a direct tax upon the people.

The President recommended unrestricted free trade, leaving it, of course, to Congress, whose duty it is under the Constitution to provide revenue for the support of the administration of the island. It was deemed just and equitable by the committee charged with the responsibility in the premises to retain a slight duty upon imports and exports until a temporary government could be established competent to deal locally with the subject and to hold the entire revenue collected for the sole and exclusive benefit of Porto Rico.

This conclusion was not arrived at hastily and without the amplest investigation and most deliberate consideration.

The committee was at particular pains to ascertain from General Davis what revenues could be derived for the support of the local administration, the purpose being to provide revenue for temporary purposes, if it fairly could be done, without calling too largely upon the Treasury of the United States.

He testified that:

The budget for this year, prepared in May or June, contemplated an expenditure of $2,000,000 for the insular government. That does not include municipal expenditures. Two causes have reduced that figure. One, the continual adding of articles to the free list so as to bring the necessaries of life to the consumers at less cost.

The CHAIRMAN. Who has been making those additions?

General DAVIS. The Secretary of War, by order of the President, in order to cheapen the necessaries of life for the poor.

And I may pause here, sir, to say that from the beginning of the Spanish war to the present hour nothing but the most generous treatment has been accorded by the President to those who, by the chance of war, have come within our control.

General Davis further testified that because of the industrial depression, intensified by the hurricane of last August, that:

The expected income from customs alone of one and one-half millions will probably very little exceed a million; it may reach a million two hundred thousand. I do not think it can exceed that. Half a million was expected from internal taxation of various kinds, included in which is a hundred thousand of back taxes owed during different years under Spanish control. But the destruction caused by the storm, and the industrial depression, has made it impossible for a great many of the people to pay their taxes. It is not likely that on that item more than $250,000 can be collected this year. Judging from the capacity of the island to pay taxes, and on the basis of present tariff rates and the condition of their industries, I should say it would be imprudent to expect to obtain more than a million and a half from all sources.

Mr. PETTIGREW. Suppose we should repeal the tariff, so as to have free trade with the United States?

General DAVIS. That would cut it still more.

Mr. PETTIGREW. How much?

General DAVIS. It would cut it about in two.

Mr. NELSON. What does your plan contemplate in regard to customs and internal-revenue taxes. Are they to go into the general fund, or be devoted exclusively to that country?

General DAVIS. It is, of course, immaterial where the money comes from, but they must have a large revenue to administer the affairs of government. My suggestion is that all collections inure to the country; but I am looking to see the sources from which a revenue can be obtained. A general system of taxation to produce revenue enough to carry on the government would amount to confiscation.

Mr. PETTIGREW. Can you collect revenue enough to maintain the government?

General DAVIS. Not for two or three years on any basis.

General Davis was asked by Mr. NELSON:

Have you any system of taxation akin to our internal-revenue taxation?

General DAVIS. Only on two articles. One, the liquor tax, of which I have spoken, of 3 cents a liter, and the other a tax on matches, the manufacture of matches.

The CHAIRMAN. Do you levy the tax readily, or with difficulty?

General DAVIS. With difficulty; no man pays his tax readily.

Shall we further increase taxes on the articles named, or enter upon an enlarged system of direct taxation pending the formation of a local government? An elaborate internal-revenue system and the requisite machinery for making it effective is a work requiring time and intelligent attention. That is a work which more properly should be left to the citizens of the island. Justice demands that we confer upon the Porto Ricans at the earliest moment possible the requisite authority to levy such internal taxes as their necessities require or they may see fit. But may we not in the meantime, in absolute justice to them, without contravening our constitutional or moral obligations, continue a slight tariff duty under which a part of the revenue may be raised? And if we do it who can call in question the integrity of our purpose, or hold the act to be un-American or as wanting in the fundamental elements of justice and right? No one, Mr. President, can question the fact that such an act is founded in absolute equity.

How, Mr. President, are the revenues required for the support of the insular administration to be obtained? Obviously in one of

four ways. First, by an appropriation from the Treasury of the United States; second, by a loan; third, by direct taxation in the island; fourth, by the imposition of tariff duties.

The first method proposed, namely, a direct appropriation by the United States, is to be adopted only in the event there is no other just and equitable means of providing the requisite revenue. As heretofore observed, the people of the United States have already liberally contributed from their Treasury for the benefit of the Porto Ricans. They have done it with a generous hand, as they always do when mercy requires it. They are willing to do more when occasion demands, but in working out the Porto Rican problem it must not be understood that the Porto Ricans are to be treated as mendicants, as mere helpless wards, always dependent upon the bounty and charity of the people of the United States. They must bear their full share of the burdens of civil government according to their capacity, be that great or small, and there is every reason to believe that they are perfectly ready and willing to do this.

The second method of supplying the insular treasury, namely, by a loan, can not be made effective until an insular government is erected upon the island. Congress is now engaged, and has been since its attention was invited to the subject by the President in his annual message, in devising a form of government endowed with executive, legislative, and judicial functions suited to the needs and capacities of the people of Porto Rico. Until such a government is created there will be no power to authorize an issue and sale of bonds to meet the present urgent necessities.

The third plan which has been proposed is impracticable for the reasons heretofore indicated. The imposition of additional direct taxes would, in the opinion of General Davis, amount practically to confiscation. Then there is wanting the necessary local machinery for devising a scientific and just system of direct taxation.

The fourth plan which has been proposed is that which for more than a century has been the most acceptable method in the United States, and that is through the imposition of tariff duties. This is known as the indirect method. This revenue is collected at the custom-houses upon goods and commodities passing through them.

I will not pause to consider the question as to whether the exporter or the consumer pays the tax.

The Dingley law was enacted before the Spanish-American war and has been in full force since then and is in force to-day with respect to imports from Porto Rico. The duties collected under this law since the evacuation of the Spanish forces on the 15th of October, 1898, to the 1st of January, 1900, amount to $2,095,455.88. Under a law recently enacted this sum has been placed at the disposal of the President, to be used for the government now existing and which may hereafter be established in Porto Rico, and for the aid and relief of the people thereof, and for public education, for public works, and other governmental and public purposes therein, until otherwise provided by law. Future duties collected are to be placed at the disposal of the President in the manner as above.

It has been ungenerously charged elsewhere that the amount appropriated is to be used in the payment of large salaries to unnecessary American officials. The charge is scarcely worth the answer. The history of the administration of the island is a sharp denial of the charge. Under Spanish rule there were twenty-one officers in the island drawing salaries of $4,000 a year. Under the present administration there are but two receiving this salary. The Spanish governor of the island received a salary of $12,000 per year, which was paid by the people. General Davis, the present military governor, is paid out of the Treasury of the United States. Other military officers engaged in the civil administration are likewise paid out of the Treasury of the United States. The civil list has been very greatly reduced.

It will be interesting to observe in this connection how, according to the testimony of General Davis, Spain diverted the revenues of the island from proper uses.

Mr. FAIRBANKS. Under Spanish authority were the revenues derived from the tariff and internal taxes in the island devoted to the general government of the island entirely?

General DAVIS. Not entirely. About half a million were sent to Spain to pay the expenses of her ministry of the colonies; about a million went to the army in the island, and 160,000 or 170,000 pesos to the support of the clergy.

Small duties have been imposed upon many articles imported into Porto Rico for the benefit of the insular administration. In order that the necessaries of life might be secured as cheaply as possible, for the benefit of the poor, the President directed that the following, among other articles, should be admitted into the island free: Flour, rice, codfish, pork, bacon, fresh beef and mutton.

It is obvious at the present time that the duty upon the existing stocks of sugar and tobacco in Porto Rico will be paid by the large planters and by the sugar and tobacco trusts of the United States; that the burden will not in anywise fall upon the mass of the people of Porto Rico.

The statement has been made that the existing duties have resulted in the reduction of the wages of the laborers on the plantations. Such a statement has been repeatedly made upon the floor of the Senate. It is not supported, however, by the testimony before the committee in charge of the pending bill.

The committee in the other branch of Congress, upon which devolves the duty of originating revenue measures for the support of the Government, proposed a reduction of the duties provided by the existing Dingley law upon imports into the United States from Porto Rico to 15 per cent of such duties, and it likewise provided that a duty of 15 per cent of the Dingley rates should be imposed upon certain articles and commodities imported into Porto Rico from the United States. The duties imposed were for the purpose of raising a part of the revenue required for the support of the insular administration.

It will be observed that this method of raising revenue is quite in accordance with the recommendations made by General Davis. Said he:

The island must, it is supposed, ultimately derive its principal revenue from internal taxation, but this can not be until a new scheme of taxation for the whole island can be worked out. This work requires very careful consideration and can not be properly done until the general policy to be pursued with respect to the future status of Porto Rico is known.

While recommending that trade should be left as free as possible with the United States, he clearly contemplated the necessity of the present retention of some customs duties, and he so advised Congress. Said he:

It is recommended that the trade between the United States and the island be left as free as possible, and that the customs revenues collected here be left to the island temporarily as an income for local expenditure. As soon as a new local internal-revenue tax law can be framed and put into operation, the custom-house collections would inure to the General Treasury, but for a few years it will be very difficult to balance the budget without this aid.

The proposition is to make the island self-supporting, and to maintain all services here, including posts and quarantine, as a charge against local revenues; to extend the existing wagon roads and railroads, to build hospitals, schools, and asylums, to deepen the harbors, to extend or create dock facilities, and to foster and promote the general welfare by utilizing for this purpose all available resources as well as the proceeds of wisely placed loans.

Henry K. Carroll, special commissioner for the United States to Porto Rico, in his full and able report, says with reference to Porto Rican affairs, among other things:

The taxes need a complete readjustment. The main dependence has been on the customs revenue, and must continue to be until the future government of the island is determined. The estimates of receipts for the year ending June 30, 1898, amounted for both the government and the provincial deputation to $5,157,200.

Of this amount $3,377,900 was derived from customs.

Said he, further:

It must be remembered * * * that large sums will be needed almost immediately for the public schools and for various internal improvements indispensable to the development of Porto Rico. Fortunately there is no debt, so far as can be learned; surpluses have been the rule in the insular accounts, though they do not seem to have been carried over, but used for Spanish exigencies in Cuba and elsewhere.

It would seem to be prudent not to revise the Porto Rican tariff so as very greatly to reduce the customs revenue, at least for the period ad interim.

Mr. Carroll spoke from a thorough and careful investigation of the commercial conditions existing in Porto Rico, and concurs in the conclusion reached by the committee that during the period of transition from a military government to a civil government a portion of the revenue to meet insular requirements should be derived from the customs.

TRUSTS ARE OPPOSED TO DUTIES.

The statement has been frequently made that the duties were modified and imposed at the dictation of the sugar and tobacco trusts. Those on the opposite side of the Chamber have frequently referred to the action of the committee as having been inspired by some mysterious, occult influence for an obvious purpose.

These trusts have so offended against the public interest and so aroused popular resentment that nothing should be done in the premises either at their suggestion or for their especial benefit. While the subject is still within our control we should know, so far as possible, whether these statements are true or whether they are mere idle and unfounded assertions.

Let us briefly analyze the situation. In what way would they be interested? They can not be concerned certainly in the imposition of duties upon commodities entering the island, for they neither ship sugar nor tobacco nor any other commodity into it so far as we are advised. Therefore, whether a duty be imposed or not upon such articles as enter the island is a matter of no possible concern to them.

It is quite obvious also that whether a duty is imposed upon coffee, which constitutes, as before observed, by far the larger part of the exports from the island, or other articles, excepting sugar and tobacco, exported from the island to the ports of New York, Boston, Philadelphia, Baltimore, and elsewhere, is alike a matter of no possible interest to them.

Their interest, therefore, if there be any, is limited to the two articles—sugar and tobacco—which are exported to the United States.

The sugar trust, as we are advised, is interested chiefly, if not exclusively, in the refining of sugar. It requires the raw sugar

which is produced in the United States, in Porto Rico, and other countries. These sugars are refined for domestic use.

Is it, therefore, interested in the question as to whether raw sugar purchased in Porto Rico shall be admitted into the United States free or with a tariff of 15 per cent of the Dingley rates imposed upon it?

The least observant mind must perceive that it is interested in the absolute free admission of raw sugar, and that it is, in the very nature of things, opposed to the imposition of any duty whatever. The suggestion, therefore, that the sugar trust could have inspired a duty on raw sugar must originate with those who have entirely misconceived the interest of the trust. It is inconceivable that it would advocate the imposition of a duty upon its raw product, so as to increase the price thereof to itself, unless we attribute to it less sagacity than it is supposed to possess.

It is estimated that there are at present in Porto Rico some ten thousand tons or more of raw sugar awaiting shipment to the United States upon the reduction or entire removal of the Dingley rates.

A large quantity is said to be stored in the bonded warehouses of New York to be held pending action upon existing duties.

If a duty of 15 per cent of the Dingley rates is paid upon this sugar and other sugars which are purchased by the trust and those in like interest, who will be the beneficiary; that is to say, for whose benefit is the money paid at the custom-house? It will not go into the Treasury of the United States, but will be used for the exclusive benefit of Porto Rico. This contribution for the support of the insular government will not be made by the masses of the people, but will be contributed, in a very large measure, by the sugar trust, or by the wealthy Spanish importers. General Davis informs us that: "A large part of the mercantile and exporting houses are owned and conducted by Spaniards, men who, under the treaty, preserve their Spanish nationality."

What is said with respect to the sugar trust applies with equal force to the tobacco trust. It is interested, if at all, in the absolute free admission of tobacco. It is, like the sugar trust, interested directly in having tobacco, its raw material, raised and delivered at its factories at the lowest possible price. The exaction of any duty whatever at the custom-house is directly opposed to its selfish interests. The removal of the entire duty and unrestricted free trade would undoubtedly meet with its cordial and enthusiastic approval. Can there be the remotest possible ground to doubt this?

The tobacco producers in this country who are hostile to the trust are the farmers, who would naturally favor a duty and oppose the free admission of tobacco. They desire a protective rate, yet it will be found, I believe, that the amount of tobacco produced in Porto Rico will be so inconsiderable compared with the vast amount required and consumed in the United States as to have practically no prejudicial influence whatever upon the tobacco-growing interest in this country.

A few weeks ago a suit was brought against the collector of customs in the city of New York to recover some two million dollars collected on imports from Porto Rico, upon the ground that the Constitution extended to Porto Rico, and that the duties could not be lawfully collected. It will be instructive to note who are the plaintiffs suing. They are Lawrence, Turnure & Co., American Sugar Refining Company, L. W. & P. Armstrong, Muller, Schall & Co., John Farr, and Melchor, Armstrong & Dessau. One of the principal parties, it will be seen, is the American Sugar Refining Company, which is the corporate name of the sugar trust. Of the amount collected, 90 per cent, or some eighteen hundred thousand dollars, represents the duties paid on sugar and tobacco.

To maintain the suit, the sugar trust denies the constitutional power of the United States to collect any duty whatever. There are those in this Chamber, as heretofore observed, who have openly or by insinuation suggested that the small duty which is to remain upon sugar has been dictated by the trust. Strangely enough, the opposition would have us believe that while the trust was in the courts denying the constitutional power of Congress to impose any duties upon the raw sugars imported by it at New York, it was in Washington advocating before Congress the imposition of a duty upon sugar. I do not believe that anyone will fail to understand how utterly contradictory and absurd the proposition is.

The only legislation suggested in the present Congress which was in the interest of the sugar and tobacco trusts was proposed by the honorable senior Senator from Arkansas [Mr. JONES], who, on the 15th day of this month, introduced an amendment to an appropriation bill proposing:

That all duties collected to this date upon articles imported into the United States from Porto Rico since the 11th day of April, 1899, the date of the exchange of ratifications of the treaty of peace between Spain and the United States, be returned to the persons from whom they were collected, and from and after the passage of this act no duties shall be collected on articles coming from Porto Rico.

If the Senator's amendment had been adopted, the $2,000,000 collected on imports from Porto Rico would be returned to the sugar trust and other importers now suing the Government.

The money collected from the trusts and importers in New York has recently been appropriated by act of Congress and will in a few days be sent to Porto Rico, to be expended in public works, in the cause of education, and in granting relief to the poor people requiring it.

It must be perfectly clear, therefore, that the statements made and the insinuations indulged in by the opposite side of the Chamber, to the effect that some subtle and mysterious influence emanating from these two trusts dictated and changed the policy from free sugar and tobacco to a small duty upon them, are unworthy of a moment's consideration. Whoever professes to believe that these trusts in any way, shape, or manner could have influenced the retention of any duty upon their raw products can not deceive anyone, unless it be themselves.

For one, Mr. President, I would regard myself recreant to the trust committed to me and false to the best interests of the people of the United States if I did not by my vote compel these trusts and their allied interests to pay some part of maintaining the Porto Rican government, which they do pay under the duty upon their raw products, rather than increase the direct taxes upon the people in the island, or, in the alternative, appropriate it from the Treasury of the United States. Let us not delude ourselves; let no one be deceived, for the duty of $4.50 per ton which will be collected on sugar will not add a solitary dollar to the burden of the people of Porto Rico.

It should be observed that those who have been paying the full Dingley rates upon sugar have been paying at the rate of about $30 a ton. By the pending bill this is reduced to 15 per cent of existing rates, or to $4.50 per ton. One is a protective and the other a revenue duty. Every dollar collected is to be used for the support of the people of Porto Rico. If this duty is not collected, an equivalent amount will in all probability have to be paid directly out of the Treasury of the United States.

Shall the great staples, sugar and tobacco, pay nothing toward the support of the government of the island? If so, then we should admit them free. If, on the contrary, they should be taxed and made to contribute for governmental purposes, as all property is required to do in the various States and Territories of the Union, how shall the tax be imposed and collected?

By act of Congress now upon the statute books, by virtue of Republican, Democratic, and Populist votes, we send the Federal taxgatherer into Alaska and compel contribution from those engaged in various lines of business there; and by the same power and code of morals may we not compel the owners of sugar and tobacco in Porto Rico to pay some reasonable tax upon their products?

Can anyone successfully question our authority or the fairness of its exercise? If the tax is not imposed upon sugar and tobacco in the factories or warehouses in the island and they enter the customs-house untaxed, may we not impose a duty or tax upon them there?

The money is to be used in either case for the same purpose—the support of the insular government, construction of public roads and other public utilities, the erection of schoolhouses, and the like. In other words, does it matter materially whether we levy a tax of $4.50 a ton on sugar in the factory or impose a duty of $4.50 a ton at the customs-house?

Sir, it is the substance of the act and not its mere form which we should consider. Unless we are wanting in constitutional power we may compel sugar and tobacco as well as other articles of merchandise to pay just tribute to the Government which gives them protection, and whether the tribute is required of them in the form of excises or imposts is of no possible consequence.

And yet, Mr. President, there are some in Congress, well meaning and patriotic, who say that this act is not only unconstitutional but immoral; that it is violative of the principles for which our forefathers contended.

PRESENT POLICY UNLIKE THE POLICY OF GEORGE III.

The question before us is quite different from the one against which our forefathers so resolutely and successfully protested.

When George III imposed taxes without representation, there existed a system of colonial governments, with capacity to provide for the public necessities of the people. They were competent and capable of levying their own taxes. The taxation imposed by England was a part of her permanent policy—the assertion of a power to be exercised arbitrarily and without limit as to time, and the money to be raised would "increase the fees and salaries of the crown officers in the plantations and the pensions and sinecure places held by favorites in England," and to maintain a military establishment in the colonies.

On the other hand, Porto Rico is without capacity to provide for the public needs. The existing duties are to be reduced, and continue in force only until there shall be erected in the island a government capable of levying taxes for its support, and not to continue longer than two years in any event. The pending bill, which provides for the reduction of the Dingley duties to almost a nominal basis, provides for a most liberal form of government,

under which the people of Porto Rico are to be given plenary power over the subject of their own revenue. The proposed duties are to meet a temporary exigency and are not a part of the permanent policy of the United States. Sir, there is not the slightest difficulty in differentiating the broad, liberal, unselfish purpose of the present bill from the narrow, sordid, and indefensible policy of George III.

PORTO RICAN LOBBY.

Mr. President, it has not escaped public attention that a lobby from Porto Rico has been maintained here during the consideration of the pending bill. It is headed by a British subject, a most admirable gentleman personally, who has been insistent for free trade between Porto Rico and the United States. His opinion has frequently appeared in print in criticism of the policy proposed. The gentleman in question is one of the largest producers of sugar in the island, having over $800,000 invested in his sugar enterprises. It is quite natural that he should desire that his product should reach the American market without any duty whatever, although the duty, if imposed, should be returned as soon as collected to help support the government of Porto Rico, which must be maintained at large expense for the protection of his and other like investments.

BILL JUSTIFIED AS A REVENUE MEASURE.

We rest the justification of the pending bill upon the broad and simple proposition that it is the duty of Congress to provide revenue for the territory belonging to it, and to provide it in a just and equitable manner. There is no power save and except Congress which can legislate for Porto Rico. For the time being the Congress sustains the relation to the island that the legislatures sustain to the several States and Territories. It is, of course, true that the Porto Ricans have no choice in its selection and have no representation in it, and yet, in the due and orderly operation of law recognized by the usages of mankind, it has become its duty to enact laws for their government. It is entirely within the competency of the Congress to legislate forever for them, but to do so would be in contravention of the genius of our institutions and contrary to the wishes of the Congress and the people.

It is the duty of Congress to provide a government for the people at the earliest date practicable, so that they may administer their own domestic affairs, but until then—and we trust that the time may be brief—Congress must provide revenue for the support of the administration of the island. It must make provision so far as it reasonably can that will enable the people to support the present honest and economical administration. No expressed or implied duty rests upon the Congress to provide for their public safety, public health, and their general welfare out of the Treasury of the United States, although the United States has spent and is spending a large sum of money for their support.

If the Congress proceeds with all reasonable dispatch, as it is doing, to erect an insular government, there can be no ground for impeaching its policy or purpose. It has no desire to impose any tax burdens upon the island or its people for a solitary day longer than is imperatively required. It desires to create and clothe a government with adequate powers, so that the citizens of the island may adopt and execute their own revenue policy. If the Congress was disposed to delay making provision for an insular government or would wholly refuse to provide one, and then should insist upon the imposition of taxes for the support of the people, there might be good ground for questioning its purpose or its wisdom.

UNWISE TO NOW EXTEND THE CONSTITUTION.

We are so familiar with the Constitution and have so long enjoyed its blessings that many of our friends are unable to see any reason why it should not be forthwith extended to Porto Rico, if it is not already there. There are those on the opposite side of the Chamber who profess to see in our refusal to immediately extend it some ulterior purpose, some drift toward imperialism—a much misunderstood and misapplied word. This could not occur to anyone who has studied the situation and who has familiarized himself with the history of the island and its present condition.

Assuming that the Constitution does not extend into newly acquired territory ex proprio vigore, is it now wise that it should be forthwith extended to Porto Rico?

Its extension will carry with it the right to trial by jury, one of its most beneficent provisions, it is true, the splendid fruit of Anglo-Saxon civilization. But are the people of Porto Rico prepared to appreciate and enjoy this right? We must determine the question not by mere sentiment, but by our best reason and sense. The committee charged with the consideration of the pending bill desired to extend to the Porto Ricans all the privileges enjoyed by the people of the United States, so far as possible, and were careful to ascertain whether our jury system could be safely extended to the island. They have taken testimony bearing directly upon the subject, for it is an important one, and from the best information obtained it would seem utterly impracticable and unwise to extend the system to the island at the present time.

Mr. Curtis, a member of the Insular Commission, which outlined a form of government, was very positive and strong in his belief that the extension of the jury system should not now be attempted. His testimony in brief was as follows:

The CHAIRMAN. You did not extend the Constitution and laws of the United States?

Mr. CURTIS. Only as locally applicable there. We did not extend the right of trial by jury for this reason, that we thought the people were not ready for it. We found that if Congress legislated trial by jury must take place, even before justices of the peace, where $20 or more was involved. We found that foreigners were not put on juries in this country. To make a jury of 12 persons out of those ignorant peons who have lived in a country where bribery is at a premium and favoritism is a good thing—compelling trial by jury, as the Supreme Court had held necessary in the case of the District of Columbia and in all Territories, in such courts would make a trial in the courts of justice a farce. But in the Federal court we provided for a jury to be selected largely in the manner I understand General Davis selects a jury now in the one provisional court. The marshal and the clerks of the court prepare lists of 200 or 300 men from all over the island, who are qualified, and they are drawn from a box. In that way, taking the whole island in, you could get one jury; but to get juries in all cases is, I think, without any possibility of being mistaken, making a farce of justice on the island, and the people so regard it. You can not find a man, hardly, who will not say that they are not ready for the jury system.

General Davis concurred fully in the conclusions reached by Mr. Curtis. Said he:

As respects a trial by jury I agree entirely with what Mr. Curtis says, that the attempt to utilize the jury system in Porto Rico should not now be made. They have no conception of it and can have none for many years, it seems to me. I think it would be imprudent to attempt to establish the grand jury and petit jury and trial by jury throughout these municipalities and remote districts in that ignorant population.

Shall we brush aside these opinions as entitled to no weight? Shall we be guided by the advice and opinion of competent men who are familiar with the situation and desire only the best results, or shall we plunge headlong into the future, heedless of existing conditions? Shall we attempt to strain a point to extend the Constitution when its extension must inevitably result in confusion and embarrassment? It seems to me, Mr. President, that it were inexcusable for us to adopt any happy-go-lucky policy in dealing with this delicate and important subject. The jury system goes with the Constitution. Unless the Constitution is already there, we should be slow to extend it in its full force by Congressional act in the face of the opinion of men of sound and disinterested judgment, who solemnly advise us that the jury system should not now be extended. Sir, let us first be right, and then go ahead.

If the system is withheld for the present we can extend it later, whenever, under the educational processes now being inaugurated in the island, the people are qualified to enjoy this among the greatest of all the privileges conferred by the Constitution. I grant that we should be quick to extend the full operation of that immortal instrument when, in the evolution of the Porto Ricans, they are fitted to enjoy its provisions.

It should further be borne in mind that the extension of the Constitution to Porto Rico necessarily carries with it our entire internal-revenue system of taxation. Would or would not this system prove beneficial to the people of the island? In the language of the Constitution, "duties, imposts, and excises must be uniform throughout the United States." The conditions existing in Porto Rico are so different from those existing here that it would be unwise, to say the least, to impose upon the Porto Ricans the rates which are imposed here, for they must rest upon them with special severity. According to General Davis, the increase of rates upon some important articles upon which taxes are now imposed in the island would amount to confiscation. The wisdom of reserving to the Porto Ricans so far as possible the supreme control over subjects of local taxation must be manifest to those who give the subject attentive consideration.

Furthermore, if the Constitution be now in Porto Rico, or if it be soon extended there, the coffee industry in the island will be seriously injured unless a duty is hereafter imposed upon coffee coming into the United States. Brazilian coffee is inferior in quality and value to it and would be imported into the island to the injury of the local industry unless excluded by a suitable duty. The present bill imposes a duty upon it of 5 cents per pound. This is solely in the interest of Porto Rico and does not prevent in any wise the free admission of coffee from the island and other coffee-producing countries into the United States.

From these observations it will appear that whether or not the Constitution should be extended to Porto Rico is a problem of grave and practical moment, and the question should receive the most careful and profound consideration.

HAWAII AND PORTO RICO.

It has been said that we impose no duties upon the commerce between Hawaii and the United States, and that a different course should not now be pursued with respect to Porto Rico.

It is well to bear in mind the clear distinction between the respective situations of Hawaii and Porto Rico. The former came to us with an organized, self-supporting republican form of government. It had the requisite laws and machinery for its own

support without drawing upon the Treasury of the United States. There was no period in Hawaii, as there is in Porto Rico, when there was no government having jurisdiction over the entire island. In the one case it was not necessary to provide revenue for the support of the government, while in the other case it is.

Mr. MASON. Would it interrupt the Senator if I should make a suggestion?

Mr. FAIRBANKS. I would prefer that the Senator should not interrupt me now, if agreeable to him, but that he should wait until I conclude. I will gladly reply then to any inquiry he is pleased to make.

Mr. MASON. I only want to suggest that we paid the debts of Hawaii, amounting to something like $3,000,000, as I remember it; more than we pay to Puerto Rico.

Mr. FAIRBANKS. That does not concern or alter the principle which I am considering. That is a mere matter of detail. Is the Senator through?

Mr. MASON. That is all I care to say.

Mr. SPOONER. That was a part of the bargain of annexation.

Mr. FAIRBANKS. Yes; that was embraced in the treaty.

Mr. SPOONER. That was a part of the contract of annexation.

ALASKA AND PORTO RICO.

Mr. FAIRBANKS. There is no essential difference in the manner in which Congress treats Alaska and Porto Rico. Alaska is without organized government. Congress imposes taxes in that Territory different from those levied elsewhere, and without any representation. No one has thought that the Congress by so doing was violating the fundamental principles of our institutions or was arbitrarily and unjustly exercising the taxing power.

It will not have escaped attention that Congress at the last session enacted a law requiring persons and corporations doing business in the district of Alaska to obtain licenses for the purpose, and to pay therefor specific amounts per annum. Among the many pursuits embraced in the law for which license fees are to be paid are the following: Banks, $250; brokers, $100; billiard rooms, $15; breweries, $500; electric-light plants furnishing light or power for sale, $300; hotels, $50; jewelers, $25; quartz mills, $3 per stamp; meat markets, $15; railroads, $100 per mile upon each mile operated; sawmills, 10 cents per thousand feet upon the lumber sawed; theaters, $100. There was no party division upon the proposition. There was and is complete and absolute acquiescence in the power to do this and in the wisdom and justice of doing it.

The quality of this act does not differ in any respect from the retention of the small duties necessary in raising revenue for the temporary support of Porto Rico. In the case of Alaska it is the fixed and permanent policy of Congress to levy direct taxes for the support of the Government there and elsewhere. These taxes are local to Alaska alone. If the Constitution is in the Territory, the taxes imposed are laid in positive violation of the provision of the Constitution which requires uniformity of taxation throughout the United States, and are therefore unconstitutional and void. There is no reason why the residents in Alaska should not share the burden of government and not cast it upon the people of the United States, and there is no more reason why the good people of the United States should do more for Porto Rico than they should do for Alaska. What is warranted by the law in Alaska, what is lawful and equitable there, is none the less justified and defensible in Porto Rico.

The people of Alaska since 1867 have been obliged to pay import duties which were imposed upon them by Congress without representation. It is true they have paid no duties upon goods of the United States going into Alaska. There has been no necessity for requiring them to do so.

It is unnecessary to dwell upon similar legislation with respect to the Indian Territory and other Territories belonging to the United States. So far as I am advised, no one upon this floor has called in question its absolute validity, and the present contention of our friends in opposition to the effect that the Constitution extends by its own force into all the territory belonging to the United States would seem to be an afterthought. If the Constitution is in Alaska and in the Indian Territory and in other Territories, the direct taxes imposed by the Congress, without partisan division, were certainly ill advised and unlawful.

PORTO RICO TO CONTROL HER OWN REVENUE SYSTEM.

It is the purpose of the pending measure to give to Porto Rico the entire control of her own revenue affairs and at the earliest moment practicable.

It is provided that the customs duties contemplated by the pending measure shall cease absolutely on the 1st day of March, 1902, and that whenever the legislative assembly has enacted and put into operation a system of local taxation to meet the necessities of the insular government, upon notice of such fact to the President he shall make proclamation thereof, and thereafter all commerce between Porto Rico and the United States shall be free and unrestricted.

The pending bill provides a civil government, republican in form and ample, so far as we can now judge, for all present requirements. It establishes executive, legislative, and judicial departments. Provision is also made for a commission to carefully revise the laws and report such legislation as may be necessary to extend in fullest measure "the benefits of a republican form of government to all the inhabitants of Porto Rico."

CONCLUSION.

Mr. President, we should approach and consider the subject before us in no illiberal or dogmatic spirit. No matter what shades of opinion there are with respect to the best course to be pursued and the wisest measures to be adopted with reference to Porto Rico, there is perfect unity of purpose among all parties to provide the most liberal form of government and just laws under which her welfare may be promoted in the very highest degree.

Sir, the pending bill commands my judgment, my conscience; it shall have my vote.

It has not been given to finite mind to read the future of Porto Rico, but we may believe that under the inspiration of republican laws and the impetus of American example her people will grow in knowledge, strength, and power, and forever bless the great Republic.

Mr. DAVIS. Mr. President, I do not rise for the purpose of taking up any time of the Senate. I have heard the remarks of the Senator from Indiana with the greatest interest, and do not propose to controvert them at any length or, indeed, at all. It is well known that for my own part I do not believe at all in this system of building up a wall against commercial intercourse between the United States and Puerto Rico. I rise merely to say that the other day I made some observations upon the effect of this legislation as contrasted with certain treaties now pending before the Senate, observations which have attracted some degree of attention and in some degree have been challenged. I have prepared with considerable care two papers, Exhibits A and B, the one showing, in the first place, the free list as prescribed by the Dingley Act. It shows, also, in paragraphs printed in italics, the free list as extended by the orders of the War Department.

It will be borne in mind that the pending bill provides that there shall go on the free list as between the United States and Puerto Rico the articles in the free list of the Dingley statute, and in addition thereto the articles made free by the orders of the War Department. I have also prepared a paper, Exhibit B, which sets forth the stipulations of the pending treaties, by which it is shown and will be seen upon comparison with the statutes wherein and whereby the inhabitants of the British colonies in repeated instances will have an advantage over our own people of Puerto Rico. I ask that these papers may be printed as a part of my remarks.

The PRESIDENT pro tempore. Is there objection to printing the papers submitted by the Senator from Minnesota? The Chair hears none, and it is so ordered.

The papers referred to are as follows:

"A."

[Paragraphs printed in italics comprise articles not on free list of tariff act of 1897, but placed on free list by order of President.]

FREE LIST.

Acids: Arsenic or arsenious, benzoic, carbolic, fluoric, hydrochloric or muriatic, nitric, oxalic, phosphoric, phthalic, picric or nitropicric, prussic, silicic, and valerianic.

Aconite.

Acorns, raw, dried or undried, but unground.

Agates, unmanufactured.

Albumen, not specially provided for.

Alizarin, natural or artificial, and dyes derived from alizarin or from anthracin.

Amber, and amberoid unmanufactured, or crude gum.

Ambergris.

Aniline salts.

Any animal imported specially for breeding purposes shall be admitted free: *Provided*, That no such animal shall be admitted free unless pure bred of a recognized breed, and duly registered in the book of record established for that breed: *And provided further*, That certificate of such record and of the pedigree of such animal shall be produced and submitted to the customs officer, duly authenticated by the proper custodian of such book of record, together with the affidavit of the owner, agent, or importer that such animal is the identical animal described in said certificate of record and pedigree: *And provided further*, That the Secretary of Agriculture shall determine and certify to the Secretary of the Treasury what are recognized breeds and pure-bred animals under the provisions of this paragraph. The Secretary of the Treasury may prescribe such additional regulations as may be required for the strict enforcement of this provision. Cattle, horses, sheep, or other domestic animals straying across the boundary line into any foreign country, or driven across such boundary line by the owner for temporary pasturage purposes only, together with their offspring, may be brought back to the United States within six months free of duty, under regulations to be prescribed by the Secretary of the Treasury.

Animals brought into the United States temporarily for a period not exceeding six months, for the purpose of exhibition or competition for prizes offered by any agricultural or racing association; but a bond shall be given in accordance with regulations prescribed by the Secretary of the Treasury; also teams of animals, including their harness and tackle and the wagons or other vehicles actually owned by persons emigrating from foreign countries to the United States with their families, and in actual use for the purpose of

such emigration under such regulations as the Secretary of the Treasury may prescribe; and wild animals intended for exhibition in zoological collections for scientific and educational purposes, and not for sale or profit.

Annatto, roucou, rocou, or orleans, and all extracts of.

Antimony ore, crude sulphite of.

Apatite.

Arrowroot in its natural state and not manufactured.

Arsenic and sulphide of, or orpiment.

Arseniate of aniline.

Art educational stops, composed of glass and metal and valued at not more than 6 cents per gross.

Articles in a crude state used in dyeing or tanning not specially provided for in this act.

Archæological and numismatical objects for public museums, etc.

Articles the growth, produce, and manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means; casks, barrels, carboys, bags, and other vessels of American manufacture exported filled with American products, or exported empty and returned filled with foreign products, including shooks and staves when returned as barrels or boxes; also quicksilver flasks or bottles, of either domestic or foreign manufacture, which shall have been actually exported from the United States; but proof of the identity of such articles shall be made, under general regulations to be prescribed by the Secretary of the Treasury, but the exemption of bags from duty shall apply only to such domestic bags as may be imported by the exporter thereof, and if any such articles are subject to internal tax at the time of exportation, such tax shall be proved to have been paid before exportation and not refunded: *Provided*, That this paragraph shall not apply to any article upon which an allowance of drawback has been made, the reimportation of which is hereby prohibited except upon payment of duties equal to the drawbacks allowed; or to any article manufactured in bonded warehouse and exported under any provision of law: *And provided further*, That when manufactured tobacco which has been exported without payment of internal-revenue tax shall be reimported it shall be retained in the custody of the collector of customs until internal-revenue stamps in payment of the legal duties shall be placed thereon.

Asbestos, unmanufactured.

Ashes, wood and lye of, and beet-root ashes.

Asafetida.

Bacon.

Bags for sugar; coopers' wares; and wood, cut, for making hogsheads or casks for sugar or molasses, upon the sworn declaration of importers that they are intended solely for such use.

Balm of Gilead.

Barks, cinchona or other from which quinine may be extracted.

Baryta, carbonate of, or witherite.

Beef, fresh.

Beeswax.

Binding twine: All binding twine manufactured from New Zealand hemp, istle or Tampico fiber, sisal grass, or sunn, or a mixture of any two or more of them, of single ply and measuring not exceeding 600 feet to the pound: *Provided*, That articles mentioned in this paragraph, if imported from a country which lays an import duty on like articles imported from the United States, shall be subject to a duty of one-half of 1 cent per pound.

Bells, broken, and bell metal broken and fit only to be remanufactured.

Birds, stuffed, not suitable for millinery ornaments.

Birds and land and water fowls.

Bismuth.

Bladders, and all integuments and intestines of animals and fish sounds, crude, dried or salted for preservation only, and unmanufactured, not specially provided for in this act.

Blood, dried, not specially provided for.

Bolting cloths composed of silk, imported expressly for milling purposes, and so permanently marked as not to be available for any other use.

Bones, crude, or not burned, calcined, ground, steamed, or otherwise manufactured, and bone dust or animal carbon, and bone ash, fit only for fertilizing purposes.

Books, engravings, photographs, etchings, bound or unbound, maps and charts imported by authority or for the use of the United States or for the use of the Library of Congress.

Books, maps, music, engravings, photographs, etchings, bound or unbound, and charts, which shall have been printed more than twenty years at the date of importation, and all hydrographic charts, and publications issued for their subscribers or exchanges by scientific and literary associations or academies, or publications of individuals for gratuitous private circulation, and public documents issued by foreign governments.

Books and pamphlets printed exclusively in languages other than English; also books and music, in raised print, used exclusively by the blind.

Books, maps, music, photograghs, etchings, lithographic prints, and charts, specially imported, not more than two copies in any one invoice, in good faith, for the use or by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use or by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe.

Books, libraries, usual and reasonable furniture, and similar household effects of persons or families from foreign countries, all the foregoing if actually used abroad by them not less than one year, and not intended for any other person or persons not for sale.

Bovine animals, castrated.

Brass, old brass, clippings from brass or Dutch metal, all the foregoing, fit only for remanufacture.

Brazil paste.

Brazilian pebble, unwrought or unmanufactured.

Breccia, in block or slabs.

Bristles, crude, not sorted, bunched, or prepared.

Broom corn.

Bullion, gold or silver.

Burgundy pitch.

Cadmium.

Calamine.

Camphor, crude.

Castor or castoreum.

Cat gut, whip gut, or worm gut, unmanufactured.

Cerium

Chalk, crude, not ground, precipitated, or otherwise manufactured.

Chromate of iron or chromic ore.

Civet, crude.

Clay: Common blue clay in casks suitable fot the manufacture of crucibles.

Coal, anthracite, not specially provided for in this act, and coal stores of American vessels, but none shall be unloaded.

Coal tar, crude, pitch of coal tar, and products of coal tar known as dead or creosote oil, benzol, toluol, naphthalin, xylol, phenol, cresol, toluidine, xylidin, cumidin, binitrotoluol, binitrobenzol, benzidin, tolidin, dianisidin, naphtol, naphtylamin, diphenylamin, benzaldehyde, benzyl chloride, resorcin, nitro-benzol, and nitro-toluol; all the foregoing not medicinal and not colors or dyes.

Cobalt and cobalt ore.

Cocculus indicus.

Cochineal.

Cocoa, or cacao, crude, and fiber, leaves, and shells of.

Codfish.

Coins, gold, silver, and copper.

Coir, and coir yarn.

Copper in plates, bars, ingots, or pigs, and other forms, not manufactured or specially provided for in this act.

Old copper, fit only for manufacture, clipping from new copper, and all composition metal of which copper is a component material of chief value not specially provided for in this act.

Copper, regulus of, and black or coarse copper, and copper cement.

Coral, marine, uncut, and unmanufactured.

Cork wood, or cork bark, unmanufactured.

Cotton, and cotton waste or flocks.

Cryolite, or kryolith.

Cudbear.

Curling stones, or quoits, and curling-stone handles.

Curry, and curry powder.

Cutch.

Cuttlefish bone.

Dandelion roots, raw, dried, or undried, but unground.

Diamonds and other precious stones, rough or uncut, and not advanced in condition or value from their natural state by cleaving, splitting, cutting, or other process, including miners', glaziers', and engravers' diamonds not set, and diamond dust or bort.

Divi-divi.

Dragon's blood.

Drugs, such as barks, beans, berries, balsams, buds, bulbs, and bulbous roots, excrescences, fruits, flowers, dried fibers, and dried insects, grains, gums, and gum resin, herbs, leaves, lichens, mosses, nuts, nutgalls, roots, and stems, spices, vegetables, seeds aromatic, and seeds of morbid growth, weeds, and woods used expressly for dyeing; any of the foregoing which are drugs and not edible and are in a crude state, and not advanced in value or condition by refining or grinding, or by other process, and not specially provided for in this act.

Eggs of birds, fish, and insects: *Provided, however*, That this shall not be held to include the eggs of game birds or eggs of birds not used for food, the importation of which is prohibited except specimens for scientific collections, nor fish roe preserved for food purposes.

Emery ore.

Ergot.

Fans, common palm-leaf, plain and not ornamented or decorated in any manner, and palm leaf in its natural state, not colored, dyed, or otherwise advanced or manufactured.

Felt, adhesive, for sheathing vessels.

Fibrin, in all forms.

Fish, fresh, frozen, or packed in ice, caught in the Great Lakes or other fresh waters by citizens of the United States.

Fish skins.

Flint, flints, and flint stones, unground.

Flour.

Fossils.

Fruits or berries, green, ripe, or dried, and fruits in brine, not specially provided for in this act.

Fruit plants, tropical and semitropical, for the purpose of propagation or cultivation.

Furs, undressed.

Fur skins of all kinds, not dressed in any manner and not specially provided for in this act.

Gambier.

Glass enamel, white, for watch and clock dials.

Glass plates or disks, rough cut or unwrought, for use in the manufacture of optical instruments, spectacles, and eyeglasses, and suitable only for such use: *Provided, however*, That such disks exceeding 8 inches in diameter may be polished sufficiently to enable the character of the glass to be determined.

Grasses and fibers: Istle or Tampico fiber, jute, jute butts, manila, sisal grass, sunn, and all other textile grasses or fibrous vegetable substances, not dressed or manufactured in any manner, and not specially provided for in this act.

Gold-beaters' molds and gold-beaters' skins.

Grease and oils (excepting fish oils), such as are commonly used in soap making or in wire drawing, or for stuffing or dressing leather, and which are fit only for such uses, and not specially provided for in this act.

Guano, manures, and all substances used only for manure.

Gutta-percha, crude.

Hair of horse, cattle, and other animals, cleaned or uncleaned, drawn or undrawn, but unmanufactured, not specially provided for in this act; and human hair, raw, uncleaned, and not drawn.

Hide cuttings, raw, with or without hair, and all other glue stock.

Hide rope.

Hones and whetstones.

Hoofs, unmanufactured.

Hop roots for cultivation.

Horns and parts of, unmanufactured, including horn strips and tips.

Ice.

India rubber, crude, and milk of, and old scrap or refuse india rubber which has been worn out by use and is fit only for remanufacture.

Indigo.

Iodine, crude.

Ipecac.

Iridium.

Ivory tusks in their natural state or cut vertically across the grain only, with the bark left intact, and vegetable ivory in its natural state.

Jalap.

Jet, unmanufactured.

Joss stick, or Joss light.

Junk, old.

Kelp.

Kieserite.

Kyanite, or cyanite, and kainite.

Lac dye, crude, seed, button, stick, and shell.

Lac spirits.

Lactarene.

Lava, unmanufactured.

Leeches.

Lemon juice, lime juice, and sour-orange juice.

Licorice root, unground.

Lifeboats and life-saving apparatus specially imported by societies incorporated or established to encourage the saving of human life.
Lime, citrate of.
Lithographic stones, not engraved.
Lithographs, posters, calendars, and folders, for advertising purposes only, having no commercial value and designed for free public distribution.
Litmus, prepared or not prepared.
Loadstones.
Machinery and apparatus and parts thereof for making and refining sugar or for other agricultural purposes. Upon entry of any of the articles included in this paragraph, affidavit will be required that they are solely for the purposes indicated.
Madder and munjeet, or Indian madder, ground or prepared, and all extracts of.
Magnesite, crude or calcined, not purified.
Magnesium, not made up into articles.
Manganese, oxide and ore of.
Manna.
Manuscripts.
Marrow, crude.
Marshmallow or althea root, leaves or flowers, natural or unmanufactured.
Medals of gold, silver, or copper, and other metallic articles actually bestowed as trophies or prizes, and received and accepted as honorary distinctions.
Meerschaum, crude or unmanufactured.
Minerals, crude, or not advanced in value or condition by refining or grinding, or by other process of manufacture, not specially provided for in this act.
Mineral salts obtained by evaporation from mineral waters, when accompanied by a duly authenticated certificate and satisfactory proof, showing that they are in no way artificially prepared, and are only the product of a designated mineral spring.
Mineral, carbonated, or seltzer waters, natural or artificial, root beer, ginger ale, and other similar nonalcoholic beverages, not otherwise provided for.
Models of inventions and of other improvements in the arts, including patterns for machinery, but no article shall be deemed a model or pattern which can be fitted for use otherwise.
Modern school furniture, of kinds or styles not manufactured in Puerto Rico, which has been purchased by the properly constituted authorities of public or private educational institutions, in quantities not exceeding the absolute requirements for the accommodation of such schools; conclusive evidence being furnished to the customs officers that such purchases were made prior to the importation of the articles entered, together with the certificate of the superintendent or principal of the school that the same is to be used exclusively for such institution.
Moss, seaweeds, and vegetable substances, crude or unmanufactured, not otherwise specially provided for in this act.
Musk, crude, in natural pods.
Mutton.
Myrobolans.
Needles, hand-sewing and darning.
Newspapers and periodicals; but the term "periodicals" as herein used shall be understood to embrace only unbound or paper-covered publications, issued within six months of the time of entry, containing current literature of the day and issued regularly at stated periods, as weekly, monthly, or quarterly.
Nuts: Brazil nuts, cream nuts, palm nuts, and palm-nut kernels; cocoanuts in the shell and broken cocoanut meat or copra, not shredded, desiccated, or prepared in any manner.
Nux vomica.
Oakum.
Oil cake.
Oils: Almond, amber, crude and rectified ambergris, anise or anise seed, aniline, aspic or spike lavender, bergamot, cajeput, caraway, cassia, cinnamon, cedrat, chamomile, citronella or lemon grass, civet, cocoanut, fennel, ichthyol, jasmine or jasimine, juglandium, juniper, lavender, lemon, limes, mace, neroli or orange flower, enfleurage grease, nut oil or oil of nuts not otherwise specially provided for in this act, orange oil, olive oil for manufacturing or mechanical purposes fit only for such use and valued at not more than 60 cents per gallon, ottar of roses, palm, rosemary or anthoss, sesame or sesamum seed or bean, thyme, origanum red or white, valerian; and also spermaceti, whale, and other fish oils of American fisheries, and all fish and other products of such fisheries; petroleum, crude or refined: *Provided*, That if there be imported into the United States crude petroleum, or the products of crude petroleum produced in any country which imposes a duty on petroleum or its products exported from the United States, there shall in such cases be levied, paid, and collected a duty upon said crude petroleum or its products so imported equal to the duty imposed by such country.
Oleonaphtha, crude natural petroleum, and crude oils derived from schists.
Orange and lemon peel, not preserved, candied, or dried.
Orchil, or orchil liquid.
Ores of gold, silver, copper, or nickel, and nickel matte; sweepings of gold and silver.
Osmium.
Palladium.
Paper stock, crude, of every description, including all grasses, fibers, rags (other than wool), waste, including jute waste, shavings, clippings, old paper, rope ends, waste rope, and waste bagging, including old gunny cloth and old gunny bags, fit only to be converted into paper.
Paraffin.
Parchment and vellum.
Pearl, mother of, and shells, not sawed, cut, polished, or otherwise manufactured or advanced in value from the natural state.
Personal effects, not merchandise, of citizens of the United States dying in foreign countries.
Pewter and britannia metal, old, and fit only to be remanufactured.
Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use or by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe.
Phosphates, crude.
Plants, trees, shrubs, roots, seed-cane, and seeds, imported by the Department of Agriculture or the United States Botanic Garden.
Platina, in ingots, bars, sheets, and wire.
Platinum, unmanufactured, and vases, retorts, and other apparatus, vessels, and parts thereof composed of platinum, for chemical uses.
Plows, hoes, hatchets, machetes, cane knives, etc., for agricultural purposes, and other agricultural implements not machinery.
Plumbago.
Pork.
Potash, crude, or "black salts"; carbonate of potash, crude or refined; hydrate of, or caustic potash, not including refined in sticks or rolls; nitrate of potash or saltpeter, crude; sulphate of potash, crude or refined, and muriate of potash.
Professional books, implements, instruments, and tools of trade, occupation, or employment, in the actual possession at the time, of persons emigrating to the United States; but this exemption shall not be construed to include machinery or other articles imported for use in any manufacturing establishment, or for any other person or persons, or for sale, nor shall it be construed to include theatrical scenery, properties, and apparel; but such articles brought by proprietors or managers of theatrical exhibitions arriving from abroad, for temporary use by them in such exhibitions, and not for any other person, and not for sale, and which have been used by them abroad, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: *Provided*, That the Secretary of the Treasury may in his discretion extend such period for a further term of six months in case application shall be made therefor.
Pulu.
Quinia, sulphate of, and all alkaloids or salts of cinchona bark.
Rags, not otherwise specially provided for in this act.
Regalia and gems, statuary, and specimens or casts of sculpture, where specially imported in good faith for the use and by order of any society incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale; but the term "regalia" as herein used shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution, and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals.
Rennets, raw or prepared.
Rice.
Rough lumber.
Saffron and safflower, and extract of, and saffron cake.
Sago, crude.
Salacin.
Salep, or salop.
Samples of felt, wall paper, and tissues, when they comply with the following conditions:
(a) When they do not exceed 40 centimeters in length, measured in the warp or length of the piece, even when such samples have the entire width of the piece. The width shall, for tissues, be determined by the list, and for felts and wall paper by the narrow border which has not passed through the press.
(b) Samples not having these indications shall only be admitted free of duty when they do not exceed 40 centimeters in any dimension.
(c) In order to avoid abuse, the samples declared for free entry must have cuts at every 20 centimeters of their width, so as to render them unfit for any other purpose.
Samples of trimmings in small pieces of no commercial value or possible application.
Sausages, bologna.
Second-hand clothing donated for charitable purposes to needy persons, and not for sale.
Seeds: Anise, caraway, cardamom, cauliflower, coriander, cotton, cummin, fennel, fenugreek, hemp, hoarhound, mangel-wurzel, mustard, rape, Saint John's bread or bean, sugar beet, sorghum or sugar cane for seed; bulbs and bulbous roots, not edible and not otherwise provided for; all flower and grass seeds; all the foregoing not specially provided for in this act.
Sheep dip, not including compounds or preparations that can be used for other purposes.
Shotgun barrels, in single tubes, forged, rough bored.
Shrimps and other shell fish.
Silk, raw, or as reeled from the cocoon, but not doubled, twisted, or advanced in manufacture in any way.
Silk cocoons and silk waste.
Silkworm's eggs.
Skeletons and other preparations of anatomy.
Skins of all kinds, raw (except sheepskins with the wool on), and hides not specially provided for in this act.
Soda, nitrate of, or cubic nitrate.
Specimens of natural history, botany, and mineralogy, when imported for scientific public collections, and not for sale.
Spices: Cassia, cassia vera, and cassia buds; cinnamon and chips of; cloves and clove stems; mace; nutmegs; pepper, black or white, and pimento; all the foregoing when unground; ginger root, unground and not preserved or candied.
Spunk.
Spurs and stilts used in the manufacture of earthen, porcelain, and stone ware.
Stamps; foreign postage or revenue stamps, canceled or uncanceled.
Stone and sand: Burrstone in blocks, rough or unmanufactured; cliff stone, unmanufactured; rotten stone, tripoli, and sand, crude or manufactured, not otherwise provided for in this act.
Storax, or styrax.
Strontia, oxide of, and protoxide of strontian, and strontianite, or mineral carbonate of strontia.
Sulphur, lac or precipitated, and sulphur or brimstone, crude, in bulk, sulphur ore as pyrites, or sulphuret of iron in its natural state, containing in excess of 25 per cent of sulphur, and sulphur not otherwise provided for.
Sulphuric acid which at the temperature of 60° F. does not exceed the specific gravity of 1.380, for use in manufacturing superphosphate of lime or artificial manures of any kind, or for any agricultural purposes: *Provided*, That upon all sulphuric acid imported from any country, whether independent or a dependency, which imposes a duty upon sulphuric acid imported into such country from the United States, there shall be levied and collected a duty of one-fourth of 1 cent per pound.
Tamarinds.
Tapioca, cassava or cassady.
Tar and pitch of wood.
Tar and mineral pitch, asphalts, bitumen, and schists.
Tea and tea plants.
Teeth, natural, or unmanufactured.
Terra alba, not made from gypsum or plaster rock.
Terra japonica.
Tin ore, cassiterite or black oxide of tin, and tin in bars, blocks, pigs, or grain or granulated.
Tobacco stems.
Tonquin, tonqua, or tonka beans.
Trees, plants, and moss, in natural or fresh state.
Turmeric.

Turpentine, Venice.
Turpentine, spirits of.
Turtles.
Types, old, and fit only to be remanufactured.
Uranium, oxide and salts of.
Vaccine virus.
Valonia.
Verdigris, or subacetate of copper.
Wax, vegetable or mineral.
Wafers, unleavened or not edible.

Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects of persons arriving in the United States; but this exemption shall only include such articles as actually accompany and are in the use of, and as are necessary and appropriate for the wear and use of such persons, for the immediate purposes of the journey and present comfort and convenience, and shall not be held to apply to merchandise or articles intended for other persons or for sale: *Provided*, That in case of residents of the United States returning from abroad, all wearing apparel and other personal effects taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established, under appropriate rules and regulations to be prescribed by the Secretary of the Treasury, but no more than $100 in value of articles purchased abroad by such residents of the United States shall be admitted free of duty upon their return.

Whalebone, unmanufactured.

Wood: Logs and round unmanufactured timber, including pulp woods, firewood, handle bolts, shingle bolts, gun blocks for gun stocks, rough-hewn or sawed or planed on one side, hop poles, ship timber, and ship planking; all the foregoing not specially provided for in this act.

Woods: Cedar, lignum-vitæ, lancewood, ebony, box, granadilla, mahogany, rosewood, satinwood, and all forms of cabinet woods, in the log, rough, or hewn only; briar root or briar wood and similar wood, unmanufactured or not further advanced than cut into blocks suitable for the articles into which they are intended to be converted; bamboo, rattan, reeds, unmanufactured, India malacca joints, and sticks of partridge, hair wood, pimento, orange, myrtle, and other woods not specially provided for in this act, in the rough, or not further advanced than cut into lengths suitable for sticks for umbrellas, parasols, sunshades, whips, fishing rods, or walking-canes.

Works of art, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought by professional artists, lecturers, or scientists arriving from abroad for use by them temporarily for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States, and not for sale, shall be admitted free of duty, under such regulations as the Secretary of the Treasury shall prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: *Provided*, That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in cases where applications therefor shall be made.

Works of art, collections in illustration of the progress of the arts, sciences, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities and artistic copies thereof in metal or other material, imported in good faith for exhibition at a fixed place by any State or by any society or institution established for the encouragement of the arts, science, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation for the purpose of erecting a public monument, and not intended for sale, nor for any other purpose than herein expressed; but bonds shall be given under such rules and regulations as the Secretary of the Treasury may prescribe, for the payment of lawful duties which may accrue should any of the articles aforesaid be sold, transferred, or used contrary to this provision, and such articles shall be subject, at any time, to examination and inspection by the proper officers of the customs: *Provided*, That the privileges of this and the preceding section shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character.

Works of art, the production of American artists residing temporarily abroad, or other works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution, or to any State or municipal corporation, or incorporated religious society, college, or other public institution, except stained or painted window glass or stained or painted glass windows; but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe.

Yams.
Zaffer.

STIPULATIONS OF PENDING TREATIES.

[Articles marked with * are admitted to Puerto Rico free of duty under pending bill. All others dutiable at 15 per cent.]

BARBADOS.

FREE.

Bran; pollard.
Candles of tallow.
Carts and vehicles.
Clocks.
Corn brooms.
Corn or maize.
Corn meal.
Cotton-seed oil.
Cycles and parts.
*Eggs.
Hay.
Horses.
Lamps.
Machinery for electric lighting.
Mules.
*Pitch and tar.
*Rosin.
Tallow.
Wire fencing.

FIVE PER CENT.

Fruits and vegetables, fresh, dried, canned, or preserved.
Fish, tinned or canned.
Clothing and wearing apparel made of cotton.
Earthen and glass ware.
Hardware and cutlery.
Furniture and upholstery.
Wooden and willow ware.
Wooden hoops.

BRITISH GUIANA.

FREE.

Bran; pollard.
Candles of tallow.
Carts and vehicles.
Clocks.
Corn brooms.
Corn or maize.
Corn meal.
Cotton seed oil.
Cycles or parts.
*Eggs.
Hay.
Horses.
Lamps.
Machinery for electric lighting, and machinery and implements for mining,* (for agriculture, and for the manufacture of sugar).
Mules.
*Pitch and tar.
*Rosin.
Tallow.
Wire fencing.

FIVE PER CENT.

Fruits and vegetables, fresh, dried, canned, or preserved.
Fish, tinned or canned.
Ready-made clothing and wearing apparel made of cotton.
Earthen and glass ware.
Hardware (metallic) and cutlery.
Furniture and upholstery.
Wooden and willow ware for domestic purposes.
Wooden hoops.

TURKS AND CAICOS ISLANDS.

FREE.

Corn and all other grains, the meal and other preparations thereof (rice and wheat flour excepted).
Fruit and vegetables, fresh, dried, or preserved.
Bran, pollard, and feed.
Live animals of all kinds.
Meats, fresh, of all kinds.†
Clocks and watches.
Fish, fresh, dried, smoked, or salted.
Glass and glassware, earthenware, tinware, woodware.
Brooms and brushes.
Candles, cart grease, and tallow.
Carriages, carts, all wheeled vehicles.
Coal of all kinds.
India rubber goods.
Sewing machines.
Iron, steel, copper, and manufactures thereof (hardware and cutlery excepted).
Machinery of all kinds.
Matches.
Paper of all kinds, stationery and printing materials.
*Pitch, tar, and turpentine.
Varnish.
Waters, mineral or aerated.

JAMAICA.

FREE.

Agricultural implements and tools, namely: Plows, harrows, cultivators, graders, horse hoes, hoes, cutlasses, agricultural forks, axes, bill hooks, clod crushers, dibbles, sowing machines, stump extractors, scythes, shovels, picks, and spades.

Apparatus and appliances of all kinds for generating, storing, conducting, converting into power or light and measuring electricity, including telegraphic, telephonic, and electrical appliances of all kinds for communication and illumination.

Apparatus and appliances for generating, measuring, conducting, and storing gas.
Asbestos and tar paper for roofing.
Bags and sacks made of flax, hemp, or jute for exporting island produce.
Bees, beehives, and all accessories for apiaries.
Beef, smoked and dried.
*Beef and (pork) preserved in cans, not being wet salted or cured.
Belting for machinery, of leather, canvas, or india rubber.
Boats and lighters, and their oars and fittings imported therewith.
Books, printed, bound or unbound; pamphlets, magazines, and newspapers.
Bran, middlings, and shorts; Pollard.
Bridges of iron or wood, or of both combined.
*Bullion and coin.
Coal, coke, and patent fuel.
Candles of tallow.
Cotton wool.
Carts, wagons, cars, and barrows, with or without springs, of all descriptions, not being such as are ordinarily used as vehicles of pleasure.
Cotton seed oil-cake and meal and cottolene.
*Drawings, paintings, engravings, lithographs, and photographs pictures of all kinds.
*Eggs.
*Fertilizers of all kinds, natural and artificial.
*Fish, fresh or on ice.
Fire engines and fire extinguishers.
*Fruit, fresh, canned, dried, or preserved.
Hay and straw, for forage.
Horses, mares, geldings and mules.
Lamps and lanterns, not exceeding 10 shillings in value.
Lime of all kinds.‡
Locomotives, railway rolling stock and parts thereof, rails, railway ties, and all materials and appliances to be used exclusively for construction, equipment, and operation of railways and tramways.
Magic lanterns and slides therefor.
Maps and charts.
Marble or alabaster, in the rough or squared, worked or carved, for building purposes or monuments.
Meat, fresh.
Parts of articles free under the tariff; the component parts of any article which is free under the tariff shall also be admitted free of duty, provided such parts have been especially prepared and manufactured to replace or fit such free articles.
Printing and wrapping paper.
Photographic apparatus and appliances necessary for the production of photographs.
Printer's ink in all colors.
Pans for boiling sugar.
Poultry and other birds.
Prepared food for animals.

†Beef, fresh, and mutton free to Puerto Rico.
‡Citrate of lime free in Puerto Rico.

Resin, tar, pitch, and turpentine.
Sausage, dry and pickled.
School slates and slate pencils and slate by tale.
Sewing machines.
Shooks for tierce, puncheon, hogshead, barrels and casks, and shooks for boxes or crates used in packing.
Steam engines, *boilers*, prime motor engines of all kinds, machines, machinery, and apparatus whether stationary or portable, worked by power or by hand (*for manufacturing or preparing for market the agricultural and mineral products of the island), including sugar, coffee, cocoa, pimento, ginger, kola, annatto, cocoanuts, tobacco, cassava, fruits of all descriptions, vegetables of all descriptions, woods of all descriptions and fibers.
Steel, ingots.
Stills and parts thereof.
Tallow and animal grease.
Telephones and telephone switch boards.
*Trees, plants, vines, seeds, and grain of all kinds for propagation or cultivation.
Varnish not containing spirits.
*Weather service articles imported for the use of the weather service of the United States of America, being the property of the United States Government.
Wire fencing, with hooks, staples, nails, and other appliances for fastening the same.
Wood hoops and truss hoops.
Wood staves and headings.
Yeast cake and baking powder.
Zinc, in blocks and pigs.

BERMUDA.

FREE.

Books, not reprints of English, and atlases and maps.
Coals.
(*Fresh fruits) (except bananas) and peas and beans.
Ice.
Paintings, engravings, photographs, and sculpture, including monuments.
*Trees, plants, bulbs, and shrubs for planting.
Vessels, dredges, boats, machinery, tools, plants of materials for survey or improvement of ship channels under control of the island government.
Fresh meats and poultry.
Bread and biscuit.
Cheese.
Bran.
Canned fruits.
Canned meats (exclusive of fish).
Canned vegetables.
*Fruit, dried.
Carts and carriages for animal draft.
Clocks.
Corn brooms.
Corn meal.
Cotton-seed oil and oil cake.
Cycles.
*Fertilizers.
Hay.
Horses and mules.
*Implements of agriculture.
*Pitch.
*Resin.
Tallow.
*Tar.
Wire fencing.

FIVE PER CENT.

*Beef and (pork) pickled, and smoked meats.
Butter.
Cereals and prepared cereal food.
*Eggs.
*Flour.
Furniture.
Milk.
And cattle shall be admitted at a rate not exceeding 4 shillings per head.

Mr. DAVIS. If entirely convenient to the Senator from Ohio, I desire to offer certain amendments to the pending bill. I submit the amendment which I send to the desk.

Mr. FORAKER. Let me make an inquiry before any order is made. Does the Senator from Minnesota offer the amendment at this time with a view of having it discussed and disposed of now?

Mr. DAVIS. That was my intention.

Mr. FORAKER. I would prefer to get through with the committee amendments first. There was consent given that the committee amendments should be disposed of, and we are pretty nearly through with them, and if we can conclude them, then the Senator's amendment may be taken up next. I have no objection to that course.

Mr. DAVIS. How long, may I ask, will the consideration of the committee amendments probably take?

Mr. FORAKER. We are down to the thirty-first section. I do not know how much objection there will be, but I hope we may complete the reading of the bill by sections and at least develop whether there is to be opposition to some of the amendments.

Mr. DAVIS. Can I be assured that I shall have sufficient time to offer the amendment before the final vote is taken?

Mr. FORAKER. Yes, certainly, so far as I have any control of the time. I have not the slightest objection.

The PRESIDENT pro tempore. The Senator from Minnesota having given notice of his proposed amendment, it will be in order even when 4 o'clock is reached on Tuesday.

Mr. DAVIS. I understood the arrangement to be different.

Mr. FORAKER. The Senator's amendment can be voted upon.

Mr. DAVIS. I understood that at 4 o'clock on Tuesday the final vote was to be taken and amendments would be shut off.

The PRESIDENT pro tempore. The final vote on the bill and all amendments of which notice shall have been previously given is to be taken at 4 o'clock on Tuesday.

Mr. DAVIS. I withdraw the amendment.

The PRESIDENT pro tempore. The amendment will be printed, then, and lie on the table.

Mr. DAVIS. It has been printed. Let it be returned to me.

The PRESIDENT pro tempore. The amendment will be returned to the Senator from Minnesota.

Mr. FORAKER. So many Senators have given notice of a desire to speak that I take advantage of this opportunity to ask unanimous consent that beginning at, say, 1 o'clock on Tuesday speeches be limited to fifteen minutes.

Mr. CULLOM. May I make a suggestion? I suggest that the Senate meet at 11 o'clock Monday and Tuesday both.

Mr. FORAKER. I made that suggestion to some Senators, and there was objection, and I did not press it.

Mr. CULLOM. I hope that will be done. Otherwise there will be Senators who desire to say something who will not have an opportunity.

Mr. FORAKER. I shall be very glad if we can meet at 11 o'clock on Monday and also on Tuesday.

Mr. CULLOM. I hope that suggestion will prevail.

Mr. PETTUS. It will disarrange all of the committee work entirely to meet at 11 o'clock, and I hope it will not be done. We have our committee meetings already appointed, notice given of them, and important work to do, and I do not think it ought to be interfered with in that way.

Mr. FORAKER. Has the Senator from Alabama a committee meeting on Tuesday morning? That is the last day when this bill can be considered.

Mr. PETTUS. I have, and other Senators have also.

Mr. BATE. I hope the Senator from Alabama will not urge his objection. I find a great many Senators, five or six, who want to make speeches on Monday and Tuesday. Four have already given notice. I think it would be a convenience to them and no inconvenience to the Senate to come here on Monday at 11 o'clock, because very few committees meet on Monday, anyway. I hope the suggestion of the Senator from Ohio will be accepted, and let us meet at 11 o'clock both Monday and Tuesday.

Mr. CULLOM. I will submit a motion to that effect, if I have an opportunity. I hope the Senator from Ohio will ask unanimous consent that we may meet at 11 o'clock on Monday.

Mr. FORAKER. I understand I have asked unanimous consent, and if I have not, I now ask unanimous consent that the Senate meet on Monday at 11 o'clock and also on Tuesday at 11 o'clock.

The PRESIDENT pro tempore. The Senator from Ohio asks unanimous consent that when the Senate adjourn to-day it be to meet at 11 o'clock on Monday.

Mr. CULLOM. I hope consent will be given.

Mr. PETTUS. Mr. President——

The PRESIDENT pro tempore. Is there objection?

Mr. PETTUS. There is objection, and I was going to state it.

The PRESIDENT pro tempore. That is the end of it. It is not before the Senate.

Mr. CULLOM. Is it in order to make a motion to that effect?

Mr. DAVIS. I ask unanimous consent——

Mr. PETTUS. I claim the right to explain what I mean. Other Senators do so.

The PRESIDENT pro tempore. In the absence of objection, the Senator from Alabama will proceed.

Mr. PETTUS. The Judiciary Committee meets Monday. It has a large amount of very important work to do. The Committee on Privileges and Elections meet Tuesday, and they have sent word for persons in various parts of the United States to be here on that day. We have framed our business to meet the regular hours of the Senate, and gentlemen do not consider how much they interrupt other business when they change regular hours.

Mr. CULLOM. The only reason why I shall make the motion, if it is in order to make one, is that the final vote is to be taken on Tuesday at 4 o'clock, and, as the Senator from Tennessee has said, there are a number of Senators who desire to speak Monday and Tuesday and this is rather an exceptional case. I, of course, would not like to interrupt the business of committees ordinarily, but I think the Senator from Alabama, under the circumstances, might consent to this arrangement.

Mr. PETTUS. I suggest, if gentlemen want more time, to defer the time for a vote for a day or two days, or until they want to take a vote; but this way of changing hours is no economy. It is a waste of time.

Mr. FORAKER. I ask that we may proceed with the consideration of the committee amendments.

Mr. MASON. Mr. President, I rose during the discussion by the Senator from Indiana [Mr. FAIRBANKS] to ask a question. I have given notice that I desire to speak after the routine business on Tuesday, which was the only hour I found open. I desire now,

in less than two minutes, to ask a question to which some lawyer who is to speak upon the other side of this case will, I hope, reply.

There is no claim, and I shall make no claim when I announce my reason for voting against this bill, that Congress has not legislative power over the Territories. My contention is that the legislative power is limited by the Constitution. I am informed that the distinguished lawyer and Senator from Wisconsin [Mr. SPOONER] is to speak upon this question on Monday. I have great respect for his judgment as a Senator and lawyer, and I want to call his attention to, and I want some explanation of, this point. I am anxious to understand the law. I understand there is a rule in the Senate that you must never mention the Constitution except once, and that is when you swear to support it, and that if you speak of it thereafter——

Mr. SPOONER. The Senator must admit that that rule is violated every hour of every day in the session.

Mr. MASON. Yes; like every other rule of the Senate. They are made for the purpose of being violated.

There is a vast difference between what is proposed here and the taxes levied in Alaska upon theaters, circuses, hotels, etc., spoken of by the distinguished Senator from Indiana. The Constitution does not say taxes shall be uniform. It says, in Article I, section 8, that Congress has the power to lay and collect taxes, duties and excises, etc., but the limitation does not go to taxes. "But all duties, imposts and excises shall be uniform throughout the United States." If not uniform, then it must be levied, if it is an impost duty, under paragraph 2 of section 10 of the same article, which does provide that States may levy an impost duty, but only to the extent of executing its inspection laws.

When we levy this impost duty we do it either as a Congress or a legislature sitting for the Territory of Puerto Rico; and if we exercise it as we do by saying, "coming into Puerto Rico," we exercise it as the legislative power of Puerto Rico. That is clear. If we levy the impost duty and escape section 8 of Article I, we must do it under paragraph 2, which permits a State to levy impost duties. This is the language:

> No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws.

Then, further—

> And the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States.

This bill provides that it shall not be for the benefit of the Treasury of the United States. It provides that it shall be set aside as a special fund in the hands of the President for this particular Territory. I ask the distinguished Senator, when he speaks on Monday, to say whether we levy this impost and export duty under the clause of the Constitution which delegates to Congress the power of levying an impost duty, or whether we levy it under the power conferred by this article, which says that a State or Territory may levy such duties; and, if under the one last mentioned, I ask him if a law is constitutional which provides that the net proceeds of such duties shall go to Puerto Rico, when the Constitution provides that the proceeds of a duty levied in that way must go to the Treasury of the United States and for the benefit of the United States?

I am not contending, and I shall not contend, and I do not consider it necessary for the argument I purpose to make, that the Constitution of its own vigor extends to the Territories. Whether or not I think so as a lawyer will not be discussed, but I ask the Senator to find me one case where the Supreme Court of the United States has said that you may make a law in this Congress that goes to any place in the world and governs any peoples in the world that is in violation of the letter and spirit of the Constitution. Chief Justice Marshall said in the case I have cited to you that wherever our government goes this restriction of the Constitution goes with it; in any place, he says. It may be contended, possibly it will be, that under this other branch of the Constitution we are going to levy this duty; but if you do that, then I insist you are governed by the restriction of the Constitution which says that the net proceeds of any such impost duty shall go to the Government and not the State or Territory which levies it.

Mr. CULBERSON. Mr. President, in view of the request made by the Senator from Ohio [Mr. FORAKER] that speeches on Tuesday shall be limited to fifteen minutes, I think I ought to state that the Senator from Illinois [Mr. MASON] has given notice that he desires to address the Senate on that day after the routine business, and I have asked the Chair to recognize me at the conclusion of the speech of the Senator from Illinois. But I think it proper to state that if it is the wish of the Senate to proceed as indicated by the Senator from Ohio, I shall not insist on speaking at that time.

The Senator from Georgia asks me why I do not speak on Monday. I understand that the Senator from Tennessee [Mr. BATE], the Senator from New York [Mr. DEPEW], and the Senator from Wisconsin [Mr. SPOONER] all expect to address the Senate on that day, and for a young man, unused to the Senate, I did not particularly desire to follow so many distinguished Senators, even if there were time.

The PRESIDENT pro tempore. The next committee amendment will be stated.

The next amendment of the Committee on Pacific Islands and Puerto Rico was to insert as a new section the following:

THE JUDICIARY.

SEC. 31. That the judicial power shall be vested in the courts and tribunals of Puerto Rico as already established and now in operation, including municipal courts, under and by virtue of General Orders, No. 118, as promulgated by Brigadier-General Davis, United States Volunteers, August 16, 1899, and including also the police courts established by General Orders, No. 195, promulgated November 29, 1899, by Brigadier-General Davis, United States Volunteers, and the laws and ordinances of Puerto Rico and the municipalities thereof in force, so far as the same are not in conflict herewith, all which courts and tribunals are hereby continued. The jurisdiction of said courts and the form of procedure in them, and the various officials and attachés thereof, respectively, shall be the same as defined and prescribed in and by said laws and ordinances, and said General Orders, Nos. 118 and 195, until otherwise provided by law: *Provided, however*, That the chief justice and associate justices of the supreme court and the marshal thereof shall be appointed by the President, by and with the advice and consent of the Senate, and the judges of the district courts shall be appointed by the governor, by and with the advice and consent of the executive council, and all other officials and attachés of all the other courts shall be chosen as may be directed by the legislative assembly, which shall have authority to legislate from time to time as it may see fit with respect to said courts, and any others they may deem it advisable to establish, their organization, the number of judges and officials and attachés for each, their jurisdiction, their procedure, and all other matters affecting them.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 32. That Puerto Rico shall constitute a judicial district to be called "the district of Puerto Rico." The President, by and with the advice and consent of the Senate, shall appoint a district judge, a district attorney, and a marshal for said district, each for a term of four years, unless sooner removed by the President. The district court for said district shall be called the district court of the United States for Puerto Rico and shall have power to appoint all necessary officials and assistants, including a clerk, an interpreter, and such commissioners as may be necessary, who shall have like power and duties as are exercised and performed by commissioners of the circuit courts of the United States, and shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizant in the circuit courts of the United States, and shall proceed therein in the same manner as a circuit court.

The laws of the United States relating to appeals, writs of error and certiorari, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the district court of the United States and the courts of Puerto Rico. Regular terms of said court shall be held at San Juan, commencing on the second Monday in April and October of each year, and also at Ponce on the second Monday in January of each year, and special terms may be held at Mayaguez at such other stated times as said judge may deem expedient. All pleadings and proceedings in said court shall be conducted in the English language.

The United States district court hereby established shall be the successor to the United States provisional court established by General Orders, No. 88, promulgated by Brigadier-General Davis, United States Volunteers, and shall take possession of all records of that court, and take jurisdiction of all cases and proceedings pending therein, and said United States provisional court is hereby discontinued.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 33. That writs of error and appeals from the final decisions of the supreme court of Puerto Rico and the district court of the United States shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations and in the same cases as from the supreme courts of the Territories of the United States; and such writs of error and appeal shall be allowed in all cases where the Constitution of the United States, or a treaty thereof, or an act of Congress is brought in question and the right claimed thereunder is denied; and the supreme and district courts of Puerto Rico and the respective judges thereof may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the district and circuit courts of the United States. All such proceedings in the Supreme Court of the United States shall be conducted in the English language.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 34. That the salaries of all officials of Puerto Rico not appointed by the President, including deputies, assistants, and other help, shall be such, and be so paid out of the revenues of Puerto Rico, as the executive council shall from time to time determine: *Provided, however*, That the salary of no officer shall be either increased or diminished during his term of office. The salaries of all officers and all expenses of the offices of the various officials of Puerto Rico, appointed as herein provided by the President, including deputies, assistants, and other help, shall also be paid out of the revenues of Puerto Rico on the warrant of the auditor, countersigned by the governor.

The annual salaries of the officials appointed by the President, and so to be paid, shall be as follows:

The governor, $8,000; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of Puerto Rico, with the furniture and effects therein, free of rental.

The secretary, $4,000.
The attorney-general, $4,000.
The treasurer, $5,000.
The auditor, $4,000.
The commissioner of the interior, $4,000.
The commissioner of education, $3,000.
The chief justice of the supreme court, $5,000.
The associate justices of the supreme court (each), $4,500.
The marshal of the supreme court, $3,000.
The United States district judge, $5,000.
The United States district attorney, $4,000.
The United States district marshal, $3,500.

Mr. BACON. I should like to ask the Senator from Ohio why the salary of the governor is put at the figure that it is. I understand that the original proposition was $10,000. That has now been modified to $8,000. I understand that is a great deal more than the governors of any of the Territories receive, but I suppose there is reason for it. However, I have not been advised of that reason, and I take the liberty of asking the Senator from Ohio by what they were guided in fixing this amount.

Mr. FORAKER. We were guided in fixing that amount by the fact that the governor of Puerto Rico will have a great deal more work to do than falls to the lot ordinarily of a governor of a Territory. He will be there at the head of a million people, enough, as the Senator thinks, to constitute a State, if other things were equal.

Mr. BACON. No.

Mr. FORAKER. Certainly enough, as he thinks, to put them in a state of pupilage for statehood. I mean make them a Territory.

Mr. BACON. Yes.

Mr. FORAKER. As he suggested this morning. This is not to be compared, as the committee thought, to the ordinary case of a Territory where there would be perhaps only a few thousand people—100,000, or possibly 200,000 at the most. I do not know of any Territory that has that much of a population. Ordinarily we establish a Territorial government when there are but 40,000 or 50,000 people, and perhaps less than that number. In the case of Louisiana and, of course, in the early Territorial governments we established them when there were very few people in the Territory and when conditions were such that they could not pay very large salaries.

But, Mr. President, here is an island which we are giving all these revenues to, and in that way providing for the administration of government, an island where they will be able to pay, and where, until the government is established and in successful operation, the man who is at the head of affairs will have constant and the most arduous labors to perform, requiring the very highest order of ability. It was thought by the committee that was not, under all the circumstances, an unreasonable salary to pay. It was thought that he would earn as large a salary as the governor of any State in the Union would earn, measured by the work he would have to do and by the results that we would expect him to accomplish. The salaries in most of the large States of the Union are larger than the salary named here for this governor. Besides, this is a much less salary than has been paid heretofore to the chief executive officer of the island, and it is a salary that the people of the island are willing to pay, so far as we are advised. No objection coming from the people who pay it, we thought it might be allowed. It is to be paid by the island out of the revenues provided by this act.

Mr. PETTUS. Mr. President, I have proposed an amendment to this section, which has been on file for several weeks. It is to strike out lines 6, 7, 8, 9, and 10, on page 26.

The bill in this particular section provides for the payment of the salaries of the officers of Puerto Rico, and that is well enough. The officers whose salaries I propose to strike out of this section are not officers of Puerto Rico in any proper sense—not in any sense whatever. They are not officers of Puerto Rico; they are officers of the United States in Puerto Rico. They are not charged with any of the business of Puerto Rico. They are charged with the duties which pertain, and pertain alone, to the courts of the United States. Their duties do not concern Puerto Rico any more than the circuit court of the United States in the State of New York concerns the State of New York. It is not put there to execute the laws of New York at all. That is not the purpose of it. It is not a court in any sense pertaining to New York. It is a court organized by the United States to transact its business in New York. There is no more propriety in having the people of Puerto Rico pay these salaries than there is to have the State of Pennsylvania pay the salaries of the United States judges there. Therefore I move to strike it out.

While on this subject, Mr. President, I will just suggest to the Senator from Ohio who has charge of this bill, and who seems to mold it at his will, that if he will make a genuine United States district court in Puerto Rico, give it all the powers of a district court, all the powers of a circuit court, and make it a genuine constitutional court, or give it the constitutional term of the judges, it would confer more benefit on the island than almost anything else he could do.

The PRESIDENT pro tempore. The Senator from Alabama moves to strike out certain lines in the amendment which the Secretary will read.

The SECRETARY. Strike out lines 6, 7, 8, 9, and 10, in the following words:

> The United States district judge, $5,000.
> The United States district attorney, $4,000.
> The United States district marshal, $3,500.

Mr. PETTUS. In order that this amendment may not be misunderstood, I move to strike it out of this section, because the preceding part of the section provides that all these salaries shall be paid out of the treasury of Puerto Rico. I do not make this motion with a view of preventing these salaries from being paid at all. I want to get them out of this section because this section is the one which provides for the payment of salaries to the officers of Puerto Rico. When it is once out of this section there can probably be a provision inserted that they shall be paid out of the Treasury of the United States, and then I should have no objection to the salaries.

Mr. FORAKER. Mr. President, I think there is an eminent propriety in leaving section 34 as it is. It is provided in this bill that all the revenues collected there, although collected by United States officials—that is, by officials appointed by the President—all tariff duties collected in the island, all taxes of every kind, shall be turned over to the insular treasury for the support of that government; and inasmuch as we give them all these revenues, amounting to millions of dollars, there is no hardship in requiring them to pay the salaries of officials who conduct the government and execute the law of Congress in regard to their government. So I hope the amendment of the Senator from Alabama to the amendment of the committee will not prevail.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Alabama [Mr. PETTUS] to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. Without objection, the amendment of the committee is agreed to.

The next amendment of the Committee on Pacific Islands and Puerto Rico was to insert the following as an additional section:

> SEC. 35. That the provisions of the foregoing section shall not apply to the municipal officials. Their salaries and the compensation of their deputies, assistants, and other help, as well as all other expenses incurred by the municipalities, shall be paid out of the municipal revenues in such manner as the legislative assembly shall provide.

The amendment was agreed to.

The next amendment was to insert the following as an additional section:

> SEC. 36. That no export duties shall be levied or collected on exports from Puerto Rico; but taxes and assessments on property, and license fees for franchises, privileges, and concessions may be imposed for the purposes of the insular and municipal governments, respectively, as may be provided and defined by act of the legislative assembly; and where necessary to anticipate taxes and revenues, bonds and other obligations may be issued by Puerto Rico or any municipal government therein as may be provided by law to provide for expenditures authorized by law, and to protect the public credit, and to reimburse the United States for any moneys which have been or may be expended out of the emergency fund of the War Department for the relief of the industrial conditions of Puerto Rico caused by the hurricane of August 8, 1899: *Provided, however*, That no public indebtedness of Puerto Rico or of any municipality thereof shall be authorized or allowed in excess of 10 per cent of the aggregate tax valuation of its property.

Mr. ALLEN. I move to strike out of the section, where it speaks of taxation, in line 9, page 27, the word "ten" and insert "five." I think 5 per cent is quite enough.

Mr. FORAKER. I think that 10 is perhaps higher than it ought to be. The situation there is somewhat peculiar, though. I think 7 per cent will perhaps be a good compromise. I appreciate what the Senator has in his mind, and if he will agree upon 7 per cent, I think that would be enough. Five is high enough ordinarily, but just now they have got to issue bonds to a considerable amount.

Mr. ALLEN. Does not this bill exhaust itself in two years?

Mr. FORAKER. By this bill there will be a commission appointed, and they must make a report here at the end of one year after its passage, and the commission are to frame a government, etc.

Mr. ALLEN. I do not think there is any State in the Union that authorizes the bonding of the property of the State or Territory at a rate to exceed 5 per cent of the assessed valuation. That is very high.

Mr. FORAKER. I call the Senator's attention to the fact that General Davis and all others agree that there should be a loan made at once of something like $10,000,000, and that would be 10 per cent of $100,000,000. That is what I had in view when I drafted the provision.

Mr. ALLEN. Will the Senator fix the minimum rate of interest on the bonds?

Mr. FORAKER. All that will be subject to approval by Congress, I suppose. I did not try to fix any minimum rate. The governor and the executive council, I imagine, will be men to whom that can be safely intrusted.

Mr. ALLEN. The only thing I have in mind is to prevent an irresponsible tentative government flooding the island with long-time bonds at high rates of interest.

Mr. FORAKER. I appreciate what is in the Senator's mind and I fully sympathize with his thought. I put it at 10 per cent simply because the testimony was that there would be an immediate necessity for a loan of something like $10,000,000. The necessities were pointed out by General Davis in his testimony, and I

have great faith in all that he said. But I think if 7 per cent were the limit, it would perhaps be enough.

Mr. ALLEN. I will consent to a modification and make it 7 per cent.

Mr. FORAKER. I will accept that if the Senator moves that amendment.

Mr. ALLEN. Let it be 7 per cent. But I do wish the Senator would fix a limit to the length of time the bonds can run and fix a maximum rate of interest.

Mr. FORAKER. I do not know enough about how their securities would be regarded in the market to undertake to deal with that in this law. I hope that the President will appoint a governor and executive council to whom that can be safely intrusted.

Mr. CULLOM. Will the Senator from Ohio yield to me for a moment?

Mr. FORAKER. Is it in regard to this matter?

Mr. CULLOM. No, sir; it is not.

Mr. FORAKER. Then let this change be put in first.

Mr. CULLOM. I wish simply to state that the junior Senator from Alabama [Mr. PETTUS] has withdrawn his objection to meeting on Monday at 11 o'clock, and I move that when the Senate adjourn to-day it adjourn to meet at 11 o'clock on Monday.

The PRESIDENT pro tempore. The Senator from Illinois moves that when the Senate adjourn to-day it adjourn to meet at 11 o'clock on Monday.

The motion was agreed to.

The PRESIDENT pro tempore. The Senator from Nebraska moves to strike out "ten" and insert "seven," in line 9, on page 27.

Mr. FORAKER. I accept that.

The PRESIDENT pro tempore. Without objection, it is agreed to. The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

The PRESIDENT pro tempore. The next amendment of the committee will be stated.

The SECRETARY. Insert as an additional section the following:

SEC. 37. That the qualified voters of Puerto Rico shall, on the first Tuesday after the first Monday of November, A. D. 1900, and every two years thereafter, choose a resident commissioner to the United States, who shall be entitled to official recognition as such by all Departments, upon presentation to the Department of State of a certificate of election of the governor of Puerto Rico, and who shall be entitled to a salary, payable monthly by the United States, at the rate of $5,000 per annum: *Provided*, That no person shall be eligible to such election who is not a bona fide citizen of Puerto Rico, who is not 30 years of age, and who does not read and write the English language.

Mr. BACON. I do not know whether the Senator from Ohio desires to press that amendment now in the face of the fact that it will be opposed.

Mr. FORAKER. If it is likely to meet any extended opposition and extended debate, it may be passed over. I understand that there are Senators here who prefer that this amendment should not be adopted, but I hoped that they might not care to argue it, because it is only a part of what has been determined upon in other portions of the bill, and I thought they might be satisfied with voting against it.

Mr. BACON. I regard it as the most radical and vital section of the bill.

Mr. FORAKER. Very well; I shall be glad to pass it over, then, until Monday. I want to hurry through with everything we can agree upon in order that I may have a reprint of the bill.

Mr. BACON. Exactly. I hope the Senate will have time to take up that section on Monday, because, as I said, it is an extremely important one, and it makes two very radical changes. It is a new departure, so far as legislation in this country is concerned. One change is that it denominates these people as citizens of Puerto Rico and does not accord to them the privilege of citizenship. That is a repetition really of what is another section. Am I correct? I call the attention of the Senator from Ohio to the fact that the language in that section is partially the same and covers the same ground as to citizenship as that in section 4, which has not yet been agreed to.

Mr. FORAKER. Very well. I will pass this amendment over. I think that course would be better.

Mr. BACON. It also goes to the extent of denying to these people the right of representation by a Delegate, and provides for a commissioner in the place of a Delegate.

The PRESIDENT pro tempore. The amendment proposed as section 37 will be passed over. The Secretary will read the next amendment.

The SECRETARY. It is proposed to add as an additional section the following:

SEC. 38. That a commission, to consist of three members, at least one of whom shall be a native citizen of Puerto Rico, shall be appointed by the President, by and with the advice and consent of the Senate, to compile and revise the laws of Puerto Rico; also the various codes of procedure and systems of municipal government now in force, and to frame and report such legislation as may be necessary to make a simple, harmonious, and economical government, establish justice and secure its prompt and efficient administration, inaugurate a general system of education and public instruction, provide buildings and funds therefor, equalize and simplify taxation and all the methods of raising revenue, and make all other provisions that may be necessary to secure and extend the benefits of a republican form of government to all the inhabitants of Puerto Rico; and all the expenses of such commissioners, including all necessary clerks and other assistants that they may employ, and a salary to each member of the commission at the rate of $5,000 per annum, shall be allowed and paid out of the treasury of Puerto Rico as a part of the expenses of the government of Puerto Rico. And said commission shall make full and final report of all its proceedings and recommendations to the Congress on or before one year after the passage of this act.

Mr. ALLEN. I move to insert, after the words "Puerto Rico," in line 12, page 28, the words "which shall be in the English language."

Mr. BACON. I do not think it would be proper to limit it to the English language. It would be very much in the condition of the lawmaker who hung his laws so high that the people could not read them.

Mr. FORAKER. Let me understand the amendment proposed by the Senator.

Mr. BACON. The laws certainly ought also to be published in Spanish, if we expect the people who are to be governed by them to understand them.

Mr. ALLEN. It is not my purpose to require a translation into the Spanish language. All official communications, in my judgment, ought to be in the English language, and all judicial procedure should be in the English language.

Mr. FORAKER. I think the laws of Puerto Rico, in view of the fact that 95 per cent of the people speak the Spanish language and no other, ought to be printed also in the Spanish language—that is, for the time being.

Mr. ALLEN. I do not object to that.

Mr. SPOONER. I remind the Senator from Ohio that for many years the laws of New Mexico were printed in both the Spanish and English languages.

Mr. FORAKER. What I was going to say is that I will agree to an amendment——

Mr. ALLEN. What I want is simply that the official copy shall be printed in English, and the judicial procedure. That is all.

Mr. FORAKER. I suggest that after the words "Puerto Rico" there be inserted "in both the English and Spanish languages."

Mr. ALLEN. Very well; shall be printed in both English and Spanish.

Mr. BACON. Where does the Senator propose to insert that?

Mr. FORAKER. After the words "Puerto Rico;" so as to read "to compile and revise the laws of Puerto Rico and prepare the same in both the English and Spanish languages."

Mr. BACON. I wish to suggest to the Senator that if inserted at that point, it would not include the other publications which are provided for in this section; it would not include those in the subsequent sentence to the effect that all of the publications which are to be made by this commission shall be in both the Spanish and in the English languages, because the Senator will perceive that there are a number of things required to be compiled by the commission which are not specified preceding line 12, but, on the contrary, they are specified subsequent to line 12.

Mr. FORAKER. If it will meet the approval of Senators, I will suggest that we add at the end of the section:

And all the proceedings of said commission shall be published in both the English and Spanish languages.

Mr. SPOONER. What does the Senator mean by proceedings?

Mr. BACON. I think that is an objectionable word.

Mr. FORAKER. The proceedings of the commissioners would require the revising and the codifying of the laws and the codes of procedure and all the systems of jurisprudence, etc.

Mr. SPOONER. In order that when laid before the legislature and before the people, they may be intellectually accessible to all classes?

Mr. FORAKER. Yes. I think the amendment I have suggested at the end of the section will meet the requirements of the case.

The PRESIDENT pro tempore. The Senator from Ohio proposes an amendment, which will be stated.

The SECRETARY. At the end of section 38 add:

And all the proceedings of the said commissioners shall be published in the English and Spanish languages.

Mr. CHANDLER. "Proceedings and recommendations."

Mr. BACON. Compilations.

Mr. FORAKER. I thought the word "proceedings" would cover everything.

Mr. CHANDLER. If the Senator from Ohio will look he will see he uses the words "proceedings and recommendations" two lines before; and if he now provides that there shall be published in both languages only the proceedings, it would by implication exclude the recommendations, and the recommendations are the very things that ought to be in both languages.

Mr. FORAKER. Now, before we make any other suggestion, let us understand it. I do not suppose there is any necessity in having it reported to Congress in the Spanish language.

Mr. BACON. I will suggest to the Senator that he use the

words "compilations, revisions." If used after the word "proceedings," in line 3, on page 29, they would cover the requirements, for the commission are required to compile and revise; consequently their work would consist of compilations and revisions.

Mr. FORAKER. But before that provision comes another duty which is imposed upon the commission; that is, of also compiling and revising the various codes; and the language employed would cover that.

Mr. BACON. The words "compilations, revisions," I think will answer. The commission do not legislate.

Mr. FORAKER. Very well; I will accept that suggestion.

Mr. SPOONER. If the Senator will permit me, I hardly see the necessity of the publication of the proceedings of a commission revising statutes.

Mr. FORAKER. I have withdrawn that and accepted the wording suggested by the Senator from Georgia [Mr. BACON].

Mr. SPOONER. If the Senator will pardon me, it has many times happened, and it has been very valuable, that where commissions were appointed to revise the statutes of a State they have reported their recommendations, and have accompanied their reports with explanatory notes as to what the law was, and the changes that had been made; and I think if the Senator—I hope that idea will commend itself to him—will change the language so as to embrace all reports the commission may make—that is, that when they recommend a provision they shall accompany it with explanatory notes showing the changes and the reasons for the changes—that will probably more effectually accomplish what the Senator desires than the language employed in the bill as it now stands.

Mr. FORAKER. I will direct the Senator's attention, if he will allow me, to the last sentence of that section, on page 29, which now reads:

And said commission shall make full and final report of all its proceedings and recommendations to the Congress on or before one year after the passage of this act.

Why not insert there—would it not answer the purpose?—the additional words "make a full and final report of all its proceedings, revisions, compilations, and recommendations in both the English and Spanish languages?"

Mr. SPOONER. As this report is to be made to Congress, and as we are to act upon it, we ought to be advised of the reasons which lead the commission to make changes—a statement of the law as it was and the reasons why they make their emendations.

Mr. FORAKER. With notes.

Mr. SPOONER. With explanatory notes.

Mr. FORAKER. Yes. It would then read:

And said commission shall make full and final report, in both the English and Spanish languages, of all its proceedings, revisions, compilations, and recommendations, with explanatory notes, to the Congress on or before one year after the passage of this act.

Mr. SPOONER. I do not know what would be regarded as "proceedings" in contradistinction to "explanatory notes." Of course, when the commissioners meet they take the text of the law and discuss it from various standpoints, and they arrive at a conclusion.

Mr. BACON. Would it not be well to insert the word "record?"

Mr. SPOONER. This is the record. "Explanatory notes" covers all of that.

Mr. FORAKER. I think that will answer.

Mr. SPOONER. "Revisions, with explanatory notes," would cover it all.

Mr. FORAKER. Then I move, to meet the suggestion of Senators, on page 29, section 28, line 4, after the word "report," to insert "in both the English and Spanish languages;" then, in the same line, after the word "proceedings," to insert "revisions, compilations;" and in the same line, after the word "recommendations," to insert "with explanatory notes;" so that the sentence as amended would read as follows:

And said commission shall make full and final report, in both the English and Spanish languages, of all its proceedings, revisions, compilations, and recommendations, with explanatory notes, to the Congress on or before one year after the passage of this act.

Mr. SPOONER. If the Senator will permit me a moment, it appears to me that it is almost impossible to make a record of the details of the proceedings of a commission to revise statutes. If the Senator will strike out the words "proceedings and," before the word "recommendations," in line 4, so that it will read "recommendations, with explanatory notes, showing the changes and the reasons therefor," that will give to us everything that will enable us to act intelligently upon the report of the commission.

Mr. FORAKER. Then you would have it read "in all its revisions, compilations, recommendations," etc.?

Mr. SPOONER. "With explanatory notes as to the changes, and the reasons therefor."

Mr. FORAKER. "With explanatory notes as to the changes and the reasons therefor?"

Mr. SPOONER. Yes, sir.

Mr. FORAKER. I suppose that information would be in the report, of course; but if that is satisfactory, I will insert the words in that form.

Mr. CHANDLER. I should like to ask the Senator from Ohio to restate his last revision, so that we may understand it before voting upon it.

Mr. FORAKER. I was about to ask the privilege of doing that. The proposition is to insert, in line 4, on page 29, section 38, after the word "report," the words "in both the English and Spanish languages;" in the same line, after the word "its," to strike out "proceedings" and at that place insert "revisions, compilations;" in the same line, after the word "recommendations," to insert "with explanatory notes as to the changes and the reasons therefor."

Mr. BACON. Mr. President, that amendment being disposed of——

The PRESIDENT pro tempore. The amendment is not disposed of as yet.

Mr. BACON. I understood it was.

Mr. FORAKER. I agreed to it, so far as I was concerned.

The PRESIDENT pro tempore. But the clerks at the desk have not stated the amendment. The amendment will be stated to the Senate from the desk.

The SECRETARY. In section 38, on page 29, line 4, after the word "report," it is proposed to insert "in both the English and Spanish languages;" in the same line, after the word "its," to strike out "proceedings" and insert "revisions, compilations;" and in the same line, after the word "recommendations," to insert "with explanatory notes as to the changes and the reasons therefor;" so that the clause, if amended as proposed, would read:

And said commission shall make full and final report in both the English and Spanish languages of all its revisions, compilations, and recommendations, with explanatory notes as to the changes and the reasons therefor, to the Congress on or before one year after the passage of this act.

The amendment to the amendment was agreed to.

Mr. BACON. I want to call the attention of the Senator from Ohio to the fact that while that makes a very proper and satisfactory disposition of the manner in which the report shall be made and of the languages in which it shall be made, there still remains unprovided for in this section what I think is very important, to wit: That these compilations and revisions themselves—not simply the report of them, but the compilations and revisions themselves—should be published both in Spanish and in English; and I would suggest to the Senator that there ought to be language, if not at that particular place, at some other point in the section, which would make provision for this very essential requirement.

Mr. FORAKER. I supposed that was the proper interpretation of this language. The commission can not very well make a full report of the revisions and compilations without publishing the reports and compilations themselves. I think the provision as it stands covers the matter.

Mr. BACON. Of course it would be true that the commission would report to Congress in both languages; but does the Senator understand that that covers the publication which would be required for local use? Of course it is not necessary to report in both languages to Congress.

Mr. FORAKER. Until Congress takes final action upon the report of the commission, of course the acts recommended would not be the law, and I suppose there would be some changes made.

Mr. BACON. Possibly the latter suggestion of the Senator is the proper one.

The PRESIDENT pro tempore. The question is on agreeing to the amendment inserting section 38 as it has been amended.

The amendment as amended was agreed to.

The PRESIDENT pro tempore. The next amendment will be stated.

The SECRETARY. It is proposed to insert as section 39 the following:

SEC. 39. That this act shall take effect and be in force from and after the 1st day of April, 1900.

The PRESIDENT pro tempore. There is an amendment to that section, which will be stated.

The SECRETARY. On page 29, line 8, in section 39, after the words "day of," it is proposed to amend by striking out "April" and inserting "May;" so as to read: "1st day of May, 1900."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. FORAKER. I ask to go back to the beginning of the bill and to act upon the recommendation of the committee that the preamble immediately preceding the enacting clause be stricken from the bill.

The PRESIDENT pro tempore. After the bill has been finally passed, a motion will be in order to strike out the preamble.

Mr. FORAKER. Perhaps that will be the better practice. I will pass that. Then I move that the bill be amended so as to strike out the word "Puerto" wherever it occurs and insert "Porto," so that it will read "Porto Rico" instead of "Puerto Rico."

The PRESIDENT pro tempore. The Senator from Ohio moves that wherever the name of the island occurs as "Puerto Rico" it be changed to "Porto Rico." Without objection, that will be agreed to.

Mr. FORAKER. Now, Mr. President, on page 4 I want to strike out, at the end of line 17, the word "such," and I want to strike out the same word in line 19 on that page.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In section 3, on page 4, line 17, after the word 'all," it is proposed to strike out "such;" and in line 19, after the word "any," to strike out "such;" so as to read:

And from and after such date all merchandise and articles shall be entered at the several ports of entry free of duty; and in no event shall any duties be collected after the 1st day of March, 1902.

Mr. BACON. What is the end to be accomplished by that, I inquire of the Senator?

Mr. FORAKER. It is to make it more definite and certain. Speaking of the last provision first (as I have that before me), that after the 1st day of March, 1902, there shall not be collected any duties levied on goods going into Puerto Rico or coming from there into the United States—and the other relates, as it now reads, to certain goods previously described—I want to make it certain that on no goods going or coming, either way, shall there be any duties levied. That is the only purpose.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Ohio.

Mr. ALLEN. Mr. President——

The PRESIDENT pro tempore. Does the Senator rise to this amendment?

Mr. ALLEN. Yes, sir; I want to ask the Senator from Ohio if he calculates to change the title or name of the government of Puerto Rico?

Mr. FORAKER. I have indicated an amendment that I shall ask to have made after the bill is passed. I understand that, according to the practice and the rule, the title and the preamble are never acted upon until after action is had upon the passage of a bill.

Mr. ALLEN. I am speaking more particularly of the classification of the government, whether it is to have a definite legal status and definition.

Mr. FORAKER. No; if the Senator will look at the bill, he will see printed there the amendment I propose to offer at the proper time.

Mr. ALLEN. In other words, yesterday I called the attention of the Senator from Ohio to the fact that this island was entitled to a Territorial government, and I asked him to consent to the insertion of the word "Territory," so as to make the legal proceedings there run in the name of the "Territory of Puerto Rico," which he declined. I asked him to assent to strike out the words "the people of Puerto Rico" and to insert "Territory of Puerto Rico," which he declined; and he added in that connection that, under the treaty by which we acquired that island, the people of Puerto Rico were not entitled to a Territorial government in the ordinary acceptation of that term, but were only entitled to such a government as Congress saw fit to give to them.

Now, I do not want to unnecessarily consume the time of the Senate, but I think it important that I should call attention to the fact that the words "territory" and "territories" are used six or seven different times in this treaty; and the word "territories" is used in a connection that would indicate as strongly as language is capable of indicating that the people of that island are entitled to a Territorial form of government. These references are to be found in the treaty. In Article IX of the treaty the following language will be found:

Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom.

In the latter part of the same article the word "territory" is again used. In Article X this language is found:

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

So the word "territories" also occurs twice in Article XVI, once in Article XIV, and, I think, in several other articles, indicating clearly that the government to be given those people was an ordinary Territorial government, such as we have given to newly acquired territory.

The PRESIDENT pro tempore. Will the Senator suspend one moment? The Senator from Ohio [Mr. FORAKER] proposes to strike out the word "such" in two places in section 3, and the decision of the Senate has not been announced on that amendment. The Chair asked the Senator from Nebraska if he rose to that amendment, and the Chair understood him to say that he did.

Mr. ALLEN. I did not understand the Chair. We do not hear back here very clearly.

The PRESIDENT pro tempore. The words suggested by the Senator from Ohio [Mr. FORAKER], without objection, will be stricken out. The Chair now recognizes the Senator from Nebraska [Mr. ALLEN].

Mr. FORAKER. If the Senator will allow me, for fear I may forget to do it later, I wish to ask to have a reprint of the bill made, with all the amendments as they have been adopted, so that we may have the bill as it now stands on our desks on Monday morning.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Ohio? The Chair hears none, and it is so ordered. The Senator from Nebraska [Mr. ALLEN] is entitled to the floor.

Mr. ALLEN. I was about through, Mr. President. I will merely add a few words more. I had hoped to be able to call the attention of the Senator from Ohio to the matter so plainly that he could not escape taking some steps to perfect this bill; but if the Senator from Ohio in charge of this bill announces that it is not his purpose nor the policy of his party to give to the Puerto Ricans an ordinary Territorial government, then I suppose those of us who disagree with him will have to content ourselves with voting in the negative when this bill is upon its final passage.

The Senator said yesterday there were certain reasons why that could not be done, and he insisted if I would look in the RECORD this morning I would see those reasons. I have read very carefully the portion of the RECORD containing the remarks of the Senator upon this subject, and I find an entire absence of any reason why the people of Puerto Rico should not be given a Territorial government.

Mr. FORAKER. Mr. President, the amendments which have been adopted, I believe, perfect the bill, except only as to the sections which have been passed over. The only sections passed over, as I understand it—I will state them in their proper order—are sections 6 and 7 and section 37. Is there any other?

Mr. BACON. Sections 2 and 3 have not been agreed to.

Mr. FORAKER. Sections 2 and 3 were adopted as they stand, subject to the right of the Senator from Georgia to move to strike them out.

Mr. BACON. Yes; and to insert.

Mr. FORAKER. The other sections have been adopted. I suppose, however, all of them will be open to amendment in the Senate.

Mr. BACON. Yes.

Mr. FORAKER. I was speaking of their status at this time.

Mr. BACON. Section 6 has not been agreed to.

Mr. FORAKER. Neither section 6 nor section 7 has been agreed to; but sections 2 and 3 were agreed to, subject to amendment, and section 37 has been passed.

Now I yield to the Senator from Alabama.

EXECUTIVE SESSION.

Mr. PETTUS. I move that the Senate adjourn.

Mr. CHANDLER. I ask the Senator if he will kindly change his motion to one for an executive session, which will take not over five minutes?

Mr. PETTUS. 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 ten minutes spent in executive session the doors were reopened, and (at 4 o'clock and 10 minutes p. m.) the Senate adjourned until Monday, April 2, 1900, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate March 31, 1900.

PROMOTIONS IN THE ARMY—INFANTRY ARM.

To be captains.

First Lieut. Charles Miller, Sixteenth Infantry, February 2, 1900, vice French, Second Infantry, retired from active service.

First Lieut. John R. Seyburn, Eighth Infantry, February 3, 1900, vice Frost, Twenty-second Infantry, appointed paymaster, United States Army, who resigns his line commission only.

First Lieut. Truman O. Murphy, Tenth Infantry, February 5, 1900, vice Smith, Nineteenth Infantry, deceased.

To be first lieutenants.

Second Lieut. Charles E. Morton, Twenty-second Infantry, February 2, 1900, vice Miller, Sixteenth Infantry, promoted.

Second Lieut. Van Leer Wills, Twelfth Infantry, February 3, 1900, vice Seyburn, Eighth Infantry, promoted.

Second Lieut. Ethelbert L. D. Breckinridge, Seventh Infantry, February 5, 1900, vice Murphy, Tenth Infantry, promoted.

Second Lieut. Garrison McCaskey, Twenty-fifth Infantry, February 11, 1900, vice Munton, Twelfth Infantry, deceased.

APPOINTMENT IN THE VOLUNTEER ARMY.

To be assistant surgeon with the rank of first lieutenant.

Gustave Moret, of Puerto Rico (late acting assistant surgeon, United States Army), March 30, 1900, to fill an original vacancy, Puerto Rico Regiment, United States Volunteer Infantry.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 31, 1900.

ASSISTANT COMMISSIONER OF PATENTS.

Walter H. Chamberlin, of Chicago, Ill., to be Assistant Commissioner of Patents.

COLLECTOR OF CUSTOMS.

Stuart F. McClearn, of Massachusetts, to be collector of customs for the district of Marblehead, in the State of Massachusetts.

PROMOTIONS IN THE NAVY.

Capt. Charles S. Cotton, to be a rear-admiral in the Navy, from the 27th day of March, 1900.

Lieut. Commander Edward B. Barry, to be a commander in the Navy, from the 9th day of March, 1900.

Lieut. John M. Orchard, to be a lieutenant-commander in the Navy, from the 18th day of February, 1900.

Lieut. John N. Jordan, to be a lieutenant-commander in the Navy, from the 9th day of March, 1900.

Commander Henry W. Lyon, to be a captain in the Navy, from the 27th day of March, 1900.

Lieut. Augustus F. Fechteler, to be a lieutenant-commander in the Navy, from the 27th day of March, 1900.

APPOINTMENT IN THE NAVY.

Christian Joy Peoples, a citizen of California, to be an assistant paymaster in the Navy, from the 27th day of March, 1900.

APPOINTMENTS IN THE MARINE CORPS.

To be second lieutenants.

William Garland Fay, a citizen of New York;
Robert Yancey Rhea, a citizen of Kentucky;
Frank Jacob Schwable, a citizen of Ohio;
Eli Thompson Fryer, a citizen of New Jersey;
Thomas Holcomb, jr., a citizen of Delaware; and
John P. V. Gridley, a citizen of Pennsylvania.

APPOINTMENT IN THE ARMY.

To be chaplain.

Rev. Barton W. Perry, of California, March 24, 1900.

PROMOTIONS IN THE ARMY.

Infantry arm.

First Lieut. Henry J. Hunt, Sixth Infantry, to be captain, January 29, 1900.

Second Lieut. James B. Allison, Seventh Infantry, to be first lieutenant, January 29, 1900.

Second Lieut. John L. De Witt, Twentieth Infantry, to be first lieutenant, January 29, 1900.

APPOINTMENTS IN THE VOLUNTEER ARMY.

To be assistant quartermaster with the rank of captain.

Alvan C. Gillem, of Tennessee (late major, First Tennessee Volunteers), March 24, 1900.

Fortieth Infantry.

First Sergt. Lochlin W. Caffey, Company B, Fortieth Infantry, to be second lieutenant, March 20, 1900.

First Sergt. William Winston, jr., Company L, Fortieth Infantry, to be second lieutenant, March 20, 1900.

PROMOTIONS IN THE VOLUNTEER ARMY.

Thirty-seventh Infantry.

Capt. Benjamin M. Koehler, Thirty-seventh Infantry, to be major.

First Lieut. Charles H. Sleeper, Thirty-seventh Infantry, to be captain.

Second Lieut. Samuel B. McIntyre, Thirty-seventh Infantry, to be first lieutenant.

POSTMASTERS.

A. W. Fletcher, to be postmaster at Highland Park, in the county of Lake and State of Illinois.

James L. Moorhead, to be postmaster at Boulder, in the county of Boulder and State of Colorado.

J. W. Harvey, to be postmaster at Monrovia, in the county of Los Angeles and State of California.

Emma Hapgood, to be postmaster at Marysville, in the county of Yuba and State of California.

Oliver P. Kendrick, to be postmaster at West Brookfield, in the county of Worcester and State of Massachusetts.

F. Horton Johnson, to be postmaster at Vineyard Haven, in the county of Dukes and State of Massachusetts.

Fred H. Atwood, to be postmaster at Rumford Falls, in the county of Oxford and State of Maine.

E. O. Dewey, to be postmaster at Owosso, in the county of Shiawassee and State of Michigan.

William H. Pierce, to be postmaster at Winchendon, in the county of Worcester and State of Massachusetts.

Edmund W. Nutter, to be postmaster at East Bridgewater, in the county of Plymouth and State of Massachusetts.

Gilbert W. Randall, to be postmaster at Newman Grove, in the county of Madison and State of Nebraska.

Bernard Monnich, to be postmaster at Hooper, in the county of Dodge and State of Nebraska.

Walter W. Harrington, to be postmaster at North Branch, in the county of Lapeer and State of Michigan.

Herbert Lloyd, to be postmaster at Chapel Hill, in the county of Orange and State of North Carolina.

Merrill Hosmer, to be postmaster at Potsdam, in the county of St. Lawrence and State of New York.

William Royer, to be postmaster at Seward, in the county of Seward and State of Nebraska.

Henry F. Hershey, to be postmaster at Steelton, in the county of Dauphin and State of Pennsylvania.

Daniel G. Engle, to be postmaster at Marietta, in the county of Lancaster and State of Pennsylvania.

Charles A. Hartley, to be postmaster at Pomeroy, in the county of Meigs and State of Ohio.

J. K. P. Marshall, to be postmaster at Cleveland, in the county of Bradley and State of Tennessee.

William D. Williams, jr., to be postmaster at McDonald, in the county of Washington and State of Pennsylvania.

Henry D. Ruth, to be postmaster at Lansdale, in the county of Montgomery and State of Pennsylvania.

Henry J. Goddard, to be postmaster at Chippewa Falls, in the county of Chippewa and State of Wisconsin.

Charles P. Ziegenhals, to be postmaster at Bastrop, in the county of Bastrop and State of Texas.

James I. Carter, to be postmaster at Arlington, in the county of Tarrant and State of Texas.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 31, 1900.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

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

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. BROWN, for ten days, on account of important business.

FISHING FOR MUSSELS—THE YACHT ANDRIA.

Mr. GROSVENOR. Mr. Speaker, I am authorized by the Committee on Merchant Marine and Fisheries to report back House bill 8246 and House bill 5026, with the request that they lie upon the table, and I ask unanimous consent that the action of the committee be agreed to.

The SPEAKER. The Clerk will report the titles to the bills.

The Clerk read as follows:

A bill (H. R. 8246) to regulate the fishing for mussels in the fresh waters of the United States.

A bill (H. R. 5026) to extend the privileges of section 4216 of the Revised Statutes to the yacht *Andria*.

The SPEAKER. The gentleman from Ohio, chairman of the Committee on Merchant Marine and Fisheries, by direction of that committee, asks that these bills lie upon the table. If there is no objection, that order will be made.

There was no objection.

DAM BETWEEN COON RAPIDS AND THE NORTH LIMITS OF THE CITY OF MINNEAPOLIS, MINN.

Mr. FLETCHER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 9713) permitting the building of a dam between Coon Rapids and the north limits of the city of Minneapolis, Minn., across the Mississippi River.

The SPEAKER. The gentleman from Minnesota asks unanimous consent for the present consideration of House bill 9713, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the Twin City Rapid Transit Company, its successors or assigns, to construct across the Mississippi River, at any point between Coon Rapids and the north line of the limits of the city of Minneapolis, a dam, canal, and works necessarily incident thereto, for water-power purposes. The said dam shall be so constructed that there can, at any time, be constructed in connection therewith a suitable lock for navigation purposes: *Provided also*, That the Government of the United States may, at any time, take possession of said dam and appurtenant works and control the same for purposes of navigation by paying the said company the value not exceeding the actual cost of the same, but shall not do so to the destruction of the water power created by said dam to any greater extent than may be necessary to provide proper facilities for navigation: *Provided further*, That the works shall be constructed so as to provide for the free passage of saw logs. The said Twin City Rapid Transit Company shall make such change and modification in the works as the Secretary of War may, from time to time, deem necessary in the interests of navigation, at its own cost and expense: *Provided further*, That in case any litigation arises from the obstruction of the channel by the dam, canal, or appurtenant works, the case may be tried in the proper Federal court of the United States in which the works are situated.