Grand Army of the Republic, of Brashear, Mo., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. LORIMER: Petition of Rubel, Silienfeld & Co., of Chicago, against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. LOVERING: Petitions of C. A. Jenney and 83 others, of Brockton; George H. Weatherbee and 16 others, of Marshfield; Henry H. Chace and 31 others, of Middleburg; Atkins Hughes and 12 others, of North Truro; Joseph Chamberlain and 52 others, of Taunton, and the Woman's Christian Temperance Union and other bodies, of Wareham, all in Massachusetts, in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. McCLEARY of Minnesota: Resolution of the Builders and Traders' Exchange of Minneapolis, Minn., against passage of an eight-hour bill—to the Committee on Labor.

By Mr. MIERS of Indiana: Paper to accompany bill granting a pension to James C. McCarty—to the Committee on Invalid Pensions.

By Mr. OTJEN: Petition of Henry Wallheim and 16 others, of Milwaukee, Wis., against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. PAYNE: Petition of the Poplar Ridge Young People's Society of Christian Endeavor, of Venice, Cayuga County, N. Y., for the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. ROBINSON of Indiana: Petition of 86 citizens of Indian Territory, protesting against annexation to or absorption by Oklahoma of Indian Territory as against treaty rights, and for other reasons—to the Committee on the Territories.

By Mr. RYAN: Petition of the Central Yellow Pine Association, in favor of the Cooper bill to increase the power of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, resolution of Buffalo (N. Y.) Lodge, No. 277, Brotherhood of Boiler Makers and Iron-ship Builders, relative to the merchant marine—to the Committee on the Merchant Marine and Fisheries.

Also, petition of John W. Wilkeson Circle, Ladies of the Grand Army of the Republic, Department of New York, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, resolution of the Chicago Real Estate Board, in favor of the Mann bill to remove tunnels in Chicago River—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Kentucky: Papers to accompany bill for the relief of Fred Hamilton—to the Committee on Military Affairs.

Also, papers to accompany bill H. R. 1798, granting a pension to Jefferson G. Brown—to the Committee on Invalid Pensions.

Also, papers to accompany bill for the relief of the estate of Robert Holbrook—to the Committee on War Claims.

By Mr. WM. ALDEN SMITH: Resolution of J. M. Pond Circle, No. 23, Ladies of the Grand Army of the Republic, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of Typographical Union No. 39, of Grand Rapids, Mich., in favor of an anti-injunction bill—to the Committee on the Judicary.

Also, petition of Typographical Union No. 39, of Grand Rapids, Mich., in favor of an eight-hour bill—to the Committee on Labor.

Also, resolution of Cascade Grange, Patrons of Husbandry, of Michigan, in favor of a good-roads bill—to the Committee on Agriculture.

By Mr. SPIGHT: Paper to accompany bill for relief of estate of Nancy Barrow, deceased—to the Committee on War Claims.

By Mr. STEPHENS of Texas: Petition of Lodge No. 381, Brotherhood of Boiler Makers and Iron-ship Builders of America, of Amarillo, Tex., relative to the merchant marine—to the Committee on the Merchant Marine and Fisheries.

By Mr. STEVENS of Minnesota: Petition of North St. Paul Casket Company, in favor of bill H. R. 9302—to the Committee on Ways and Means.

Also, petition of the International Brotherhood of Blacksmiths of St. Paul, Minn., relative to increasing the capacity of the Naval Gun Factory—to the Committee on Naval Affairs.

Also, petition of the faculty and students of Macalester College, St. Paul, Minn., in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petitions of John F. Wilcox, of Minneapolis; the Commercial Club of St. Paul; the Kimball and Storer Company, of Minneapolis, and the St. Paul Chamber of Commerce, all in Minnesota, against the passage of an eight-hour law—to the Committee on Labor.

Also, resolutions of the Builders and Traders' Exchange of Minneapolis, Minn., against the passage of an eight-hour law—to the Committee on Labor.

By Mr. SULZER: Resolution of the Men's Social Club of Grace Chapel, New York City, in favor of restricting immigration—to the Committee on Immigration and Naturalization.

Also, resolution of the drug trade section of the New York Board of Trade and Transportation, favoring reduction of the tax on alcohol—to the Committee on Ways and Means.

Also, petition of A. H. Bliss, of Chicago, Ill., in favor of bill H. R. 2895—to the Committee on Invalid Pensions.

By Mr. TAWNEY: Petition of women's clubs of Rochester, Minn., for the passage of a bill creating a national forest reserve in the White Mountains, New Hampshire—to the Committee on Agriculture.

Also, petition of citizens of St. Paul, Minn., protesting against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. THAYER: Petitions of the president of the Boston Chamber of Commerce and the president of the Boston Merchants' Association, in favor of the reorganization of the consular service—to the Committee on Foreign Affairs.

By Mr. WEISSE: Resolution of William McKinley Circle, No. 17, Ladies of the Grand Army of the Republic, of Lancaster, Wis., in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, resolution of the Wisconsin Retail Lumber Dealers' Association, in favor of a bill to regulate the carriage of interstate freight, etc.—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Waupun Quarterly Meeting of Free Will Baptists, in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petition of the Beaver Dam Business Men's Association, against the passage of a parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. WILEY of Alabama: Resolution of the Southern Branch of the National Dental Association, relative to the dental profession in the Navy and against the passage of bill S. 4032—to the Committee on Naval Affairs.

## SENATE.

### TUESDAY, *March 15, 1904.*

Prayer by the Chaplain, Rev. EDWARD EVERETT HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved, if there be no objection. The Chair hears none, and it is approved.

#### INSPECTION OF MEAT, ETC.

The PRESIDENT pro tempore laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting, in response to a resolution of the 3d instant, a report of the health officer of the District of Columbia relative to the inspection of meat, poultry, game, fish, etc., in the District; which, with the accompanying paper, was referred to the Committee on the District of Columbia, and ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed with amendments the bill (S. 885) granting a pension to Sarah A. Gillham in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10669) to regulate the issue of licenses for Turkish, Russian, or medicated baths in the District of Columbia, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. BABCOCK, Mr. SAMUEL W. SMITH, and Mr. MEYER of Louisiana managers on the part of the House.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 1956) to authorize an exchange of sites for the public buildings of Garland County, Ark.;

A bill (H. R. 5067) to prevent the fraudulent sale of merchandise;

A bill (H. R. 9331) to extend the time for the completion of the East Washington Heights Traction Railroad Company;

A bill (H. R. 10306) to authorize a duplicate medal to be struck off and presented to John Horn, of Detroit, Mich., for life-saving; and

A bill (H. R. 13212) for the establishment of Dayton, Ohio, as a port of entry.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President pro tempore:

A bill (H. R. 819) to quitclaim all interest of the United States of America in and to all of square 1131, in the city of Washington, D. C., to Sidney Bieber; and

A bill (H. R. 10761) to authorize the Secretary of War to accept from the citizens of Missoula, Mont., deeds donating to the United States certain lands for the enlargement of the military reservation of Fort Missoula, Mont.

PETITIONS AND MEMORIALS.

Mr. DILLINGHAM presented petitions of sundry citizens of Ryegate, Rochester, and Barnard; of the congregation of the Reformed Presbyterian Church of Ryegate; of the congregation of the Congregational Church of Jamaica, and of the congregation of the Congregational Church of West Townshend, all in the State of Vermont, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. BURROWS presented a petition of the St. Paul Mite Society, of Michigan, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented petitions of sundry citizens of Howell, Mich., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. CLARK of Wyoming presented a petition of the Board of Trade of Saratoga, Wyo., and a petition of Local Lodge No. 46, Brotherhood of Boiler Makers and Iron-ship Builders, of Cheyenne, Wyo., praying for the enactment of legislation to develop the American merchant marine; which were referred to the Committee on Commerce.

Mr. McCUMBER presented the petition of Dr. Bayard E. Ryder, of Oakes, N. Dak., praying for the enactment of legislation to increase the efficiency of the medical department of the Army, and also that an appropriation of $400,000 be made for the erection in the District of Columbia of a general hospital for the Army; which was referred to the Committee on Military Affairs.

Mr. NELSON presented a petition of sundry citizens of Douglas County, Minn., praying that an appropriation be made to increase the salaries of rural free-delivery letter carriers; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Gate City Lodge, No. 201, Brotherhood of Boiler Makers and Iron-ship Builders, of Winona, Minn., praying for the enactment of legislation to develop the American merchant marine; which was referred to the Committee on Commerce.

He also presented a memorial of the Builders and Traders' Exchange of Minneapolis, Minn., remonstrating against the passage of the so-called "eight-hour bill;" which was referred to the Committee on Education and Labor.

He also presented a memorial of sundry citizens of Minnesota, remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

Mr. SCOTT presented a petition of Local Lodge No. 104, International Association of Machinists and Iron-ship Builders, of Huntington, W. Va., praying for the enactment of legislation to develop the merchant marine; which was referred to the Committee on Commerce.

Mr. GALLINGER presented petitions of the Unity Club, of Goffstown; of the Woman's Club of Rochester; of the Concordia Club of Concord; of the Current Events Club of Manchester; of the Fourteenth Club, of Manchester; of the Woman's Club of Conway; of the Outlook Club, of Manchester; of the East Side Current Events Club, of Exeter; of the Nineteenth Century Club of Manchester; of the Current Events Club of Keene; of the Woman's Club of Plymouth; of the Colonial Club, of Littleton; of the Woman's Club of Hillsboro Bridge; of the Woman's Club of Derry; of the Interrogation Club, of Manchester; of the Woman's Club of Tilton; of the Fortnightly Club, of Keene; of the Woman's Club of Lisbon; of the Audubon Club, of Manchester; of the Advance Club, of Manchester; of Greenland Grange, of Greenland; of Crystal Lap Grange, No. 101, of Gilmanton; of Cook Grange, No. 256, of Stratford; of Weirs Grange, No. 248, of Laconia; of Golden Rod Grange, of Swanzey; of Pomona Grange, of Keene; of Mount Belknap Grange, No. 52, of Gilford; of Carroll Grange, No. 160, of Ossipee; of Glen Grange, No. 279, of Bartlett; of Spofford Grange, of West Chesterfield; of Honor Bright Grange, No. 153, of Sullivan; of Star King Grange, of Jefferson; of Penacock Grange, No. 84, of West Concord; of Freedom Grange, of Freedom; of Fremont Grange, No. 180, of Fremont; of Kingston Grange, of Kingston; of Prentice Hill Grange, of East Alstead; of Uncanoomic Grange, of Goffstown; of Deerfield Grange, No. 74, of Deerfield; of Bartlett Grange, No. 104, of Salisbury, and of Peaked Hill Grange, No. 269, of Gilmanton, all of the Patrons of Husbandry, in the State of New Hampshire, praying for the enactment of legislation to purchase a national forest reserve in the White Mountains of New Hampshire; which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of sundry citizens of Concord, N. H., and a petition of sundry citizens of Laconia, N. H., praying for the enactment of legislation to increase the salaries of rural free-delivery mail carriers; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Charles A. Gifford, of New York City, and the petition of C. M. Bartberger, of the United States, praying for the enactment of legislation to regulate the erection of buildings on the Mall at Washington, D. C.; which were referred to the Committee on Appropriations.

Mr. DRYDEN presented a petition of Local Lodge No. 316, Brotherhood of Boiler Makers and Iron-ship Builders, of Newark, N. J., praying for the enactment of legislation to develop the American merchant marine; which was referred to the Committee on Commerce.

He also presented a petition of the congregation of the Central Presbyterian Church of Newark, N. J., and a petition of the congregation of the First Congregational Church of East Orange, N. J., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented petitions of Rev. G. F. Greene, of Cranford; of the Young People's Society of Christian Endeavor of Knowlton, and of the Young People's Society of Christian Endeavor of the Presbyterian Church of Milford, all in the State of New Jersey, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. LONG presented a petition of sundry citizens of Wilson, Kans., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a memorial of Arkansas City Grange, No. 1452, Patrons of Husbandry, of Arkansas City, Kans., and the petition of E. E. Brown, of Wellington, Kans., remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Local Lodge No. 292, Brotherhood of Boiler Makers and Iron-ship Builders, of Parsons, Kans., and a petition of Local Lodge No. 453, Brotherhood of Boiler Makers and Iron-ship Builders, of Hoisington, Kans., praying for the enactment of legislation to develop the American merchant marine; which were referred to the Committee on Commerce.

He also presented petitions of sundry citizens, veterans of the war of the rebellion, of Peabody; of George H. Thomas Circle, of Kansas, and of Allison Circle, of Vermilion, all of the Department of Kansas, Ladies of the Grand Army of the Republic, in the State of Kansas, praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

He also (for Mr. BURTON) presented a petition of Circle No. 86, Department of Kansas, Ladies of the Grand Army of the Republic, of Kansas City, Kans., praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

He also (for Mr. BURTON) presented petitions of Helpers' Division No. 4, Brotherhood of Boiler Makers and Iron-ship Builders, of Kansas City; of Herington Lodge, No. 340, Brotherhood of Boiler Makers and Iron-ship Builders, of Herington, and of Bad Water Lodge, No. 403, Brotherhood of Boiler Makers and Iron-ship Builders, of Hoisington, all in the State of Kansas, praying for the enactment of legislation to develop the American merchant marine; which were referred to the Committee on Commerce.

He also (for Mr. BURTON) presented petitions of sundry citizens of Bennington, Sabetha, Washington, Clay Center, Athol, and Effingham, all in the State of Kansas, praying for the enactment of legislation to regulate the interstate transportion of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. MALLORY presented a petition of sundry citizens of South Lake Weir, Fla., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of the congregation of the Congregational Church of Daytona, Fla., and a petition of sundry citizens of West Palm Beach, Fla., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. CLARK of Montana presented a petition of sundry citizens of Granite, Mont., praying for the passage of the so-called "Brownlow good-roads bill;" which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the board of directors of the Helena Improvement Society, of Helena, Mont., praying for the enactment of legislation providing for the preservation of the Cal-

averas grove of big trees in California; which was referred to the Committee on Agriculture and F restry.

He also presented petitions of the Woman's Christian Temperance Union of Dawson County, of the King's Daughters of the Pr sbyterian Church of Philipsburg, of the Ladies' Aid Society of the Methodist Episcopal Church of Philipsburg, and of the Epworth League of the Methodist Episcopal Church of Philipsburg, all in the State of Montana, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented memorials of sundry citizens of Belt, of the Implement and Hardware Dealers' Association of Helena, and of the Business Men's Association of Helena, all in the State of Montana, remonstrating against the passage of the so-called "parcels-post bill;" which were referred to the Committee on Post-Offices and Post-Roads.

Mr. BEVERIDGE presented a petition of the congregation of the First Methodist Episcopal Church of South Bend, Ind., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of Harrison Grange, No. 2133, Patrons of Husbandry, of Corydon, Ind., praying for the enactment of legislation to establish a Bureau of Public Highways in the Department of Agriculture; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Lodge No. 334, Brotherhood of Boiler Makers and Iron-ship Builders, of Princeton, Ind., praying for the enactment of legislation to develop the American merchant marine; which was referred to the Committee on Commerce.

Mr. BARD presented petitions of the Northern California Indian Association, praying that lands in severalty be granted to the landless Indians of northern California; which were referred to the Committee on Indian Affairs.

Mr. FAIRBANKS presented a petition of Local Lodge No. 334, Brotherhood of Boiler Makers and Iron-ship Builders, of Princeton, Ind., praying for the enactment of legislation to develop the American merchant marine; which was referred to the Committee on Commerce.

He also presented the petition of Joseph Griffith and sundry other citizens of Atwood, Ind., praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

He also presented the petition of Joseph Griffith and sundry other citizens of Atwood, Ind., praying for the passage of the so-called "prisoners-of-war pension bill;" which was referred to the Committee on Pensions.

He also presented memorials of the Peru Mercantile Company, of Peru; of the Van Vamp Hardware and Iron Company, of Indianapolis, and G. E. Bursley & Co., of Fort Wayne, all in the State of Indiana, remonstrating against the enactment of legislation to prevent the indiscriminate shipping of so-called "high explosives;" which were referred to the Committee on Interstate Commerce.

He also presented petitions of the congregation of the First Methodist Episcopal Church of South Bend, of the congregation of the First Methodist Episcopal Church of Fairmount, of the Woman's Christian Temperance Union of Fairmount, of the congregation of the Wesleyan Methodist Church of Fairmount, of the congregation of the Friends Church of Spiceland, and of Amos French and 23 other citizens of Bluffton, all in the State of Indiana, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

Mr. PLATT of Connecticut presented a petition of Local Lodge No. 61, Brotherhood of Boiler Makers and Iron-ship Builders, of New Haven, Conn., praying for the enactment of legislation to develop the American merchant marine; which was referred to the Committee on Commerce.

He also presented a petition of the board of selectmen of Southington, Conn., praying for the passage of the so-called "Brownlow good-roads bill;" which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of sundry citizens of Groton, Stonington, Winchester, Danbury, Waterbury, Windham, Meriden, and Milford; of the Woman's Christian Temperance Union of Milford; of the congregation of the Methodist Episcopal Church of Danbury; of the Woman's Christian Temperance Union of East Lynn; of the congregations of the Methodist Episcopal and Second Congregational churches of Winchester; of the Young Men's Christian Association of Waterbury, and of the Woman's Christian Temperance Union of Stonington, all in the State of Connecticut, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of the Indian Territory, remonstrating against the enactment of any legislation providing for the annexation to or absorption by Oklahoma of the Indian Territory; which were referred to the Committee on Territories.

Mr. PENROSE presented petitions of the congregation of the Presbyterian Church of Cross Creeks Village; of the congregation of the Baptist Church of Northeast; of the congregation of the Cross Roads Church, of Florence; of the congregation of the Presbyterian Church of Nottingham; of sundry citizens of Lewis Run; of the congregation of the Methodist Protestant Church of Kittanning; of the congregation of the Trinity Evangelical Lutheran Church, of Selinsgrove, and of sundry citizens of South Philadelphia, all in the State of Pennsylvania, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Sugar Creek and Chaddsford; of the Woman's Christian Temperance Union of Titusville; of the congregation of the Methodist Episcopal Church of Wattsburg; of the congregation of the Presbyterian Church of Wattsburg; of the congregation of St. Paul's Church, of Oaks; of the Young Men's Christian Association of Franklin; of the congregation of the United Evangelical Church of Franklin, and of the congregation of the Presbyterian Church of Franklin, all in the State of Pennsylvania, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. GAMBLE presented a petition of Local Union No. 1440, United Brotherhood of Carpenters and Joiners, of Lead, S. Dak., praying for the passage of the so-called "eight-hour bill;" which was referred to the Committee on Education and Labor.

He also presented a memorial of sundry citizens of Bowdle, S. Dak., remonstrating against the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Fortnightly Club of Rapid City, S. Dak., praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented the petition of Dr. R. T. Dott, of Salem, S. Dak., praying for the enactment of legislation to increase the efficiency of the Medical Department of the Army; which was referred to the Committee on Military Affairs.

### REPORTS OF COMMITTEES.

Mr. BURROWS, from the Committee on Finance, to whom was referred the bill (S. 3944) for the relief of G. F. Tarbell, reported it without amendment.

Mr. PENROSE, from the Committee on Finance, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. 8505) for the relief of the estate of Cyrus D. Hottenstein, deceased;

A bill (H. R. 6937) for the relief of the estate of Elizabeth S. Cushing; and

A bill (H. R. 10688) for the relief of Johann A. Killian.

### EXEMPTION FROM HEAD TAX.

Mr. LODGE. I am directed by the Committee on Immigration, to whom was referred the bill (H. R. 11443) to extend the exemption from head tax to citizens of Newfoundland entering the United States, to report it without amendment. I ask for its present consideration.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to amend section 1, chapter 1012, of the Statutes at Large of the United States of America (57th Cong., 2d sess.), by inserting in line 4, after the word "Canada," the word "Newfoundland;" so as to read as follows:

That there shall be levied, collected, and paid a duty of $2 for each and every passenger not a citizen of the United States, or of the Dominion of Canada, Newfoundland, the Republic of Cuba, or of the Republic of Mexico, who shall come by steam, sail, or other vessel from any foreign port to any port within the United States, or by any railway or any other mode of transportation from foreign contiguous territory to the United States. The said duty shall be paid to the collector of customs of the port or customs district to which said alien passenger shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of every such vessel or transportation line. The money thus collected shall be paid into the United States Treasury and shall constitute a permanent appropriation, to be called the "immigrant fund," to be used under the direction of the Secretary of the Treasury to defray the expense of regulating the immigration of aliens into the United States under this act, including the cost of reports of decisions of the Federal courts, and digests thereof, for the use of the Commissioner-General of Immigration, and the salaries and expenses of all officers, clerks, and employees appointed for the purposes of enforcing the provisions of this act.

The duty imposed by this section shall be a lien upon the vessels which shall bring such aliens to ports of the United States, and shall be a debt in favor of the United States against the owner or owners of such vessels, and the payment of such duty may be enforced by any legal or equitable remedy.

The head tax herein provided for shall not be levied upon aliens in transit through the United States nor upon aliens who have once been admitted into the United States and have paid the head tax who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury, by agreement with transportation lines, as provided in section 32 of this act, may arrange in some other manner for the payment of the duty imposed by this section upon aliens seeking admission overland, either as to all or as to any such aliens.

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

HEARING BEFORE COMMITTEE ON EDUCATION AND LABOR.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. MCCOMAS on the 12th instant, reported it without amendment, and it was considered by unanimous consent, and agreed to, as follows:

*Resolved*, That the Committee on Education and Labor be, and the same is hereby, authorized to employ a stenographer, from time to time as may be necessary, to report the hearings which may be had by the committee or its subcommittees on bills coming before said committee; to sit during the sessions of the Senate; to have its hearings printed, and that any expense incurred shall be paid out of the contingent fund of the Senate.

JAMES T. KILBRETH AND OTHERS.

Mr. PLATT of New York. I am directed by the Committee on Finance, to whom was referred the bill (H. R. 11928) for the relief of James T. Kilbreth, George R. Bidwell, and Nevada N. Stranahan, as collectors of customs for the district and port of New York, to report it without amendment, and I submit a report thereon. I ask for the present consideration of the bill.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to relieve James T. Kilbreth, George R. Bidwell, and Nevada N. Stranahan, holding successively the office of collector of customs for the district and port of New York during the period hereinafter stated, and their estates of all liability to the United States by reason of the losses to the Government, aggregating $8,821.34, occurring through the defalcations and embezzlements at various times from July 1, 1895, to February 6, 1903, of Byram W. Winters, a clerk then in the customs service, in charge of the United States customs bureau at the post-office building in the city of New York and of the collection of duties on packages received through the foreign mails, such losses having occurred without default or negligence of the said collectors of customs.

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

HEARINGS BEFORE COMMITTEE ON INTEROCEANIC CANALS.

Mr. PLATT of New York, from the Committee on Interoceanic Canals, reported the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Committee on Interoceanic Canals be, and the same is hereby, authorized to employ a stenographer, from time to time as may be necessary, to report the hearings which may be had by the committee or its subcommittees on bills coming before said committee; to sit during the sessions of the Senate; to have its hearings printed, and that any expense incurred shall be paid out of the contingent fund of the Senate.

BILLS INTRODUCED.

Mr. DILLINGHAM introduced a bill (S. 5056) granting an increase of pension to James D. Folsom; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DOLLIVER introduced a bill (S. 5057) granting an increase of pension to Philander S. Wright; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MONEY introduced a bill (S. 5058) for the completion of the rolls of the Mississippi Choctaws, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. FRYE introduced a bill (S. 5059) granting an increase of pension to Tobias Meader; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 5060) to correct the military record of John Bender; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 5061) to correct the military record of George I. Spangler; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 5062) granting a pension to Fanny Bonner;

A bill (S. 5063) granting an increase of pension to Green Yeiser; and

A bill (S. 5064) granting a pension to Emanuel F. Ditzler.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BALL submitted an amendment proposing to appropriate $37,343.58 to pay the Delaware, Maryland and Virginia Railroad Company for the construction and maintenance of a bridge across the inland waterway at Rehoboth, Del., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to appropriate $50,874.53 to reimburse the State of Texas for expenses incurred in maintaining a civil government, etc., in what was then known as Greer County, Tex., now known as Greer County, Okla., etc., intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BURROWS submitted an amendment proposing to appropriate $78,329.25 to pay certain Pottawatomie Indians, of Michigan, the amounts found due by the Court of Claims in the case of Phineas Pamtopee and others against the United States, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GAMBLE submitted an amendment authorizing the Secretary of the Interior to issue patents in fee severally to Joseph R. Browne, Augusta Browne, Jennie Browne, Susan F. Browne, Thomas A. Robertson, and Ida Robertson, members of the Sisseton and Wahpeton tribe of Indians, for lands heretofore allotted them in Roberts County, S. Dak., etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indians Affairs, and ordered to be printed.

FORT HALL INDIAN RESERVATION.

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

*Resolved by the Senate (the House of Representatives concurring)*, That the President be requested to return to the Senate the bill (S. 2323) relating to ceded lands on the Fort Hall Indian Reservation, that a clerical error appearing therein may be corrected.

ESTATE OF JAMES B. EADS.

Mr. COCKRELL. I submit a resolution calling for information from the Treasury Department, and I ask for its adoption.

The resolution was read, as follows:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate the amount of the balance of interest which in the case of the executors of the estate of James B. Eads, deceased, *v.* The United States (38 Ct. Cls., 275), the Court of Claims on the 2d day of February, 1903, decided was withheld from claimants in violation of the contract of said Eads with the United States, and which was not included in the judgment rendered in favor of the claimants in said case for the reason that the same was barred by the statute of limitations.

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

Mr. HOPKINS. I desire to look into the matter a little, and I object for the present.

The PRESIDENT pro tempore. The resolution goes over under the rule.

ROADS AND ROAD BUILDING.

Mr. GALLINGER. I ask consent that 1,000 additional copies of the hearing before the Committee on Agriculture and Forestry on roads and road building be printed, to be deposited in the document room.

The PRESIDENT pro tempore. The Senator from New Hampshire asks that of the paper which he sends to the desk, printed as a document, 1,000 additional copies be printed for the document room. The Chair hears no objection to the request, and the order is made.

The order was reduced to writing, as follows:

*Ordered*, That 1,000 copies of the report of the hearing before the Committee on Agriculture and Forestry of the United States Senate, held on Tuesday, January 26, 1904, be printed as a Senate document and deposited in the Senate document room.

JANE I. LONG.

Mr. MCCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3274) granting an increase of pension to Jane I. Long, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows: That the House recede from its amendment.

P. J. MCCUMBER,
N. B. SCOTT,
*Managers on the part of the Senate.*

HENRY R. GIBSON,
ROBERT W. MIERS,
C. A. SULLOWAY,
*Managers on the part of the House.*

The report was agreed to.

WILLIAM W. JACKSON.

Mr. MCCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1543) granting an increase of pension to William W. Jackson, having met, after full and free conference

have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

P. J. McCUMBER,
N. B. SCOTT,
*Managers on the part of the Senate.*
HENRY R. GIBSON,
ROBERT W. MIERS,
C. A. SULLOWAY,
*Managers on the part of the House.*

The report was agreed to.

REPORT OF PAN-AMERICAN RAILWAY.

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

*To the Senate and House of Representatives:*

I transmit herewith, for the information of Congress, a letter from the Secretary of State submitting a copy of the report of the commissioner appointed to carry out the resolution with respect to the Pan-American Railway, adopted by the Second International Conference of American States held in the City of Mexico during the winter of 1901-2.

THEODORE ROOSEVELT.

WHITE HOUSE,
*Washington, March 15, 1904.*

LOUISIANA PURCHASE EXPOSITION.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Select Committee on Industrial Expositions:

*To the Senate and House of Representatives:*

I transmit herewith a report from the Secretary of State, covering a statement showing the receipts and disbursements of the Louisiana Purchase Exposition Company for the month of January, 1904, furnished by the Louisiana Purchase Exposition Commission in pursuance of section 11 of the act to provide for celebrating the one hundredth anniversary of the purchase of the Louisiana territory, etc., approved March 3, 1901.

THEODORE ROOSEVELT.

WHITE HOUSE, *March 15, 1904.*

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (H. R. 5067) to prevent the fraudulent sale of merchandise; and

A bill (H. R. 9331) to extend the time for completion of the East Washington Heights Traction Railroad Company.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. 10306) to authorize a duplicate medal to be struck off and presented to John Horn, of Detroit, Mich., for life-saving; and

A bill (H. R. 13212) for the establishment of Dayton, Ohio, as a port of delivery.

The bill (H. R. 1956) to authorize an exchange of sites for the public buildings of Garland County, Ark., was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

SARAH A. GILLHAM.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 885) granting a pension to Sarah A. Gillham.

The amendments of the House were, in line 9, after "month," to insert "in lieu of that she is now receiving;" and to amend the title so as to read: "An act granting an increase of pension to Sarah A. Gillham."

Mr. McCUMBER. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

LICENSES FOR BATH ESTABLISHMENTS.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10669) to regulate the issue of licenses for Turkish, Russian, or medicated baths in the District of Columbia, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GALLINGER. I move that the Senate insist upon its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate, and Mr. GALLINGER, Mr. HANSBROUGH, and Mr. MARTIN were appointed.

RED LAKE RIVER BRIDGE.

Mr. NELSON. I ask unanimous consent for the immediate consideration of the bill (S. 4402) permitting the building of a railway bridge across the Red Lake River at the city of Thief River Falls, in the county of Red Lake and State of Minnesota.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in section 1, page 2, line 10, after the word "War," to strike out:

*And provided further*, That such bridge and the appurtenant works shall be so constructed as to permit the free passage of saw logs without unreasonable hindrance and delay.

And to insert—

and any changes in said bridge which the Secretary of War may at any time order in the interest of navigation shall be promptly made by said company at its own expense.

So as to make the section read:

That the consent of Congress is hereby granted to the Minneapolis, St. Paul and Sault Ste. Marie Railway Company, a railway corporation organized under the laws of the States of Michigan, Wisconsin, Minnesota, and North Dakota, its successors or assigns, to build a railway bridge across the Red Lake River at the city of Thief River Falls, in the county of Red Lake and State of Minnesota: *Provided*, That the plans for the construction of said bridge and appurtenant works shall be submitted to and approved by the Chief of Engineers and the Secretary of War before the commencement of the construction of such bridge: *And provided further*, That said Minneapolis, St. Paul and Sault Ste. Marie Railway Company, its successors or assigns, shall not deviate from such plans after such approval, either before or after the completion of the said bridge, unless the modification of said plans shall have previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War, and any changes in said bridge which the Secretary of War may at any time order in the interest of navigation shall be promptly made by said company at its own expense.

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 18, after the word "bridge," to strike out "or appurtenant works;" and at the end of the section to insert the following proviso:

*Provided*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers, or to exempt said bridge from the operation of same.

So as to make the section read:

SEC. 2. That in case any litigation arises from the building of said bridge or from the obstruction of said river by said bridge cases may be tried in the proper courts, as now provided for that purpose in the State of Minnesota, and in the courts of the United States: *Provided*, That nothing in this act shall be so construed, etc.

The amendment was agreed to.

The next amendment was, on page 2, to strike out section 3, as follows:

SEC. 3. That this act shall be null and void unless the bridge herein authorized be completed within two years from and after the passage of this act.

The amendment was agreed to.

The next amendment was, on page 3, after line 2, to insert the following as a new section:

SEC. 3. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same and over the approaches thereto upon payment of a reasonable compensation for such use; and in case of disagreement between the parties in regard to the compensation to be paid or the conditions to be observed all matters at issue shall be determined by the Secretary of War.

The amendment was agreed to.

The next amendment was, on page 3, after line 10, to strike out section 4, as follows:

SEC. 4. That the right to amend or repeal this act is hereby expressly reserved.

The amendment was agreed to.

The next amendment was, on page 3, after line 12, to insert the following new section:

SEC. 4. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post route, upon which no higher charge shall be made for the transmission of mails and the troops and munitions of war of the United States over the same than the rate per mile paid for the transportation over the railroad or approaches leading to the said bridge; and it shall enjoy the rights and privileges of other post-roads in the United States, and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies, and the United States shall have the right of way across said bridge and its approaches for postal telegraph and telephone purposes.

The amendment was agreed to.

The next amendment was, on page 4, at the top of the page, to insert the following new section:

SEC. 5. That this act shall be null and void unless the bridge herein authorized be commenced within one year and completed within two years from the date of approval of this act.

The amendment was agreed to.

The next amendment was, on page 4, after line 4, to insert the following new section:

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was 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.

ESTATE OF WILLIAM A. HAMMOND.

Mr. SCOTT. I ask unanimous consent to call up the bill (S. 1665) to amend the act approved March 15, 1878, entitled "An act

for the relief of William A. Hammond, late Surgeon-General of the Army."

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to its present consideration?

Mr. PLATT of Connecticut. I thought that Surgeon-General Hammond died.

The PRESIDENT pro tempore. The bill declares that he is dead, and that the payment shall be made to his widow.

Mr. KEAN. Let the report be read.

The PRESIDENT pro tempore. There is an amendment. The amendment may as well be read first.

Mr. KEAN. Very well. The amendment of the Committee on Military Affairs was, in lines 10 and 11, to strike out the words "his appointment and retirement under said act, on August 27, A. D. 1879" and insert "February 17, 1899;" so as to make the bill read:

*Be it enacted, etc.*, That so much of section 2 of the act entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army," approved March 15, 1878, as provides that said Hammond shall not be entitled to pay while on the retired list of the Army be, and the same is hereby, repealed, and the said Hammond shall be entitled to the pay of a brigadier-general of the Army on the retired list from the date of February 17, 1899, up to the date of his death, January 5, 1900, the same to be paid to Esther D. Hammond, his widow.

Mr. SCOTT. What was the request of the Senator from New Jersey?

The PRESIDENT pro tempore. The Senator from New Jersey demanded the reading of the report. The report will be read.

The Secretary proceeded to read the report submitted by Mr. SCOTT on the 10th instant, and read as follows:

The Committee on Military Affairs, to whom was referred the bill (S. 1665, to amend the act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army," report that they have considered the same, and respectfully recommend its passage after it has been amended as follows:

Strike out all after the word "of," in line 10, to and including the word "nine," in line 12, and insert in lieu thereof the following: "February 17, 1899."

A similar bill was favorably reported in the Fifty-fifth and Fifty-Seventh Congresses, and attention is respectfully invited to the accompanying copy of both of these reports.

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[Senate Report No. 2960, Fifty-seventh Congress, second session.]

The Committee on Military Affairs, to whom was referred the bill (S. 6580) to amend an act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army," have examined the same and report:

Under the provisions of the act of March 15, 1878, which is sought to be amended by this bill, Dr. William A. Hammond, late Surgeon-General of the Army, who, in 1864, had been dishonorably discharged from the service under sentence of a general court-martial, was restored to his former rank as Surgeon-General of the Army, with the rank of brigadier-general, and placed on the retired list of the Army by the orders of the President of the United States, "without any pay or allowances whatever, past, present, or future."

Doctor Hammond was at that time a wealthy man, with a considerable income from his profession, and did not ask for any pay or allowances, largely for the reason, perhaps, that he was not in need of the same, his principal object at that time being that his record should be cleared. Subsequently misfortunes overtook him, his wealth dwindled away, and old age coming on he made application to the Fifty-fifth Congress for an amendment to the said act of March 15, 1878, so as to permit him to receive the pay due an officer of his rank on the retired list for the future. Bills were introduced in both Houses of the Fifty-fifth Congress for that purpose, the Senate bill being numbered 5069, and the bill in the House of Representatives being numbered 11241, third session Fifty-fifth Congress.

Both of these bills were favorably reported from the Committee on Military Affairs of both Houses. The report of the Senate Committee on Military Affairs was No. 1684, and sets out the salient facts in reference to the case quite fully and clearly. For the purpose of giving a full history of the proceedings in reference to this matter that report is hereto attached, marked "Exhibit A," and made a part of this report.

The bill in that Congress passed the Senate and was favorably reported from the Committee on Military Affairs of the House of Representatives by the present chairman of that committee in the present Congress. The House bill was also reported favorably by the Committee on Military Affairs of the House. (See H. Repts. Nos. 2229 and 2319, 3d sess. 55th Cong.)

Neither bill, however, passed the House of Representatives, and nothing has since occurred in the case until the introduction of the bill which is here under consideration. In the meantime, to wit, on the 5th of January, 1900, Doctor Hammond died, and the present bill has for its beneficiary his widow, Esther D. Hammond.

The bill proposes to pay to Mrs. Hammond the pay to which Doctor Hammond would have been entitled as a brigadier-general on the retired list, from the date of his retirement, on August 27, 1879, to the date of his death, on the 5th of January, 1900.

Your committee, taking into consideration the meritorious features of this case and the equities in favor of Doctor Hammond, are not willing to go beyond the recommendations of the committee of the Fifty-fifth Congress, above referred to, which recommendations were in accord with the request of Doctor Hammond made at that time. Your committee are willing to grant to his widow the same measure of relief as was proposed to be granted to Doctor Hammond himself in his lifetime by the Fifty-fifth Congress. It is believed by your committee that the relief to be granted to Mrs. Hammond should date from the date of the first report made by the committee of the Fifty-fifth Congress in his favor, to wit, February 17, 1899.

Your committee therefore recommend that the bill be amended as follows:

In line 10 strike out all after word "from."

Strike out all of line 11.

In line 12 strike out all up to and including the word "seventy-nine," and insert in lieu of the portions stricken out the words "February 17, 1899."

As thus amended your committee recommend that the bill pass.

Mr. KEAN. I will not ask for the further reading of the report.

Mr. DANIEL. I should like to have the report read through.

The PRESIDENT pro tempore. The entire report will be read.

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

EXHIBIT A.

[Senate Report No. 1684, Fifty-fifth Congress, third session.]

The Committee on Military Affairs, to whom was referred the bill (S. 5069) to amend the act approved March 15, 1878, entitled "An act for the relief of William A. Hammond, late Surgeon-General of the Army," report back the bill with certain amendments and recommend the passage of the same.

It appears that Doctor Hammond was dismissed from the service August 18, 1864, in accordance with the sentence of a general court-martial, which found him guilty of certain offenses alleged to have been committed by him while Surgeon-General of the Army. He subsequently appealed to Congress for relief, and upon this appeal was passed the act approved March 15, 1878, which authorized the President to review the proceedings of the court-martial and to annul and set aside the findings and sentence of the court if, after such review, he should deem it right and proper to do so. The act further authorized the President, in the event that he should annul and set aside the findings and sentence of the court, to place Doctor Hammond on the retired list of the Army as Surgeon-General, provided that the said Hammond should not "in virtue of such restoration to the Army, or of any provision of this act or any other act, be entitled to back, present, or future pay or allowances of any kind whatsoever."

In accordance with the provisions of the act of Congress quoted above, the President, after a review of the proceedings of the court-martial, and upon the recommendation of the Secretary of War, annulled and set aside the findings and sentence in the case of Doctor Hammond and placed him on the retired list of the Army, to date from August 27, 1879.

Since the date last named above Doctor Hammond has been borne on the retired list of the Army, but has received no pay or allowances from the Government. It is the object of the bill now pending for his relief to give him, for the future, the pay of a retired officer of his rank, which is that of a brigadier-general.

The Senate Committee on Military Affairs having under consideration the bill which subsequently became the act of March 15, 1878, under which the President set aside the findings and sentence in the case of Doctor Hammond and placed him upon the retired list, made an exhaustive report (Senate Report No. 102, 45th Cong., 2d sess.), which fully sets forth the history of the case and the grounds upon which the committee recommended the passage of the bill. For present purposes it is believed to be sufficient to make the following quotation from that report:

"Let Doctor Hammond, in event he shall satisfy the President of his right thereto, be restored to his family, his friends, and his profession, freed from every taint or blemish which has hitherto been inflicted upon him under fortuitous circumstances. His brethren in the medical profession honor his name and fame, and his countrymen look upon him with pride as foremost in the ranks of American scientists, humanitarians, and gentlemen. Your committee believes this to be a case wherein the constitutional prerogative of Congress to redress grievances may be safely, justly, and fairly exercised, especially since the President is invested, by the provisions of the bill, with wise discretion. If he find against the merits and equities of the case, then the relief sought must be denied. If he find otherwise, and hence favorably, Doctor Hammond will then receive that reparation to which he is entitled, and which avoids, by the terms of the bill, all reflection and humiliation upon any other party concerned."

Doctor Hammond did satisfy the President that he was entitled to be restored to a status of honor, and he was so restored; but although his name has been borne upon the retired list of the Army for nearly twenty years, and although he has been entitled during all that period to bear the title and wear the uniform of his rank, he could not receive any portion of the retired pay of his grade because of the prohibitory proviso in the act of March 15, 1878. It seems to your committee that if it was just and right that Doctor Hammond should be restored to the Army and placed upon the retired list, it was equally just and right that he should receive the pay allowed by law to other retired officers of his grade. However, the pending bill does not propose and your committee does not recommend that any payment shall be made to him for the many years which have elapsed since he was placed upon the retired list. The bill, if enacted into a law, will simply give him for the future the same right as to pay as is enjoyed by all other officers on the retired list. This is a right which in the natural order of things he can only enjoy for a comparatively few years at most, and it seems to your committee to be one which in fairness and justice should be accorded to him. It is accordingly recommended that the bill as amended be passed.

Mr. DANIEL. Mr. President, all I know about this case is what I have caught in the rapid reading of the bill and report by the clerks at the desk. I do not see that it sets forth any equity at all for the payment of a large sum of money to the estate of a medical officer who was long practically out of the service, and who, while he was in the service in a nominal relation, had a mere complimentary title and rendered no service.

It would seem from the report, if I heard it correctly, that in 1864, while the civil war was going on, Dr. Hammond was court-martialed and dismissed from the service. From that time until the date of his death it does not appear that he rendered a day's service to the Government of the United States. It further appears that subsequently he was restored not only to rank, but to a promoted rank. What his rank was when he was dismissed is not stated, but he was promoted to the rank of a brigadier-general on the retired list upon condition and with the specific provision that he should not have pay.

Mr. President, it is impossible for the Senate to judge, without any report on the subject, as to the matter of the court-martial and dismissal of Doctor Hammond. I know nothing of it and can say nothing about it. The bill, I understand, gives to his widow something over $20,000, a mere gratuity, without service rendered for it, and under circumstances of a very questionable character.

Mr. SCOTT. Mr. President——

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

Mr. DANIEL. I object, Mr. President.

The PRESIDENT pro tempore. Objection is made, and the bill goes back to the Calendar.

FORTIFICATIONS APPROPRIATION BILL.

Mr. PERKINS. Pursuant to notice, I ask that the Chair lay before the Senate the fortifications appropriation bill.

The PRESIDENT pro tempore. The Senator from California moves that the Senate proceed to the consideration of the bill (H. R. 12446) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

The motion was agreed to.

Mr. PERKINS. I will yield to the Senator from North Dakota [Mr. McCUMBER], to my colleague [Mr. BARD], to the junior Senator from Georgia [Mr. CLAY], and to the Senator from Kansas [Mr. LONG]. I will then ask the Senate to proceed with the consideration of the appropriation bill.

Mr. KEAN. Under what rule is this done?

The PRESIDENT pro tempore. There is no rule by which yielding can be controlled or governed.

AGREEMENT WITH CHIPPEWA INDIANS.

Mr. McCUMBER. I ask unanimous consent for the consideration of the bill (S. 196) to ratify and confirm an agreement with the Turtle Mountain band of the Chippewa Indians in the State of North Dakota, and to make appropriations for carrying the same into effect.

Mr. FORAKER. I do not wish to object to the bill, if it is a short one and not to be discussed.

Mr. McCUMBER. I do not understand that it will be discussed. It is very necessary that the bill should be passed as soon as possible.

Mr. FORAKER. If there is anything urgent about it, I shall not object; but I am very anxious that we shall have an executive session to-day.

The PRESIDENT pro tempore. The bill called up by the Senator from North Dakota will be read.

The Secretary proceeded to read the bill.

Mr. KEAN. I ask the Senator from North Dakota, before the reading is completed, how much money is involved in this measure?

Mr. McCUMBER. One million dollars.

Mr. KEAN. Then I think the bill had better go over.

Mr. McCUMBER. I did not hear the Senator from New Jersey.

The PRESIDENT pro tempore. The Senator from New Jersey objects to the consideration of the bill now.

PUBLIC BUILDING AT LOS ANGELES, CAL.

Mr. BARD. I ask unanimous consent for the present consideration of the bill (S. 4453) to amend section 17 of the act of Congress approved June 6, 1902, entitled "An act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 17 of the act of Congress entitled "An act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June 6, 1902, so as to read as follows:

SEC. 17. That the Secretary of the Treasury be, and he is hereby, authorized and empowered to enlarge the public-building site belonging to the United States in the city of Los Angeles and State of California by the acquisition, by purchase, condemnation, or otherwise, of all of that portion of the remainder of the block lying to the west of the alley in the block in which said public-building site is located: *Provided*, That the same can be acquired at a cost of not to exceed $225,000. In the event that said additional land can not be acquired within said sum of $225,000, the Secretary of the Treasury is hereby authorized and empowered either to acquire, by purchase, condemnation, or otherwise, any additional land in said block which, together with the public-building site belonging to the United States therein, he may deem suitable, sufficient, and necessary for the public building hereinafter authorized to be erected: *Provided*, That the same can be acquired at a cost of not to exceed $200,000; or, at his discretion, to acquire, by purchase, condemnation, or otherwise, a new site in said city of Los Angeles for said public building, and for such purpose, either at his discretion to sell the present public-building site and to apply the net proceeds derived from such sale toward the purchase of said new site in said city of Los Angeles, the limit of cost of which is hereby fixed at $200,000, together with an amount in addition thereto equal to the sum derived from the sale of the present site, or to exchange the present site, or any part thereof, in part or full consideration of and for such new site, and to expend in addition thereto the said sum of $200,000, or so much thereof as may be necessary for the purpose.

"That upon the present site, when so enlarged, or upon the new site, when acquired, the Secretary of the Treasury is authorized and directed to cause to be erected a suitable and commodious fireproof building for the use and accommodation of the United States courts, post-office, and other Government offices in said city of Los Angeles, at a total cost of not to exceed $850,000, inclusive of the cost of additional land or a new site.

"That the unexpended balance of the appropriation of $100,000 contained in section 3 of the act of Congress approved March 3, 1899, entitled 'An act to increase the limit of cost for the erection of a public building at Stockton, Cal., and making provision for the acquisition of additional land, or a new site therefor, and to provide for an addition to the public building at Los Angeles, Cal., and appropriating money therefor,' together with the unexpended balance of the appropriation for 'court-house and post-office at Los Angeles, Cal.; for completion of addition to present building under present limit, $150,000,' are hereby covered into the Treasury as miscellaneous items. Authority is hereby given to the Secretary of the Treasury to settle and adjust any claims for damages due to the abrogation of certain contracts under former appropriations for a public building at Los Angeles, provided the amounts thereof can be liquidated for such sums as in his opinion are just and reasonable, and a sum of money sufficient to cover such adjustments and settlements shall be paid from the amount herein authorized. The Secretary of the Treasury is hereby further authorized and empowered to enter into contracts for the erection of the building herein authorized within the limit of cost hereby fixed."

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

ORDER OF BUSINESS.

Mr. CLAY. Mr. President, I ask unanimous consent——

Mr. ALLISON. Regular order, Mr. President.

The PRESIDENT pro tempore. The Senator from Iowa asks for the regular order, which is the fortifications appropriation bill.

Mr. PERKINS. Mr. President, I hope my friend from Iowa [Mr. ALLISON] will consent to the passage of the bill the consideration of which is desired by the Senator from Georgia [Mr. CLAY], and also the bill for which the Senator from Kansas [Mr. LONG] desires consideration.

The bill we have before us as the regular order is a bill for fortifications and other works of defense. In extending these courtesies to other Senators I know of nothing which will more strengthen their work of fortification and defense with their colleagues than to permit them to have considered and passed the small bills in which they are interested. [Laughter.]

Mr. ALLISON. Very well; I shall not object.

Mr. PERKINS. I will say to the Senator from Iowa that what those Senators are doing for works of defense in their particular localities will not, in my judgment, delay the passage of the appropriation bill. My friend from Massachusetts [Mr. LODGE] desires to speak on the bill, and we all want to hear him, but he talked enough yesterday about it, I think, as did some others. [Laughter.] I hope we shall extend this courtesy to these Senators, if my friend from Iowa will consent.

Mr. ALLISON. Very well.

Mr. CLAY. I will say to the Senator from Iowa that the bill for which I ask consideration will not, I think, consume half a minute.

Mr. ALLISON. I withdraw my call for the regular order after the statement of the Senator from California [Mr. PERKINS].

PUBLIC BUILDING AT ATLANTA, GA.

Mr. CLAY. I ask unanimous consent for the present consideration of the bill (S. 3180) to provide for the erection of a public building at Atlanta, Ga.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Buildings and Grounds with amendments, on page 1, line 11, before the word "dollars," to strike out "two hundred and fifty thousand;" and on page 2, line 2, before the word "dollars," to strike out "two hundred and fifty thousand;" so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected at Atlanta, Ga., on a site already owned and possessed by the United States, a suitable building for the use and accommodation of the United States post-office, treasury department, and other Government offices in the city of Atlanta, the cost of said building, including necessary and suitable heating and ventilating apparatus, vaults, elevators, and approaches, not to exceed the sum of $1,000,000, which said sum of $1,000,000 is hereby appropriated for said purpose out of any money in the United States Treasury not otherwise appropriated.

Plans, specifications, drawings, and detailed estimates for said building shall be made and approved according to law before work thereon shall be commenced.

The amendments were agreed to.

Mr. CLAY. I move to further amend the bill, on page 1, line 7, after the word "post-office," by striking out the words "treasury department and other Government offices" and inserting in lieu thereof "custom-house and court-house building."

The amendment was 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.

ABSENTEE WYANDOTTE INDIANS.

Mr. LONG. Mr. President, I ask unanimous consent for the present consideration of the bill (S. 2268) to authorize the Absentee Wyandotte Indians to select certain lands, and for other purposes. This bill was read the other day, and the senior Senator from North Dakota [Mr. HANSBROUGH] objected to its further consideration. The objection of the Senator from North Dakota has been withdrawn.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2268) to authorize the Absentee Wyandotte Indians to select certain lands, and for other purposes.

The PRESIDENT pro tempore. The bill has been heretofore read, as has been the substitute reported in the nature of an amendment by the Committee on Indian Affairs. The question is on agreeing to the substitute.

Mr. LONG. There are two amendments which I desire to offer to the amendment of the committee.

The PRESIDENT pro tempore. The first amendment proposed by the Senator from Kansas will be stated.

Mr. PLATT of Connecticut. Before that is done I will state that this bill does not take any money from the Treasury. It gives to some Indians who, by mistake, lost their right to 80 acres of land each, the opportunity to select other lands off the reservation. There is no scrip about it, and I think there can be no objection to the bill. It has been considered pretty carefully by the Committee on Indian Affairs.

The PRESIDENT pro tempore. The first amendment submitted by the Senator from Kansas [Mr. LONG] will be stated.

The SECRETARY. It is proposed to amend the amendment of the committee in line 19, on page 2, after the word "person," by striking out "or by his duly authorized attorney in fact;" so as to read:

That each living adult Absentee Wyandotte Indian whose name appears upon a census roll of Absentee Wyandotte Indians made by Special Agent Joel T. Olive, as approved by the Secretary of the Interior December 7, 1896, may select in person, under such rules and regulations as the Secretary of the Interior may prescribe, from the public domain, 80 acres of agricultural land wherever there may be such lands subject to entry, etc.

The amendment was agreed to.

Mr. LONG. I now move the amendment, which I send to the desk, to come in at the end of the bill.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to amend the amendment by adding at the end thereof the following:

*And provided further*, That the Secretary of the Interior may add to the said census roll the names of such persons, not exceeding seventeen in number, as he may find properly to have been entitled to enrollment by said Special Agent Joel T. Olive.

The amendment to the amendment was agreed to.

The amendment as amended 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.

Mr. LONG. I ask that there may be printed in the RECORD, without reading, a letter from the Secretary of the Interior and one from the Commissioner of Indian Affairs in regard to the second amendment which I have offered to the bill.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and that order will be made.

The letters referred to are as follows:

DEPARTMENT OF THE INTERIOR,
*Washington, February 25, 1904.*

HON. CHESTER I. LONG, *United States Senate.*

SIR: I am in receipt of your communication dated February 13, 1904, stating that your attention had been called, since a report made by the Committee on Indian Affairs on S. 2268, being a bill to authorize the Absentee Wyandotte Indians to select certain lands, and for other purposes, that certain exceptions have been taken to the census roll made by Special Agent Joel T. Olive. You ask to be advised whether there is any objection on the part of the Department to authorize the Secretary of the Interior to add such names to the roll as have been omitted. You transmit the proposed amendment as follows:

"*And provided further*, That the Secretary of the Interior may add to the said census roll the names of such persons, not exceeding seventeen in number, as he may find properly to have been entitled to enrollment by said Special Agent Joel T. Olive."

Your letter was referred to the Commissioner of Indian Affairs on the 18th instant, and the Department is now in receipt of a report from him, recommending that the amendment be adopted.

I concur in said recommendation and transmit a copy of said report for your information.

Respectfully, E. A. HITCHCOCK, *Secretary.*

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DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
*Washington, February 23, 1904.*

THE HON. SECRETARY OF THE INTERIOR.

SIR: This office is in receipt of your communication dated February 18, 1904—I. T. D., 1265-1904—in which you inclose for immediate consideration, report, and recommendation a letter dated February 13, 1904, from Hon. CHESTER I. LONG, wherein he requests to be advised whether there would be any objection on the part of the Department to an amendment to S. 2268, "A bill to authorize the Absentee Wyandotte Indians to select certain lands," and authorizing the Secretary of the Interior to add certain names to the census roll made by Special Allotting Agent Joel T. Olive.

The proposed amendment reads as follows: "*And provided further*, That the Secretary of the Interior may add to the said census roll the names of such persons, not exceeding seventeen in number, as he may find properly to have been entitled to enrollment by said Special Agent Joel T. Olive."

Senator LONG has submitted to this office a list of seventeen persons who it is claimed should have been enrolled by Special Agent Olive. If these persons are entitled to enrollment, they should be added to the census roll made by him and approved by the Department. The proposed amendment authorizes the Secretary to add these names to the roll if he shall find them, or any of them, properly entitled to enrollment.

This office believes that the amendment should be adopted, and so recommends.

Very respectfully, A. C. TONNER, *Acting Commissioner.*

PETER GREEN.

Mr. SPOONER. Will the Senator from California yield to me that I may ask the consideration of a brief bill?

Mr. PERKINS. My friend from Wisconsin is so well intrenched and fortified in the hearts and affections of his immediate constituents in Wisconsin, as well as in those of the whole country, that I do not know that it is necessary for him to have this bill passed in order to gain any further favors; and yet, if my friend the chairman of the committee [Mr. ALLISON] does not object, I shall not.

Mr. ALLISON. I have no objection.

Mr. SPOONER. Then, with the permission of the Senator from California, I ask unanimous consent for the present consideration of the bill (S. 4849) granting an honorable discharge to Peter Green.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with an amendment to add to the bill the following proviso:

*Provided*, That no pay, bounty, or other emolument shall accrue by virtue of the passage of this act.

So as to make the bill read:

*Be it enacted, etc.*, That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of and grant an honorable discharge to Peter Green, late a member of the Sixth Wisconsin Battery, Light Artillery Volunteers, and now a resident of Harvard, Nebr.: *Provided*, That no pay, bounty, or other emolument shall accrue by virtue of the passage of this act.

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.

FORTIFICATIONS APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12446) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, the pending question being on the amendment submitted by Mr. DANIEL to the amendment of the committee.

The amendment to the amendment was, on page 3, line 17, after the words "two hundred," to strike out "and fifty;" so that the amendment, if amended, would read:

To enable the Secretary of War in his discretion to purchase for the School of Submarine Defense for experimental work one submarine torpedo boat of the type of the Protector, manufactured by the Lake Torpedo Boat Company, not to exceed, in the judgment and discretion of the Secretary of War, $200,000: *Provided*, That before said submarine torpedo boat is purchased or accepted by the War Department it shall have been fully tested to the satisfaction of the Secretary of War and shall fulfill all reasonable requirements for coast defense.

Mr. LODGE. Mr. President, I should hardly venture to say anything further on this amendment; but after the statement of the Senator from California [Mr. PERKINS] that argument is perfectly useless and that our votes can not possibly be affected by anything that may be said, I feel stimulated to try. I dare say it is quite true, as the Senator from California says, that it is impossible to produce any effect by discussion; but at the same time I do not wish to be misunderstood, as I think I was somewhat yesterday, as indicated by some of the remarks made by those who are favoring the Lake boat.

I do not think, Mr. President, that anybody questions the importance of submarine boats. That they constitute one of the branches of naval warfare to which the attention of the world is being given is beyond doubt. Everyone is most anxious to get the best submarine boat that is possible.

Nor, Mr. President, do I quite understand the continual allusions to the Holland boat, as if this were a strife between two boats. Personally, I never approved the appropriations for the Holland boat by name. I never had a great deal of faith in the boat, perhaps without knowing much about it. I am certain that it has required many improvements so as to be made at all practicable. I understand that a type of the Holland boat is now in use in England and has been experimented with by our Government, but I never favored naming it in a bill.

I was not aware that the Holland company had anything to do with the question of this boat. I have received no circular, such as the Senator from Connecticut [Mr. PLATT] referred to yesterday, nor have I seen anyone connected with the interests of either boat.

My objection to this proposition, as I tried to say yesterday, proceeds on two grounds: In the first place, the naval appropriation bill opens to this boat and to all boats an opportunity to come in and secure the approbation of the Government. If this boat is what its friends say it is, it can come in under the provision in the naval appropriation bill and be paid for at its entire cost; for the naval provision opens the entire field of submarine boats to competition, the best to be selected.

We have heard from the president of the Lake company and from the other friends of this boat a description of the boat which, if in any reasonable degree true, demonstrates that it is the most remarkable boat ever invented and that it would not have the slightest difficulty in passing a test and showing its superiority to every other known boat. But this boat, with all its merits, seems to fail in one point—it does not seem to be willing to enter a competitive test.

I think the true way in all these matters of patent devices is to open them to competition, the Government, through its experts, to take the best. I know that rule is often violated, but nevertheless I think it is wise policy.

Mr. WARREN. Mr. President, will the Senator allow me to ask him a question?

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

Mr. LODGE. Certainly.

Mr. WARREN. Why does the Senator state that the Lake boat has refused to enter into competition?

Mr. LODGE. Because it can now go into a competition, and if it is the best boat, under the provisions of the naval appropriation bill, it will get the entire $400,000, or whatever it costs. This is a specific appropriation, which shuts out competition.

Mr. WARREN. But, Mr. President, I again appeal to the Senator, and ask why he states that the Lake boat has refused to enter into competition?

Mr. LODGE. Because it comes here for a specific appropriation in a bill which never before, to my knowledge, carried a provision for a boat.

Mr. WARREN. Exactly; yet the other boat came in for a specific appropriation.

Mr. LODGE. It did; and I just said I thought that was a very bad plan.

Mr. WARREN. I desire to say here that upon the only occasion when the owners of this boat had an opportunity to say whether they would enter it in competition they said they would do so.

Mr. LODGE. Then why do they ask this appropriation, naming one boat?

Mr. WARREN. The Secretary of the Navy states that the reason why this boat has not been put in competition was because at first it was not ready, and later on the Holland people refused to enter into the test. It was so stated here in my remarks yesterday, when I read from a hearing before the House Naval Committee the words of the Secretary of the Navy.

Mr. LODGE. Then this boat is unable to submit to the test of the Navy Department because the Holland people will not submit to a test?

Mr. WARREN. I did not intend to make exactly that statement. I said that the Secretary——

Mr. LODGE. If they alone submit to the test, they will get the money.

Mr. WARREN. The Senator said that they refused to enter into a test, and I challenged that assertion.

Mr. LODGE. I say this amendment is a refusal in itself, because this is a proposition to purchase this specific boat and no other.

Mr. WARREN. It is no refusal on the part of the builders of this boat because the Committee on Appropriations proposed to buy the boat without competition.

Mr. LODGE. Then the builders of the boat did not ask for this amendment?

Mr. WARREN. Nothing was said so far as I know on their part about competition.

Mr. LODGE. I say they did not ask for this amendment.

Mr. WARREN. Certainly. They asked for an appropriation, but made no demand or suggestions concerning competition.

Mr. LODGE. They did ask for it?

Mr. WARREN. Certainly.

Mr. LODGE. Then this amendment excludes competition.

Mr. WARREN. They did not ask that it should be excluded. Furthermore, the facts hardly warrant the Senator's statement that they refused to enter into a test. This committee thought it was unnecessary that they should at this time compete, and so it suggested a direct appropriation.

Mr. LODGE. Very well. If they do not object to a test, then we can easily adopt the amendment offered, I think, by the Senator from Tennessee [Mr. CARMACK], which provides for a test. That can be added to this amendment.

Mr. DANIEL. Will the Senator allow me to ask him a question?

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

Mr. LODGE. Certainly.

Mr. DANIEL. Can not the Holland boat, this boat, and all other boats go into competition?

Mr. LODGE. Certainly; for under a provision in the naval appropriation bill the competition is open to all boats.

Mr. DANIEL. And there is no advantage to the Holland boat over this one in that respect?

Mr. LODGE. There are more devices for submarine boats than these two, and the naval bill opens the competition to all boats, with a provision that the best shall be taken; which, I think, is sound legislation.

Mr. DANIEL. I will state to the Senator that I asked that question because, as I understood, the Senator from Wyoming [Mr. WARREN] said that the Holland boat refused to go into a competition with the Lake boat. If that be so, are they not all required to go into one competition under this act, and is it not equally fair to everybody?

Mr. LODGE. Under the present amendment?

Mr. DANIEL. No; under the naval appropriation bill.

Mr. LODGE. Under the other act, certainly; it is equally fair to everybody.

Mr. President, that is my objection to a specific provision such as that contained in the amendment. I think it is a great deal better in legislation of this kind to open it to general competition, and if this boat is in any degree what it is said to be, it will not only revolutionize submarine warfare, but it need fear no competition.

But I wish to reiterate what I said yesterday and what seems to me a still more serious objection, which is the one reason that has brought me into this debate—I think that it is confusing two services. I do think the fighting ships ought to be kept under the Navy Department. This is a fighting ship. It is not a diving bell, merely for the purpose of laying submarine mines; but it is a fighting ship, and I do not believe it belongs properly under the War Department.

One of the purposes of this boat, which is set forth in the report of the officers, is that it is to be used to cut cables, and its admirable adaptation for that purpose has been dwelt upon here in the discussion. Who cut the cables in the Spanish war? It was work intrusted to the Navy, and necessarily intrusted to the Navy. The men who go to sea must be men who grapple or cut the cables in any way you please, and the work must be intrusted to them to do.

Of course I remember the Senator from Vermont [Mr. PROCTOR] said, "The Army can employ competent seamen to run these boats." It can employ competent seamen to run these boats, beyond a doubt, but that argument proves too much. You might just as well say, "Put all the battle ships and all the cruisers under the War Department, because the War Department can employ competent seamen to run the battle ships." Of course nobody expects that. Senators will remember that at the time of the landing at Santiago, when the transports—merchantmen employed by the War Department—came there, the troops that landed were taken from the ships to the shore by the Navy, and the work was extremely well done.

Mr. President, it seems to me that to create boats of this character and put them under the War Department is to make a confusion of duties which would be of the greatest possible danger in the case of military operations. I have no objection in the world to appropriations for submarine boats; I am in favor of the largest appropriation for everything that makes up our strength in naval warfare; but I do think that everything relating to fighting ships—and this is a boat—ought to be under the Navy.

It is quite true that under the present arrangement officers of the Army are required to place mines in the harbors; but the preparing and sinking of a mine has nothing to do with a boat. This is a boat pure and simple. You have got to have expert engineers, mechanical engineers, on board; you have got to have it in the hands of men accustomed to the sea. No military officer is going to command that boat, except nominally. If we are going to have boats of that character employed in work on which the safety of the nation may depend, I think we want to put them in the hands of the men who have been trained for that specific work. My great objection to this provision is the confusion which will arise between two great Departments which ought never to be confused, and between which all possible friction should be avoided.

Mr. PERKINS. I think, Mr. President, that the Senate understands the question at issue, and I shall not weary it by making any further remarks, except to state that the position taken by my friend from Massachusetts [Mr. LODGE] is hardly the correct one. There can be no conflict between the Army and the Navy in the defense of our harbors and ports. We have a joint board, consisting of the Admiral of the Navy and other officers of the Navy and the Army.

Mr. LODGE. If the Senator will allow me to interrupt him there, I said nothing about fortifications. This boat is to attack an enemy's fleet, and it is so set forth. That is not fortification work. It is naval warfare.

Mr. PERKINS. The object of this boat, Mr. President, is for coast defense and harbor defense. The joint board of the Army and Navy will meet together and discuss this question, as we have discussed it here to-day. And whatever they decide upon, whether this boat shall be constructed under the auspices and the superintendency of the Navy or the War Department, I have no doubt will be the unanimous decision of both the Secretary of the Navy and the Secretary of War. There can be no conflict. There is but one object in view, and that is to so fortify and defend our harbors as to make them impregnable to the approach of foreign enemies, should they ever arise hereafter to menace the safety of our cities and harbors.

Mr. LODGE. May I ask the Senator a question there?

Mr. PERKINS. Certainly.

Mr. LODGE. The Senator says this is all a question of coast defense. The *Oregon*, the *Indiana*, and the *Massachusetts* were authorized and are described as coast-defense battle ships. Does the Senator think that is a reason for putting them under the Army?

Mr. PERKINS. There is no analogy whatever——

Mr. LODGE. This is a fighting boat.

Mr. PERKINS. It is a fighting boat for the harbor and for the port to lay submarine mines and torpedoes. That was the principal weapon of defense we had during our late war to guard our ports against an imaginary Spanish fleet which we thought might enter New York Harbor or even Norfolk Harbor of the river James. The Senator went down the river James, and his boat stopped before he reached Norfolk a half dozen times as it approached the submarine batteries and submarine torpedoes that had been placed there by the Engineer Corps of the Army, not of the Navy.

There is no conflict whatever between the Army and Navy upon this question. If there were, I am the last one who would advocate investing the Secretary of War with additional powers over our Navy for any purpose connected with it.

Mr. STEWART. If the Senator will allow me, I should like to ask him a question, which I will precede by a little remark. I am very much in favor of giving our inventions to facilitate our fighting capacity on land and sea a fair trial. I do not think we have been extra liberal to our inventors, and for a good many of our most important things we have to go to foreign countries. I believe in giving our inventors a fair trial, if we do lose a little money by it. But in regard to this amendment, if the provision in the naval appropriation bill covers this exactly, is there not some impropriety in putting this provision in the pending bill? I want to inquire whether this Lake boat would not enter into competition with the other boats, the Holland boat, etc., under the provisions of the naval bill, or has it some peculiar merits that would not be brought out in competition and that it would be desirable to test?

Mr. PERKINS. I think that under the provision in the naval appropriation bill this boat and all other boats will be invited to enter into competition to determine the best submarine boat that can be constructed, and the one that is selected by the Department will undoubtedly be the best.

Mr. WARREN. May I ask the Senator a question here? Can the Holland boat, as at present constructed, or invented, while it may serve the purpose of the Navy, compete with the Lake boat, we will say, for the purposes for which the Army needs it in its duty of mining harbors and making harbor defense?

Mr. PERKINS. The Senator's question anticipates what I was about to supplement my remarks by saying that this boat is for a specific purpose of the War Department. It is an experimental test in a measure.

Now, as was stated yesterday again and again, we have passed three different acts whereby we provided an appropriation for the construction of a certain type of Holland torpedo boat. It was named in the appropriation bill. I suggested at the time that it be open to competition. It was said that there were no competitors at that time.

Mr. GALLINGER. Will the Senator from California permit me?

Mr. PERKINS. Certainly.

Mr. GALLINGER. If it be true that this is the only boat which will accomplish the result that the War Department desires, what is the danger of letting some other boat compete with it?

Mr. PERKINS. I must confess that I am of that opinion in the abstract, and if it was for more than one boat I certainly should echo the sentiments of my friend the Senator from New Hampshire. But we have appropriated one million three hundred and odd thousand dollars for a specific boat. We have eight or nine of those boats already in service.

Now, the parties who have invented the Lake boat come here and say, "We have constructed it; we ask no subsidy; we want no bonus. We are willing now to give you this boat that is completed or to build one that will come up to your requirements, and if it meets your approval you can take it at such a price as we may agree upon."

But the whole gist of this matter is that it is left entirely to the judgment and discretion of the Secretary of War. We all have confidence in him and in the Navy Department and in every other Department, and feel that the Secretary of War will not spend one dollar of this appropriation unless he believes it to be in the interest of the public service and especially in the interest of promoting coast defenses.

Mr. GALLINGER. Will the Senator permit me?

Mr. PERKINS. Certainly.

Mr. GALLINGER. Supposing three American inventors had rifles of different construction, and we deliberately put in the army bill a provision that the Secretary of War should examine John Smith's rifle and if was found to be a good one should purchase a thousand of them. Would the Senator think that good legislation?

Mr. PERKINS. We make an appropriation of a hundred thousand dollars a year whereby the Board of Ordnance and Fortification may expermiment and may invite competition——

Mr. GALLINGER. Yes.

Mr. PERKINS. For rifles and for other guns and for carriages and implements of war.

That is the mistake we made in the naval bill. We did not invite competition. The Lake people have spent three times the value of this boat, so they state, in experimenting.

They have asked nothing from the Government, and now if they come to the Government with a boat that meets the requirements—and I am sure the Secretary of War will not decide the matter without consulting with the joint board of the Navy and the War Department—and if they decide that it is advisable and expedient to purchase this boat, can we not leave the responsibility for doing it with the War Department?

Mr. STEWART. I should like to ask the Senator from California a question.

Mr. PERKINS. Certainly.

Mr. STEWART. Is it necessary for the Secretary of War or the War Department to have a boat for the purpose of planting mines, cutting cables, and doing the like of that in a harbor, independent of the general use that is made of such boats by the Navy? Must the War Department have this boat for the special purpose of the duties which are devolved upon the Secretary of War? Is it necessary for him to have a boat of this kind under his control instead of under the control of the Navy?

Mr. PERKINS. The commanding-general of our armies says it is and recommends it.

Mr. STEWART. Under his control?

Mr. PERKINS. He so recommends it, and I defer to him and to his judgment.

Mr. GALLINGER obtained the floor.

Mr. PROCTOR. In answer to the Senator from Nevada, I will state that the mines and all the electrical apparatus and the wires in connection with the bombproof in the fort are under the control of the Secretary of War. The War Department officials must have some means for examining them.

Mr. STEWART. Is it necessary, for the proper discharge of those duties, that the Secretary of War shall have this boat?

Mr. PROCTOR. There must be means of examining them, of taking them up and replacing them.

Mr. STEWART. It has to be under his control?

Mr. PROCTOR. Of course it is necessary to be under the control of the Department which controls the mines.

Mr. PLATT of Connecticut. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from New Hampshire yield to the Senator from Connecticut?

Mr. GALLINGER. I yield to the Senator from Connecticut.

Mr. PLATT of Connecticut. I thought perhaps I might answer the question which the Senator from Nevada asked—that is, whether, under the provision in the naval appropriation bill, if this boat shall be decided to be the best boat, that is not all that is necessary. But the War Department could get no boat if it were found——

Mr. PERKINS. I so stated.

Mr. PLATT of Connecticut. In that competition that the Lake boat is the very best boat. That is for the Navy. This boat is asked for by General Chaffee, and is recommended by the board of army officers for use in connection with harbor defense and fortifications. It possesses qualifications for that work which certainly no other boat possesses at the present time.

Mr. LODGE. I should like to ask the Senator a question on that point. Does he not think that a boat of this kind, whatever service it is put to, ought to have the approbation of naval experts, or does he think that army officers are as good judges of boats as naval officers?

Mr. PLATT of Connecticut. I can not answer that question

without going into the matter further than I would be justified in doing while trespassing upon the time of the Senator from New Hampshire.

Mr. LODGE. I beg the Senator's pardon. I did not know the Senator from New Hampshire had the floor.

Mr. PLATT of Connecticut. I do not think there is anything to the argument which the Senator from Massachusetts made here this morning as to the confusion which is to result between the Army and the Navy if this amendment should pass, and I think I can demonstrate it when I get the opportunity in my own right.

Mr. GALLINGER. Mr. President, I am not going to prolong this discussion very much. I wish first to call attention to what was said this morning to the effect that the Holland boat people had declined the competition with the Lake boat people. If Senators will refer to the CONGRESSIONAL RECORD of this morning, pages 3223 and 3224, they will find a letter dated Newport, R. I., January 11, 1904. From that letter they will observe that the Lake boat people admitted that their boat possessed a great many defects; and that was two months and three or four days ago.

Mr. LODGE. What page?

Mr. GALLINGER. Pages 3223 and 3224. They admitted that the screws did not work well; that the boat was not making the speed that they expected—in one instance only 3 knots an hour in place of 10; that the battery was wrong; that the shafts were wrong; that the steering gear was not working satisfactorily, etc. And after making these admissions what do they say? This is their modest request:

> Should the board after the examination of the boat find her suitable for naval service, and so recommend, we, contingent upon that encouragement, will make all of these improvements at our expense before turning the vessel over to the Government.

There is not a word about competition.

Mr. PLATT of Connecticut. They offered to go in as they were.

Mr. GALLINGER. There is not a word about competition. And when the Acting Secretary of the Navy replied to that letter, what did he say?

Mr. PLATT of Connecticut. What page?

Mr. GALLINGER. On the same pages. He replied eight days afterwards in these words:

> It is desired, therefore, that before you apply for a competitive trial of your boat you will furnish the Department with a formal statement in writing to the following effect, viz: "That the boat which you submit to the Department for test is at that time finally completed and that you are prepared to accept as final, for the purposes of this act, the results of which your boat is capable of developing on trial at the present time."
>
> It is important that this should be clearly understood, as, in view of the competitive character of these trials, the Department can not allow them to be repeated, but will insist that the results of these trials when once held must be considered as final in the matter of determining the relative merits, under the act of Congress aforesaid, of the various competing boats.

That was written a month and half ago by the Acting Secretary of the Navy to the Lake company, showing that in the judgment of the Navy Department the Lake boat was not prepared at that time to enter into a competitive test.

Mr. President, in the very delightful discussion we had yesterday on the amendment of the committee there was a wide difference of opinion on many points, and there were some conflicting statements, one of which I wish to try to clear up. There were some severe criticisms passed upon the Holland Boat Company. Perhaps the severest criticism passed upon that company was in a letter that was read from the Lake company. I think it was not good taste in that company to animadvert as it did upon its competitor. Severe criticisms were likewise made by Senators regarding the Holland company, one of the points being that the Government put itself back of that company when the boat was simply on paper, and that it is refreshing, as the Senator from California said with so much unction, to find a company which spends its own money to complete a boat, as the Lake company has done.

Mr. President, let us see what the facts are. I think I can dissipate this fairy tale about the Holland company having received any special gratuities from the Government of the United States. The Holland Boat Company spent a great deal of money, in my judgment hundreds of thousands of dollars, upon experiments. They had a boat, not completed, but in process of completion. They came to the Government of the United States and said they would like the Government to advance some money on that uncompleted boat, promising to do their best to put it in such shape that the Government might buy it, and placing themselves under obligation to refund the money that the Government advanced in the event the boat became a failure.

The Government did advance $90,000. The Holland people proceeded to construct their boat. The Government interfered with their construction. The Government insisted that a steam boiler should be put in the boat in place of a gasoline engine. The company knew that the boat could not be navigated with a steam boiler, but they were compelled to do what the Navy Department required them to do, and they did it; and when the boat came to trial it was a complete failure, an absolute and utter failure.

Now, what did that company do? I am not guessing about this matter. I went to the Navy Department for my information, and I find that under date of November 23, 1900, the late Secretary of the Navy, Mr. Long, addressed the following communication to the Holland Torpedo Boat Company:

> GENTLEMEN: Inclosed herewith is one of the triplicates of the contract, duly executed on the part of the United States, entered into by you with this Department for the construction of one submarine torpedo boat, together with one of the triplicates of the bond and of the specifications accompanying said contract.
>
> Receipt is acknowledged of your order of the 19th instant on Messrs. August Belmont & Co. to pay to the Department the sum of $90,000 deposited with them in accordance with the agreement of April 11, 1900, which order is accepted by Messrs. Belmont & Co. and payment promised on proper indorsement thereon by the Department. The necessary action will be taken without delay for the transfer of said sum to the Government.

Mr. President, this was a voluntary act on the part of the Holland company. It is true they were held for the payment of this money, according to the contract they had made with the Government; but it was a very honorable thing for them to step up with a certified check on August Belmont & Co. and hand it over to the Government to wipe out the obligation that the Government had incurred in the construction of a boat which the Government itself, by its interference, had made a failure.

I am not permitted to quote names in this connection, but I will say to Senators that if they will go to the Navy Department they will find there authority for the statement that never in the history of the Government, in matters of this kind, has so honorable and high-minded an act been done by a company that was endeavoring to serve the Government in the matter of a very valuable invention.

Mr. President, what did the company next do? They wiped out the obligation to the Government by the check on August Belmont & Co., which is ordinarily good in this country. They had made a failure of their boat. The boat which had failed was called the *Plunger*. Out of their own funds they proceeded to build the original Holland boat bearing the name of *Holland*, and when that boat became a success, as it did become a success, they offered it to the Government of the United States, and the Government purchased it. That is the entire story.

Mr. President, I submit that the company ought not to be held up here as a company which has received the benefactions of the Government and for that reason is estopped, as the Senators suggested it ought to be estopped, from making a protest against the action proposed in this bill. This company had a right to come here. They discovered in the bill, when it was reported to this body, or their friends or representatives did, that this provision excluding them from competition was in the bill.

They had a right to come here, as they did come here, and protest against it. They would have been false, Mr. President, to the interests of the stockholders of the company, whoever they may be, had they not done that, and instead of being criticised it seems to me they ought to be commended. Not only did the company pay back the $90,000 which they got from the Government, but they paid all the incidental expenses, such as advertising, etc., amounting, as I understand, to two or three thousand dollars, which they were not obligated to do under their contract.

Mr. President, all I ask in this matter is that these different companies and the Government itself, which is building boats of this type, shall be given a fair chance to demonstrate which is the better type of boat. I am opposed, as the Senator from Massachusetts is opposed (and he has stated it much better than I can), to dividing our Navy and putting part of it under the Navy Department and part under the War Department. I think it is a mischievous thing to do and that it will inevitably result in confusion and in conflict of authority.

Mr. SPOONER. Will the Senator allow me to ask him a question for information?

Mr. GALLINGER. Certainly.

Mr. SPOONER. Is this, strictly speaking, a naval vessel?

Mr. GALLINGER. We have always so treated them.

Mr. SPOONER. Is it not a vessel adapted peculiarly to harbor defense?

Mr. GALLINGER. Just as the Holland boats are.

Mr. SPOONER. I do not care anything about the Holland boats.

Mr. GALLINGER. No.

Mr. SPOONER. It is distinguished from this boat.

Mr. GALLINGER. It is not distinguished from this boat at all.

Mr. SPOONER. I am not speaking with reference to any contest between the boats. I do not want to get into that controversy.

Mr. GALLINGER. No.

Mr. SPOONER. But are not both this boat and the Holland boat peculiarly adapted to harbor defense?

Mr. GALLINGER. That is the way I understand it.

Mr. SPOONER. Is that within the jurisdiction of the Navy Department or the War Department?

Mr. GALLINGER. I should believe it to be within the jurisdiction of the Navy Department. If it is not, let the War Department take over the whole thing.

Mr. SPOONER. I am asking for the fact.

Mr. GALLINGER. The fact is that the Navy Department has always had control of them until this moment.

Mr. SPOONER. Of harbor defense?

Mr. GALLINGER. Of these boats.

Mr. SPOONER. I am talking about harbor defense.

Mr. GALLINGER. Yes, in a sense. I take it if a man-of-war is in a harbor, it will protect the harbor to the best of its ability.

Mr. SPOONER. Certainly. But, referring to the mining of a harbor, is that done under the Navy Department?

Mr. GALLINGER. It is under the War Department.

Mr. SPOONER. Is it under the Navy Department or the War Department—which?

Mr. GALLINGER. Under the War Department. But we never heretofore had any trouble about laying down or taking up mines. We have not required this particular type of boat to do it. We have done it without any difficulty.

Mr. SPOONER. Is the School of Submarine Defenses under the Navy Department or the War Department?

Mr. GALLINGER. Under the War Department.

Mr. SPOONER. Why, then, is there a conflict between the War Department and the Navy Department as to harbor defenses?

Mr. GALLINGER. I do not understand that there has been any conflict; but I think there will be in the near future if we put this provision in this bill and it becomes a law.

Mr. LODGE. If the Senator will allow me, this boat is for far more than harbor defense. It is a seagoing vessel, and is to go and attack ships. The Senator from Missouri [Mr. COCKRELL] says it is to go from New York to London. It is to be used to attack the enemy's fleet. It is not to be used simply to place mines. It is to be used for strictly naval purposes—for scouting, for picketing, for going out and attacking the enemy's fleet when it approaches, and, as I say, the Senator from Missouri expects to have it go from New York to London. If that does not constitute a seagoing vessel I do not know what does.

Mr. SPOONER. The Senator from Massachusetts need not spend any time in indulging in elaborate argument to establish the fact that a vessel which can go from London to New York is a seagoing vessel.

Mr. LODGE. That is the point I wanted to make. It is something far more than for submarine defense. But submarine boats have always been under the Navy Department. That is the fact.

Mr. SPOONER. I am asking for information.

Mr. GALLINGER. The Senator from Wisconsin asked a very pertinent question. I answered it, perhaps not quite as fully as I should have done, when I said that these boats are for harbor defense. Of course they are for more than that. They go out and attack an enemy's ships. If a hostile fleet were lying 5 or 6 miles outside of New York City, threatening to bombard the city, we would expect these boats to go out and attack them.

Mr. SPOONER. I should like to ask the Senator a question. I do not mean this boat or the Holland boat, but take submarine boats generally. Why should not some of them be in charge of the Navy and some in charge of the Army or the War Department; that is to say, why should not there be such boats under the control of the War Department, so far as its duty relates to harbor defense, which is under the control of the War Department?

Mr. GALLINGER. We have always heretofore differentiated on that matter. We are establishing a naval station in Cuba. It is a naval station, but the Army will have charge of the defenses. I do not suppose we will establish a battery there and put it under the Navy Department. We have always clearly distinguished between the duties of the War Department and the duties of the Navy Department. The Navy Department heretofore has had charge of all the boats of this class. Now, if it is a desirable thing to put these boats into the hands of the War Department, let us make a clean sweep of it.

Mr. SPOONER. Why? Does it follow, if I do not bother the Senator——

Mr. GALLINGER. You do not bother me at all.

Mr. SPOONER. Does it follow because such a boat is a valuable adjunct to harbor defense, which is within the jurisdiction of the War Department and properly ought to be, that all these boats should be within the jurisdiction of the War Department?

Mr. GALLINGER. It is very clear to me.

Mr. SPOONER. Is it not perfectly reasonable that some of these boats should be within the control of the War Department, so far as their functions will relate to harbor defense, and all the rest of them be within the control of the Navy Department?

Mr. GALLINGER. I think we might upon the same hypothesis place a war ship in each great American port for the purpose of harbor defense, putting it under the War Department.

Mr. SPOONER. The war ship is not intended for that use in the sense that these boats will be.

Mr. GALLINGER. Well, pretty near. These boats, as the Senator from Massachusetts shows and as is a fact, are not for harbor defense alone. I do not think the Japanese nation has any submarines, although the Senator from West Virginia [Mr. SCOTT] told us that a Japanese who was once a cook on a boat of the Lake type is running the submarines in the Japanese navy, and that he destroyed the Russian navy. But they have boats—torpedo boats—that go out and attack the enemy's fleet; go away from their harbors, from the coast, just as we expect these boats to do, and the Lake people claim their boat is a seagoing vessel.

The Senator from Missouri [Mr. COCKRELL] painted a beautiful picture yesterday, saying that we could spend a million dollars and build a Lake boat that could traverse the sea and destroy pretty nearly all the navies of the world. I understand that such a boat could not be sunk with safety, and hence could not do the work of a submarine vessel.

Mr. SPOONER. Is it not still open to doubt how efficient and successful these submarine boats will be as mere naval boats? Is it open to doubt that they will be of great utility inside of the harbor as a part of the harbor defense? In other words, is not their efficiency to that extent established, whereas their efficiency and possibilities as to use as naval vessels proper remain yet to be determined?

Mr. GALLINGER. I would say to the Senator that I have seen a submarine torpedo boat traverse the water quite a considerable distance, and I will not venture to say how far, but perhaps half a mile——

Mr. SPOONER. They would have to do that to be of any use in harbor defense.

Mr. GALLINGER. Yes.

Mr. SPOONER. Of course.

Mr. GALLINGER. If she can do that, then she could go a much longer distance, as for instance the Holland boats that were caught in the gale and thrown on the rocks, and the Lake boat people cite that to prove they are of no account. They did very recently go a good many hundred miles through the open sea, and with comparative safety.

Now, as I say, I have seen them traverse the water a very considerable distance, come to the surface, fire their torpedo with absolute accuracy, and that is what they are expected to do—to attack the enemy's fleet in the open. I do not see what else they can do. The enemy's fleet is not coming in near proximity to the coast——

Mr. SPOONER. They might get behind a submarine mine and be of utility, and the war ship would not be able to do that without danger of destruction.

Mr. GALLINGER. Well, I do not know——

Mr. SPOONER. I have not heard the debate. I do not profess to know. I am asking merely for information. I do not think that there can be any contest over this matter between the two Departments or between the Holland Boat Company and the Lake Boat Company. It looks to me like a question——

Mr. WARREN. May I ask the Senator a question?

Mr. SPOONER. When I finish my sentence. It seems to me, a mere onlooker, so to speak, that the real question is whether this boat is an efficient boat, whether it has been demonstrated to be an efficient boat for harbor defense, and whether the War Department, which is charged with harbor defense, asks for this boat.

Mr. GALLINGER. I will say to the Senator that the War Department does not ask for it and has not asked for it; and I will go further than that and say to the Senator from Wisconsin that we have appropriated $850,000 in the naval bill to test all these boats.

Mr. SPOONER. That is to develop the capacity of these boats with reference to their utility as naval boats.

Mr. GALLINGER. Oh, no.

Mr. LODGE. No.

Mr. GALLINGER. It covers it all. I will read to the Senator precisely what it does. It provides that the Secretary of the Navy—

> may purchase or contract for subsurface or submarine torpedo boats in a manner that will best advance the interests of the United States in torpedo or submarine warfare.

That is the provision in the naval appropriation bill.

Mr. LODGE. It covers everything.

Mr. GALLINGER. Could the Senator modify that and make it any more specific?

Mr. SPOONER. You have two jurisdictions as to coast defenses. You have, of course, the artillery——

Mr. WARREN. We have a joint board of the Army and Navy to consider exactly such questions and problems as those propounded in this debate. I do not believe it will be contended by the Navy side that you could have a joint board of the Army and Navy of which the Army was not an equal part and did not have

an equal say. Now, the Army, through the duly constituted authorities, have asked for this boat for its (the Army's) purposes.

Mr. GALLINGER. But the Senator is unfortunate in his illustration, inasmuch as the provision of this bill puts it in the hands of the Secretary of War.

Mr. WARREN. Very true.

Mr. GALLINGER. It does not propose that this joint board shall be consulted at all.

Mr. WARREN. Very true; but when it comes to the use of it and to any clash of authorities, if such there should be, and which I believe there will not be, then all such matters will go before the joint board just the same as in the case of the other boats that are ordered or built by the Navy, but used for army purposes.

This boat proposes to do certain work necessary in the coast defenses for the Army which the regular submarine torpedo boats do not propose to do.

Mr. GALLINGER. Will the Senator tell me, then, why he objects to competition? If this boat is the only boat that can do that, it excludes the others.

Mr. WARREN. Very well. I am not objecting to the boat being selected without competition. It is the Senator who objects to that.

Mr. GALLINGER. I beg the Senator's pardon. I have contended all along for competition, as is proposed in the naval bill. I also propose to offer an amendment to this bill providing for competition, but the friends of this amendment say they will not accept my proposition. Now I will read what the proposed provision is. I have changed it so as to apply it to the War Department.

Mr. WARREN. But, Mr. President——

Mr. GALLINGER. Allow me to read this.

Mr. WARREN. The Senator will yield for just a moment.

Mr. GALLINGER. The Senator says I object to competition. This is the amendment I shall offer as a substitute for the pending provision when it gets into the Senate, if it does get into the Senate, which I hope it will not do:

The Secretary of War is hereby authorized, in his discretion, to contract for or purchase for the School of Submarine Defense, for experimental purposes, one submarine torpedo boat at a cost not exceeding $.50,000—

I have changed the provision in the naval appropriation bill in that respect—

*Provided*, That prior to said purchase or contract for said boat any American inventor or owner of a submarine torpedo boat may give reasonable notice and have his, her, or its submarine torpedo boat tested by comparison or competition, or both, with a Government submarine torpedo boat or any private competitor, provided there be any such, and thereupon the board appointed for conducting such tests shall report the result of said competition or comparison, together with its recommendations, to the Secretary of War, who may purchase or contract for a submarine torpedo boat in a manner that will best advance the interests of the United States in torpedo or submarine warfare and coast defense.

Mr. WARREN. That does not reach the question. That is a mere matter of competition with torpedo boats for submarine warfare, and this boat is being purchased because it is a great deal more than a torpedo boat.

Mr. GALLINGER. Very well; then the boat you advocate will have the field to itself.

Mr. WARREN. We leave it entirely in the discretion of the Secretary of War as to whether he shall buy it or not, and how much he will pay, not exceeding $250,000.

Mr. LODGE. If there is no other boat, may I ask the Senator what objection is there to competition?

Mr. WARREN. What reason is there for it? We have voted year after year to buy Holland torpedo boats by name.

Mr. GALLINGER. We did when there was no other boat on the market.

Mr. WARREN. Then you suddenly change, after that concern has sold a large number of boats, and check off some new inventor who wishes some recognition by the Government.

Mr. GALLINGER. Mr. President, I am astounded that the Senator from Wyoming should adopt that line of argument. One year ago, which was the first time in the history of this country when there was a competing submarine torpedo boat invented, the Lake Torpedo Boat Company came to the Committee on Naval Affairs and drafted an amendment, submitted it to the Committee on Naval Affairs, and we put it in the bill; and we repeated it in the bill this year. Now, after having done that, we meeting them with open hands and giving them precisely what they asked for, why is it that they come here now and say that they do not want competition—that the Government ought to buy one of their boats by name?

Mr. LODGE. Because it is beyond competition.

Mr. PLATT of Connecticut. Because there is no boat like theirs, and therefore there can be no competition with a competitor that has a boat like theirs or adapted to do that work.

Mr. GALLINGER. If that is true, then they have the field to themselves. But I want to deny that there is no boat that will compete with them. They will have competition if we open this to competition.

Mr. President, I said in the beginning that I did not propose to delay the consideration of this matter, and I will content myself with the simple added statement that all I am contending for here is fair play between these several boats and fair play so far as the Government itself is concerned, because the Government is building some boats of a submarine type, and with the further statement that I feel it is a very dangerous precedent to establish, when the Navy Department and the Committee on Naval Affairs have been dealing with this question from the time the first submarine boat was presented for consideration to the present time, to now proceed upon an army bill to provide for the construction and purchase of a naval vessel, because it is nothing but a naval vessel.

Mr. PLATT of Connecticut. It is for coast defense.

Mr. GALLINGER. It is of course for coast defense, precisely as other submarine boats and torpedo boats are for coast defense. Every torpedo flotilla is for coast defense primarily. But we were considerably frightened not a great many months ago when it was suggested that some torpedo boats from a far-off nation threatened to appear on our American coast. They are primarily for coast defense, but they have gone beyond that. They are designed to attack an enemy's fleet.

So far as the laying of mines and cutting of mines are concerned, the Senator from California has painted a picture of the dangers there were here a few years ago in the Potomac River. We had no trouble about laying those mines or cutting them.

We do not expect to go out into the harbors of foreign countries and either lay or cut mines with these boats. If they are of any use in the matter of mining or countermining, laying or removing mines, it is to be on our own coast, and we have abundant facilities for doing that now. There is not an American inventor who can not produce something for $50,000 that will do that kind of work just as well as this $250,000 boat can do it. Senators know what the present method is, and that it is an inexpensive method. The idea that we are going to purchase a quarter of a million dollar boat because the inventor has represented that he can lay mines or can countermine or remove mines is absolutely without any force.

Now, Mr. President, that is all I care to say. If the Senate, in its wisdom, sees fit to depart from its established rule in this matter, if it sees fit to refuse competition when these gentlemen themselves insisted upon competition and got it, of course I am estopped from doing anything further than what I now do, and that is to enter a protest against what I can conceive to be bad legislation.

Mr. LODGE. Mr. President, in regard to the point on which the Senator from Wisconsin [Mr. SPOONER] was speaking, we have built four turret harbor-defense monitors. They are vessels which can not fight in a seaway. They get from place to place only with the utmost difficulty and with considerable danger. They are exactly what they are described, harbor-defense vessels. They are practically floating turrets.

We used the old monitors in the Spanish-American war in that way at many of our Atlantic ports. They were used as strictly for harbor defense as anything could be, and yet they have been kept, and very properly, under the command of the Navy.

It seems to me in regard to this boat that the least of her many good qualities is the quality of laying mines.

Mr. WARREN. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. LODGE. Certainly.

Mr. WARREN. Will the Senator state where those monitors are at present?

Mr. LODGE. They are under construction and——

Mr. WARREN. All of them?

Mr. LODGE. No; there are three of them attached to the coast squadron, one to the Pacific Squadron. They are not cruising vessels. They are not cruisers, I can say to the Senator.

Mr. PERKINS. One went to Manila.

Mr. WARREN. The Senator will admit that they are to-day in foreign waters.

Mr. LODGE. One of them is, undoubtedly.

Mr. WARREN. Another is at Panama.

Mr. LODGE. Yes; undoubtedly. They are not cruising vessels, and they can not fight in a seaway.

Mr. WARREN. They are used entirely upon the surface, and they are an entirely different vessel.

Mr. LODGE. Undoubtedly they are used on the surface. Whether a boat is used on the surface or as a submarine craft does not alter the fact that it is a boat.

Mr. WARREN. So is a revenue cutter a war boat, carrying fixed and movable guns, but it is not a part of the Navy of the United States.

Mr. LODGE. But this is a boat filled with machinery which requires a mechanical engineer, for which work the Navy is trained.

Now, Mr. President, I do not want to go over all that again, but I think to have a general on land ordering a fleet attack with its one set of submarines and an admiral at sea ordering another fleet attack with another set of submarines might lead to confusion when it is the same fleet that is attacked.

It seems to me that there is no reason why this boat should not enter the naval competition. For some reason it is not desired to bring it before the naval board. Therefore it is put into the army bill to bring it before an army board. But when we ask for a clause providing for competition we are told that this boat has not a competitor in the world, and that that is the reason why it should not be open to competition; that it is beyond and above competition, and therefore that is a reason for not allowing anybody else to compete. If this boat is so enormously superior to every other boat, and I do not deny it, I do not pretend to know, it should not dread competition. I have not seen it operate even on a committee table, and I do not know that it is not the finest boat in the world. I hope it is. But if it is all it is said to be, why, I ask, should it dread competition?

Mr. ALLISON. Mr. President, I do not wish to prolong this debate, and I will say only a word or two in justification of the reasons which impelled the Committee on Appropriations to insert this particular amendment in the bill.

In the early consideration of this question in the committee I shared very much the view just now expressed by the Senator from Massachusetts that matters respecting torpedo boats and other boats for defensive or aggressive warfare properly belong to the Navy; but after reading the testimony in another place submitted during the consideration of the naval appropriation bill, I became impressed with the great value of this boat. Then it was urged upon the committee first by a commission appointed by the Secretary of War, who had made preliminary tests as respects the characteristics of this boat and made a report to the General of the Army, who warmly and heartily recommended it as an important adjunct to the coast defenses. That seemed to me to be a matter perfectly in line with the duties of the War Department, because they do have charge of the coast defenses, whatever those defenses may be, whether the laying of mines, the erection of fortifications, the emplacement of guns, or what not.

This Mr. Lake, I will say, appeared before us, and after hearing him I became convinced that there was great value in this invention of his. He stated to us that he had been engaged in the various valuable inventions connected with this boat for a great many years, and that he had expended $400,000 or $500,000 in perfecting his inventions. It seemed to me that it would be a most valuable adjunct to our coast defenses, and I can not but believe that it is true now, after hearing many of the arguments pro and con, as I have been able to hear them on the floor of the Senate.

But there is another point that has affected my judgment somewhat, perhaps largely. I am not certain whether this boat will have the kind of test it ought to have under the provision placed in the naval appropriation bill. There is ample provision, I agree, for submarine boats in the naval appropriation bill. The Senate in considering the bill made some amendments respecting the method of dealing with the subject.

Mr. LODGE. May I ask the Senator a question? He says he does not think the test provided in the naval appropriation bill is satisfactory——

Mr. ALLISON. No; I did not say that.

Mr. LODGE. That it would not be fair to this boat?

Mr. ALLISON. No, sir; I certainly did not say that.

Mr. LODGE. I beg the Senator's pardon; I thought he criticised the test provided in the naval appropriation bill.

Mr. ALLISON. No; I do not criticise it. On the contrary, I regard it as a most valuable provision; but whether there can be made under it a test that can deal with all the things that this boat is supposed to be adapted to, I do not know.

Mr. LODGE. That is just what I wanted to ask the Senator. He does not think the test under the naval appropriation bill is sufficiently thorough; he believes that it will be a test of only a part of it?

Mr. ALLISON. If the Senator will allow me, I will endeavor to present the whole of my statement, and then I shall be very glad to hear his suggestion. Here is a test provided in the naval appropriation bill, which, by the way, has not yet passed; it is in limbo between the two Houses.

Mr. LODGE. Both Houses have agreed to the essential part of the bill.

Mr. ALLISON. I do not know whether they have or not.

Mr. GALLINGER. The Senator will observe that it is a House provision.

Mr. ALLISON. Yes, I so observe. I certainly can observe what is right before me——

Mr. GALLINGER. But——

Mr. ALLISON. And I shall read that amendment if I have an opportunity. I hope the Senator will allow me just long enough to do that.

The PRESIDENT pro tempore. The Senator from Iowa declines to yield further.

Mr. ALLISON. No; certainly not. I will yield to the Senator.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. The bill (S. 1508) to provide for the purchase of a site and the erection thereon of a public building to be used for a Department of State, a Department of Justice, and a Department of Commerce and Labor.

Mr. FAIRBANKS. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Indiana asks that the unfinished business be temporarily laid aside and that the Senate proceed with the consideration of the fortification bill. The Chair hears no objection.

Mr. ALLISON. I do not decline to yield to the Senator from New Hampshire, but I shall endeavor to——

Mr. GALLINGER. I tried to yield to all comers.

Mr. ALLISON. I yield to the Senator with pleasure.

Mr. GALLINGER. I will not interrupt the Senator if it is disagreeable.

Mr. ALLISON. It is not disagreeable.

Mr. GALLINGER. I want to say that the Senator possibly overlooked this House provision, in which the Senate concurred, and the conference committee could not do anything with it if it tried.

Mr. ALLISON. If that be true, then of course my suggestion wholly falls. Now, let us see if that is true.

Mr. GALLINGER. There is the addition of two words.

Mr. ALLISON. Very well. Here is the provision. I will read the whole of it, as I have not occupied much time on this subject.

*Provided*, That prior to said purchase—

That is, the purchase of subsurface or submarine torpedo boats—

*Provided*, That prior to said purchase or contract for said boats any American inventor or owner of a subsurface or submarine torpedo boat may give reasonable notice and have his, her, or its subsurface or submarine torpedo boat tested by comparison or competition, or both—

This is a very wide provision, and a very valuable one, I think—

with a Government subsurface or submarine torpedo boat or any private competitor, provided there be any such, and thereupon the board appointed for conducting such tests shall report the result of said competition or comparisons, together with its recommendations, to the Secretary of the Navy, who may purchase or contract for subsurface or submarine torpedo boats in a manner that will best advance the interests of the United States in submarine warfare.

That was the original text.

Mr. GALLINGER. "Or coast defense."

Mr. ALLISON. No; I beg the Senator's pardon. That is the point I am coming to. That is the very kernel in this nut that has troubled me. The words "torpedo or" were inserted.

*And provided further*—

Then there is struck out the provision in the text which reads:

That before any subsurface or submarine torpedo boat is purchased or contracted for it shall be accepted by the Navy Department as fulfilling all reasonable requirements for submarine warfare and shall have been fully tested to the satisfaction of the Secretary of the Navy.

Those words are stricken out in the navy appropriation bill, and there are inserted other words which the Senator must have overlooked when he stated that the text was not materially interfered with.

That before any subsurface or submarine torpedo boat—

I am reading now the amendment—

or boats are purchased or accepted by the Navy Department they shall have been fully tested to the satisfaction of the Secretary of the Navy and shall fulfill all reasonable requirements for torpedo or submarine warfare.

That is practically a repetition.

*Provided also*, That the boats contracted for under this act shall be constructed in accordance with the plans and specifications of the contractor.

The criticism I make and which influenced my mind as respects this provision is that the tests provided for in the provision of the naval appropriation act are tests for naval warfare, and therefore it may be that there are things connected with this invention which are most valuable and important, as I believe they are, for coast defense that will not stand the test for simple naval warfare. If the words the Senator inserted in his quotation were here "naval warfare or coast defense," I should think there was ample opportunity under this provision in the naval appropriation bill, but I must submit to my friend, after having made my explanation, he himself having supposed that those words were here, whether he thinks now that there is not a possible difficulty in making a test or competition under the appropriation of $850,000 in the naval appropriation bill.

Mr. GALLINGER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. ALLISON. Certainly.

Mr. GALLINGER. I am free to admit I was mistaken as to the words being in the amendment.

Mr. ALLISON. They are most essential words.

Mr. GALLINGER. May I call the Senator's attention to the language of my proposed amendment? Perhaps he was not in when I read the amendment. I shall propose putting it in the hands of the Secretary of War to "purchase or contract for a submarine torpedo boat in a manner that will best advance the interests of the United States in torpedo or submarine warfare and coast defense." Will the Senator object to that provision?

Mr. LODGE. That involves competition, of course.

Mr. GALLINGER. It involves competition.

Mr. ALLISON. I had not reached that phase of my suggestion as yet. I became satisfied, as I said, that here was a valuable invention, both for coast-defense purposes and for naval warfare. The inventor had expended a large sum of money, and was willing to submit to any test his boat might be subjected to, and to submit himself thoroughly to the discretion of the Secretary of War, who certainly will not exercise that discretion until he finds something useful and important in this invention. It seemed to me, therefore, when we had appropriated $850,000 in the naval appropriation bill for torpedo boats, the provision being thus circumscribed and limited, that it was a wise thing for us to give this boat an opportunity of being tested in the discretion of the Secretary of War; and if it shall meet the requirements which its inventor claims it will meet, then I submit, Mr. President, there is no more important duty which can be performed by the two Houses than to expend $250,000 for this experimental craft.

Mr. SPOONER. Is it seagoing?

Mr. ALLISON. Whether it is absolutely a seagoing vessel or not I do not know, although it was claimed for it that it could sail 500 miles out in the ocean. But it seemed to me that here was a valuable invention which ought to be tested, and if the Secretary of War finds after a test that it is most valuable, as the army board and as General Chaffee have already found it to be, then I think it is a most useful appropriation, especially so when we compare the amount involved with the work this little craft can do if it comes up to what is claimed for it. It could destroy the great battle ships of other nations or it could destroy one of our own should it approach the harbor of New York or any other harbor.

We have appropriated in the naval appropriation bill $31,000,000 for the construction of battle ships, chiefly for armored cruisers, and yet this inventor might carry his invention across the sea. He might give it to the Japanese, who were instructed, it seems, on board this vessel by Mr. Lake by disguising themselves as cooks. If a foreign government should have the benefit of this American invention, and if we were to undertake to enter a foreign harbor with one of our battle ships, it could be destroyed in fifteen or twenty minutes by this little craft. Then we would regret many days and many times that we had not ourselves encouraged this inventor in the perfection of this little machine for which there is so much claimed.

I knew nothing about this matter until it was presented to the Committee on Appropriations. My judgment was against it, as I said in the beginning, and I believed it was not in order on this bill. That was my early judgment; but when I came to examine the bill more carefully, it being a fortifications appropriation bill and there being provisions in it without number for mines and electrical apparatus on fortifications and connecting them with the ground and beneath the water, I made up my mind that it is just as essential a part of our coast defenses as is a grappling hook to take up one of the mines. Therefore I believed that the amendment would be as much in order as a part of this fortifications bill as it would be in order in this bill to make provision for building guns upon emplacements in our fortifications in one of our harbors.

So, Mr. President, the Committee on Appropriations believed, first, that they were making a recommendation to the Senate that was in order on the fortifications appropriation bill in providing for our coast defenses. They believed that it is as much a part of the machinery of our coast defenses as are the guns that are in barbette or concealed; that it is as much a part of the machinery of our coast defenses as are the mines that we sink under the water in our harbors.

Mr. President, I only desired to say that my mind is made up as respects these two points. I will say, further, I have no doubt that the Secretary of the Navy will, in the execution of this appropriation of $850,000, test this boat among others as to its seafaring qualities and as to its value for naval warfare as distinguished from coast-defense warfare.

Mr. President, in view of the enormous appropriations we are making year by year for the upbuilding of our Navy (and I have supported them all without criticism and without objection), in view of the enormous appropriations we are making here for the defense of our harbors, amounting to more than $100,000,000 within the last eight or ten years, when we see a proposition here that will eliminate many of the elements of this great cost in our harbor defenses and, it may be, upon the ocean, we should favor it. We should test every invention that is recommended to us as valuable by the high officers of our Government who are familiar with warfare, whether they are officers of the Army or officers of the Navy.

I did not intend to participate in this debate, and I would not have done so except that at the last moment I saw the criticisms were rather severe upon the Appropriations Committee for undertaking to mingle the Navy and the Army in a fortifications bill. There is no such purpose. There is no such mingling. There will be no difficulty whatever in regard to it. If the army and navy officers are patriotic, as I suppose them to be, and there is an engine of destruction such as this engine is believed to be by me, there will be no controversy between the General of the Army and the Admiral of the Navy as to who shall command this great craft, whether it be in the harbor of New York or upon the ocean in the vicinity of New York.

Mr. ALGER. Mr. President, having had some experience during the Spanish-American war, I wish to testify to the need of the War Department for a ship or a boat to plant mines, to remove them, and to put out the electrical apparatus. Whether this is a good ship for the Navy is a question; but if it is as described, it is absolutely needed by the War Department, and I trust it will be given to the War Department, to aid in its coast defense and in the planting of its mines. If the Navy needs such a ship, let them build another.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Virginia [Mr. DANIEL] to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question now is on the amendment proposed by the committee.

Mr. MALLORY. Mr. President, I think the Senator from Arkansas [Mr. BERRY], who is absent, is very much interested in this amendment, and therefore I think action upon it had better be deferred for the present.

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

The PRESIDENT pro tempore. The absence of a quorum being suggested, the Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Alger, | Dolliver, | Long, | Platt, N. Y. |
| Allison, | Fairbanks, | McCreary, | Proctor, |
| Bacon, | Foraker, | McEnery, | Quarles, |
| Beveridge, | Foster, La. | Mallory, | Quay, |
| Blackburn, | Frye, | Martin, | Scott, |
| Burrows, | Fulton, | Millard, | Spooner, |
| Clark, Mont. | Gallinger, | Money, | Stewart, |
| Clark, Wyo. | Gibson, | Newlands, | Stone, |
| Clarke, Ark. | Heyburn, | Patterson, | Teller, |
| Clay, | Hoar, | Penrose, | Warren, |
| Cullom, | Kean, | Perkins, | Wetmore. |
| Daniel, | Latimer, | Pettus, | |
| Dillingham, | Lodge, | Platt, Conn. | |

The PRESIDENT pro tempore. Forty-nine Senators having answered to their names, a quorum is present. The question recurs on the amendment proposed by the Committee on Appropriations, on page 3, after line 11.

Mr. LODGE. Mr. President, is there not an amendment pending offered by the Senator from Tennessee [Mr. CARMACK]?

The PRESIDENT pro tempore. Such an amendment was not offered, but it was sent to the desk.

Mr. LODGE. I do not see the Senator from Tennessee here. I should like to have that amendment read, and then I will offer it.

The PRESIDENT pro tempore. Does the Senator from Massachusetts desire to offer the amendment which has been sent to the desk by the Senator from Tennessee?

Mr. LODGE. I offer it as an amendment, and ask that it may be read.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 3, line 14, after the word "boat," it is proposed to strike out "of the type of the Protector, manufactured by the Lake Torpedo Boat Company," and in lieu thereof to insert "of such type as he may, after careful test and examination, approve."

Mr. GALLINGER. Let the entire amendment be now read as it will read if amended.

The PRESIDENT pro tempore. The amendment as proposed to be amended will now be read.

The Secretary read as follows:

To enable the Secretary of War in his discretion to purchase for the School of Submarine Defense for experimental work one submarine torpedo boat of such type as he may, after careful test and examination, approve, not to exceed, in the judgment and discretion of the Secretary of War, $250,000: *Provided*, That before said submarine torpedo boat is purchased or accepted by the War Department it shall have been fully tested to the satisfaction of the Secretary of War and shall fulfill all reasonable requirements for coast defense.

The PRESIDENT pro tempore. The question is on the amend-

ment of the Senator from Massachusetts [Mr. LODGE] to the amendment of the committee.

Mr. BERRY. On that I ask for the yeas and nays.

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

Mr. DILLINGHAM (when his name was called). Owing to the absence on account of illness of the senior Senator from South Carolina [Mr. TILLMAN], with whom I have a general pair, I withhold my vote. If he were present, I should vote "nay."

Mr. MCENERY (when his name was called). I am paired with the junior Senator from New York [Mr. DEPEW], who is not present, and therefore I withhold my vote.

Mr. FULTON (when Mr. MITCHELL'S name was called). I desire to state that my colleague [Mr. MITCHELL] is necessarily absent from the city because of the death of his daughter.

Mr. SCOTT (when his name was called). I have a general pair with the Senator from Florida [Mr. TALIAFERRO]; but I do not believe this is a question on which I should decline to vote, as Senators do not appear to be voting on party lines. Therefore I shall take the liberty of voting. I vote "nay."

Mr. MALLORY (when Mr. TALIAFERRO'S name was called). My colleague [Mr. TALIAFERRO] is absent on account of sickness.

The roll call was concluded.

Mr. MONEY. My colleague [Mr. MCLAURIN] is absent on account of sickness in his family. He is paired with the Senator from Washington [Mr. FOSTER]. I do not know how my colleague would vote if present.

Mr. FOSTER of Louisiana (after having voted in the affirmative). I have a general pair with the Senator from North Dakota [Mr. MCCUMBER]. He being absent from the Senate, I will withdraw my vote.

Mr. GIBSON (after having voted in the affirmative). I have a general pair with the Senator from Utah [Mr. KEARNS], who is not present. I therefore withdraw my vote.

Mr. DUBOIS. I inquire if the senior Senator from Oregon [Mr. MITCHELL], with whom I have a general pair, has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. DUBOIS. Then I withhold my vote.

Mr. PATTERSON (after having voted in the negative). Mr. President, I ask if the Senator from South Dakota [Mr. KITTREDGE], with whom I have a general pair, has voted?

The PRESIDENT pro tempore. The Chair is informed that the Senator from South Dakota has not voted.

Mr. PATTERSON. Then I withdraw my vote.

The result was announced—yeas 24, nays 25, as follows:

YEAS—24.

| | | | |
|---|---|---|---|
| Bacon, | Clay, | Hoar, | Martin, |
| Berry, | Daniel, | Kean, | Money, |
| Blackburn, | Dolliver, | Lodge, | Newlands, |
| Carmack, | Fairbanks, | McComas, | Platt, N. Y. |
| Clark, Mont. | Foraker, | McCreary, | Stewart, |
| Clarke, Ark. | Gallinger, | Mallory, | Stone. |

NAYS—25.

| | | | |
|---|---|---|---|
| Alger, | Cockrell, | Perkins, | Spooner, |
| Allison, | Cullom, | Pettus, | Teller, |
| Ankeny, | Frye, | Platt, Conn. | Warren, |
| Ball, | Fulton, | Proctor, | Wetmore. |
| Beveridge, | Heyburn, | Quarles, | |
| Burrows, | Long, | Quay, | |
| Clark, Wyo. | Millard, | Scott, | |

NOT VOTING—40.

| | | | |
|---|---|---|---|
| Aldrich, | Dietrich, | Hale, | Mitchell, |
| Allee, | Dillingham, | Hansbrough, | Morgan, |
| Bailey, | Dryden, | Hawley, | Nelson, |
| Bard, | Dubois, | Hopkins, | Overman, |
| Bate, | Elkins, | Kearns, | Patterson, |
| Burnham, | Foster, La. | Kittredge, | Penrose, |
| Burton, | Foster, Wash. | Latimer, | Simmons, |
| Clapp, | Gamble, | McCumber, | Smoot, |
| Culberson, | Gibson, | McEnery, | Taliaferro, |
| Depew, | Gorman, | McLaurin, | Tillman. |

So Mr. LODGE'S amendment to the amendment of the committee was rejected.

The PRESIDENT pro tempore. The question now is on agreeing to the amendment proposed by the committee.

Mr. GALLINGER. On that I ask for the yeas and nays.

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

Mr. DILLINGHAM (when his name was called). I again announce my pair with the senior Senator from South Carolina [Mr. TILLMAN], who is detained by illness. Were he present, I should vote "yea."

Mr. DUBOIS (when his name was called). I am paired with the senior Senator from Oregon [Mr. MITCHELL].

Mr. GIBSON (when his named was called). I have a general pair with the senior Senator from Utah [Mr. KEARNS]. Were he present, I should vote "nay."

Mr. MCENERY (when his name was called). I am paired with the junior Senator from New York [Mr. DEPEW].

Mr. PATTERSON (when his name was called). I am paired with the Senator from South Dakota [Mr. KITTREDGE]. He not being present, I withhold my vote.

The roll call was concluded.

Mr. MALLORY. I desire to state again that my colleague [Mr. TALIAFERRO] is sick at home in Florida. He is paired with the Senator from West Virginia [Mr. SCOTT].

Mr. MONEY. I desire to again announce that my colleague [Mr. MCLAURIN] is absent on account of sickness in his family. He has a general pair with the senior Senator from Washington [Mr. FOSTER].

The result was announced—yeas 32, nays 18, as follows:

YEAS—32.

| | | | |
|---|---|---|---|
| Alger, | Dolliver, | McComas, | Quay, |
| Allison, | Fairbanks, | McCumber, | Scott, |
| Ball, | Foraker, | Millard, | Smoot, |
| Bard, | Frye, | Perkins, | Spooner, |
| Beveridge, | Fulton, | Pettus, | Stewart, |
| Clark, Wyo. | Heyburn, | Platt, Conn. | Teller, |
| Cockrell, | Kean, | Proctor, | Warren, |
| Cullom, | Long, | Quarles, | Wetmore. |

NAYS—18.

| | | | |
|---|---|---|---|
| Bacon, | Clarke, Ark. | Hoar, | Money, |
| Berry, | Clay, | Lodge, | Platt, N. Y. |
| Blackburn, | Daniel, | McCreary, | Stone. |
| Carmack, | Foster, La. | Mallory, | |
| Clark, Mont. | Gallinger, | Martin, | |

NOT VOTING—39.

| | | | |
|---|---|---|---|
| Aldrich, | Depew, | Hale, | Morgan, |
| Allee, | Dietrich, | Hansbrough, | Nelson, |
| Ankeny, | Dillingham, | Hawley, | Newlands, |
| Bailey, | Dryden, | Hopkins, | Overman, |
| Bate, | Dubois, | Kearns, | Patterson, |
| Burnham, | Elkins, | Kittredge, | Penrose, |
| Burrows, | Foster, Wash. | Latimer, | Simmons, |
| Burton, | Gamble, | McEnery, | Taliaferro, |
| Clapp, | Gibson, | McLaurin, | Tillman. |
| Culberson, | Gorman, | Mitchell, | |

So the amendment of the committee was agreed to.

The PRESIDENT pro tempore. The question now is on the amendment of the committee, on page 9, which was passed over. The Secretary will state the amendment.

The SECRETARY. On page 9, after line 9, it is proposed to strike out the following:

For procurement of land needed as sites for the defenses of the Hawaiian Islands, $200,000.

Mr. LODGE. If I may, I should like to ask the Senator in charge of the bill why that provision was stricken out?

Mr. PERKINS. The appropriation was in the bill for the purpose of acquiring sites for fortifications near Honolulu, in Pearl Harbor, in one of the Hawaiian Islands. The estimated cost of the land was $525,000. By inquiry at the Department we ascertained that the Government had no bond and no option upon this land, and while the members of the committee believed it proper and in the line of the purchase of necessary sites for fortifications, they did not believe it wise or expedient to appropriate $200,000, which could not be used to advantage.

Mr. BEVERIDGE. May I ask the Senator a question?

Mr. PERKINS. Certainly.

Mr. BEVERIDGE. Do I understand the Senator to say that we have no fortifications in the Hawaiian Islands, nor sites for the same?

Mr. PERKINS. Nothing that we have appropriated for, except in the general appropriation for insular fortifications, which is in the discretion of the Board of Ordnance and Fortification.

Mr. BEVERIDGE. At the present time are there any fortifications in the Hawaiian Islands?

Mr. PERKINS. There are no fortifications there.

Mr. BEVERIDGE. Nor any sites for fortifications?

Mr. PERKINS. No. Our experience has been where the Government has acquired sites for fortifications, as well as for public buildings, that a sufficient amount should be appropriated to purchase all the land that may be required.

Your committee, therefore, believed that it was the part of wise legislation for the Department to come to Congress with a definite recommendation for an appropriation after they had secured an option upon sufficient land for the erection of the required fortifications.

In my own State, where we desired to purchase land for public buildings, it was found that it was only an invitation for those who had lots adjoining to put up the price when we required more land. Therefore your committee believed it wise, as I stated before, to make no appropriation this year and in the meantime to request the Department to have an estimate and an option on whatever land may be deemed necessary.

Mr. FORAKER. I should like to ask the Senator, before he takes his seat, whether this estimated cost of $500,000 for land on which to erect fortifications contemplates that there shall be only one place where fortifications shall be erected? Is it not true that fortifications are contemplated at additional points?

Mr. PERKINS. That is very true. Perhaps I had better read what finally determined the committee in their recommendation.

Mr. FORAKER. May I further ask the Senator, before I sit

down, if he will allow me, whether or not for $200,000 there could not be procured ample grounds for fortifications at some of the points where it is contemplated that fortifications shall be erected?

Mr. PERKINS. We have no bond and no option upon any land there, so the Department informed us.

Mr. FORAKER. I understand there is no bond and no option, but there was knowledge, as I understand it, before the committee of the House of Representatives, where the provision was framed, and also knowledge before the committee that struck out the House provision. I am inquiring simply for information.

Mr. PERKINS. The estimates for this bill, Mr. President, were $21,573,197. It has been cut down from the estimates to $7,637,192. Therefore, when we increased the appropriations in the bill in the Senate we had this provision under consideration as well as many others that were presented to us. After presenting the matter to the Board of Engineers we received a communication from them, and while urging the appropriation of the full amount they had asked for, they made this statement:

> This increase is respectfully recommended. If, however, the committee can not see its way clear to such increase in the aggregate of the bill, and some item must be correspondingly decreased, it is suggested that the item of $200,000 for land in Hawaii is the one which will probably best stand a reduction, while no work of construction at Pearl Harbor with funds here appropriated is anticipated. Such reduction in the land item would, nevertheless, be regretted. The fortifying of Pearl Harbor and Honolulu is of much importance, and as no work can be commenced until land is purchased, it is desirable that as early action be taken in such land purchase as is practicable. The total cost of such land is, however, estimated at $526,000, and even with an appropriation of $200,000 but a portion of the desired land could be secured.

Mr. SPOONER. Mr. President——

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

Mr. PERKINS. Certainly.

Mr. SPOONER. The Senator from California will permit me to ask him a question?

Mr. PERKINS. Certainly.

Mr. SPOONER. We have no fortifications, I understand, at Pearl Harbor?

Mr. PERKINS. We have none.

Mr. SPOONER. Does not the Senator think it is time we entered upon the work of fortifying the Hawaiian Islands?

Mr. PERKINS. There is no question of it.

Mr. SPOONER. Shall we wait until there is immediate use for fortifications?

Mr. PERKINS. There is no question but that we should fortify not only Pearl Harbor and Honolulu Harbor and Diamond Head, but also the five forts named—Manila and Subig Bay, San Luis d'Apra, Guam, and San Juan, P. R.

Mr. SPOONER. There is this difference, if the Senator makes that observation by way of argument, that Hawaii is one of the organized Territories of the United States. The Philippines are not. Neither is Porto Rico in the sense that Hawaii is. I have always supposed that at a reasonably early day the United States would enter upon the work of adequately fortifying the Hawaiian Islands. I see no reason—perhaps the Senator can give me one—why we should not appropriate the money for the acquisition of the land necessary for that purpose.

Mr. PERKINS. That is precisely our view, Mr. President. I am in full accord with the Senator.

Mr. SPOONER. I should like to ask the Senator—he being in agreement with me upon that proposition—whether the money necessary for acquiring the lands necessary for that purpose is not estimated for?

Mr. PERKINS. It is. But the Department assured me that they had no bond, no option, no guaranty that it could be purchased for the amount they estimated.

Mr. SPOONER. I understand it will take about $512,000.

Mr. PERKINS. Five hundred and twenty-six thousand dollars, they estimate.

Mr. SPOONER. The Senator, I suppose, has no doubt that the Government of the United States has power to condemn whatever land we require for that purpose?

Mr. PERKINS. When we will be ready to appropriate the money.

Mr. LODGE. Is it not unusual to appropriate the money after condemnation?

Mr. PERKINS. The Department has not recommended it. We should be only too glad to recommend an amendment if we had a recommendation from the Department.

Mr. SPOONER. The Department has estimated. The Department does not generally estimate for things it does not recommend, I understand. It has estimated five hundred and odd thousand dollars for the acquisition of the necessary land in the Hawaiian Islands. If that money were appropriated, it would mean what? It would not mean that the Government would thereby be at the mercy of some real estate ring. It would mean that the land was to be acquired by purchase where it could be acquired by purchase at a fair price, and where it could not be acquired by purchase at a fair price, under the general laws of the United States, which have been extended in that particular to Hawaii, that the land should be acquired by condemnation, the money having been appropriated to pay for it.

Mr. PERKINS. The Senator, I think, misunderstands the position of the committee upon this matter.

Mr. SPOONER. I evidently do.

Mr. PERKINS. I believe if a recommendation had come from the Department that this land could be secured for $526,000, as they estimate, there would have been very few, if any, dissenting votes in the committee against it. I should have had no objection, certainly; and if the Senate should now decide to make an appropriation of $526,000, I certainly shall not object.

Mr. SPOONER. If the Senator will permit me, is it the idea of the committee to wait until the Department shall have obtained bonds or options which will bring the price of the necessary land to five hundred or five hundred and fifty thousand dollars?

Mr. PERKINS. The object of the committee was not to appropriate $200,000 when they had no assurance that they could get the land or any part of the land.

Mr. SPOONER. If the Senator will permit me, I think the committee is entirely right about that. It seems to me it is the only phase of the subject concerning which the committee is right.

Mr. FORAKER. If the Senator will allow me to ask him a question coming in exactly at this point, what I have been trying to find out is what is the estimated cost of the site for fortifications at Pearl Harbor?

Mr. BEVERIDGE. Five hundred and twenty-six thousand dollars.

Mr. FORAKER. No; $526,000 is the estimated cost of all these sites. Now, I understand at Pearl Harbor, which is the most important of all, we are to have a site which will not cost us $200,000 for all the ground necessary.

Mr. PERKINS. The Senator's opinion differs from that of the committee.

Mr. FORAKER. It is not an opinion. I am asking for information.

Mr. PERKINS. We had no assurance from the Department that any sufficient quantity of land could be purchased for the $200,000, or that it was deemed expedient or businesslike to buy it. However, if the Senator desires to offer an amendment to this bill making the amount $526,000, the estimate, we have no objection.

Mr. SPOONER. I have this feeling about it, and I will take only a moment: That Territory belongs to the United States. Its people belong to the United States. It is under the protection of the United States. It is far outlying in the Pacific Ocean. It is difficult somewhat of access for war ships. We can not always have an adequate fleet, and perhaps might not be able to utilize an adequate fleet, for the protection of those islands, and it seems to me a plain duty of the United States, which must protect that people at all hazards, as it must protect those who live under its flag, to make timely and adequate provision for their protection without reliance upon the Navy solely.

Mr. BEVERIDGE. It is for our own protection.

Mr. SPOONER. It is for our own protection.

Mr. PERKINS. I can not permit my friend to put me or the committee in the position of being inimical to an appropriation for fortifying Honolulu or Pearl Harbor. The point is simply this: The $200,000 that was in the bill is simply an invitation for landholders to advance the price. Appropriate the amount necessary to buy land sufficient for fortifications, and we are with you.

Mr. SPOONER. The committee is the tribunal, if I may call it such, which ordinarily recommends appropriations to the Senate. This whole acquisition, I understand, was estimated for by the Department. That means, if it means anything, if there is any intelligence behind the departmental action, that the Department recommends it.

I agree entirely with the Senator from California, and every other Senator will agree with him——

Mr. BEVERIDGE. Why do you not offer an amendment?

Mr. SPOONER. I am making a speech at the Senator from California, and I can not get him to listen.

Mr. PERKINS. I am all patience and am listening with great benefit to myself, for the Senator from Wisconsin never speaks without those within hearing of his voice getting some information, as well as being edified.

Mr. SPOONER. I am not so intent upon edifying the Senator as I am upon informing him of my opinion.

Mr. PERKINS. We do not differ at all in the object we have in view. It is only the way of getting at it.

Mr. SPOONER. I was about to agree with the Senator from California.

Mr. PERKINS. I am delighted.

Mr. SPOONER. If it will not offend him, I entirely agree with the proposition of the Senator, that if this property is to cost $550,000 it would be childish to the uttermost for us to appropriate $200,000 for that purpose.

Mr. PERKINS. That is the view of your committee.

Mr. SPOONER. I do not agree with him that because the Department is not able to guarantee that all the land can be acquired for $550,000 we should wait indefinitely before beginning the work of fortifying adequately those islands, and of course to begin the work we must acquire the necessary land.

I understand we have acquired Pearl Harbor, for which we paid seventy-odd million dollars in remitted duties on sugar, and have not any land upon which to place fortifications for its protection. I did not suppose that was the situation.

Mr. PERKINS. It is one of the mistakes which was made when the harbor was purchased not to buy sufficient land with it.

Mr. SPOONER. Does the Senator think it ought to be rectified at the earliest possible moment?

Mr. PERKINS. I certainly do.

Mr. SPOONER. Is there any way to rectify it except to appropriate $550,000 for that purpose?

Mr. PERKINS. That is for the Senate to determine. It is a question of policy.

Mr. SPOONER. I will prepare an amendment.

Mr. FORAKER. Mr. President, I entirely agree with all that has been suggested by the Senator from Wisconsin. I think we should be making provision to fortify Hawaii. It has been my understanding, however, that we were to erect fortifications at a number of points, and of course, therefore, we were to secure sites for fortifications at a number of points. It was my impression—I do not know how I got it—that when in the House they incorporated this provision that $200,000 should be appropriated it was a sufficient amount to secure the sites at the most important places to be fortified. The idea was to commence the fortifications by securing sites with the $200,000.

Now, I have just looked at the estimate of the Department, and find that it does not mention the sites separately. It simply in a lump sum estimates $526,000 for sites for fortifications in Hawaii. If we are to do all or to do nothing, I am heartily in favor of doing all. Therefore, I suggest that the Senate disagree to the amendment of the committee.

Mr. SPOONER. I want to offer an amendment.

Mr. LODGE. We want to disagree to the committee amendment first.

Mr. FORAKER. We want first to disagree to the committee amendment, and then to insert "$526,000" instead of "$200,000."

Mr. SPOONER. I wish to offer an amendment to the amendment of the committee.

Mr. LODGE. The first step is to disagree to the committee amendment.

Mr. PERKINS. The first step is for the Senate to disagree to the committee amendment, and then to amend the bill by inserting "$526,000" instead of "$200,000."

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the Committee on Appropriations.

The amendment was rejected.

Mr. SPOONER. I move to amend the bill by striking out "$200,000" and inserting "$526,000."

Mr. FORAKER. "Five hundred and twenty-six thousand one hundred dollars."

Mr. SPOONER. "Five hundred and twenty-six thousand one hundred dollars."

The PRESIDENT pro tempore. The Senator from Wisconsin offers an amendment which will be stated.

The SECRETARY. On page 9, line 11, it is proposed to strike out "two hundred thousand" before "dollars" and insert "five hundred and twenty-six thousand one hundred;" so as to read:

For procurement of land needed as sites for the defenses of the Hawaiian Islands, $526,100.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. If there be no objection, the amendments made as in Committee of the Whole will be concurred in in gross.

Mr. GALLINGER. I ask that the amendment relating to the Lake torpedo boat be reserved.

The PRESIDENT pro tempore. That amendment will be reserved. The question is on concurring in the other amendments made as in Committee of the Whole.

The amendments were concurred in.

Mr. GALLINGER. I offer what I send to the desk as a substitute for the amendment of the committee which was agreed to in Committee of the Whole on the subject of the Lake torpedo boat.

The PRESIDENT pro tempore. The Senator from New Hampshire offers an amendment, which will be stated.

The SECRETARY. It is proposed to strike out the committee amendment on page 3, beginning in line 11 and ending with line 21, and to insert in lieu thereof the following:

The Secretary of War is hereby authorized, in his discretion, to contract for or purchase for the School of Submarine Defense, for experimental purposes, one submarine torpedo boat, at a cost not exceeding $250,000: *Provided*, That prior to said purchase or contract for said boat any American inventor or owner of a submarine torpedo boat may give reasonable notice and have his, her, or its submarine torpedo boat tested by comparison or competition, or both, with a Government submarine torpedo boat or any private competitor, provided there be any such, and thereupon the board appointed for conducting such tests shall report the result of said competition or comparison, together with its recommendations, to the Secretary of War, who may purchase or contract for a submarine torpedo boat in a manner that will best advance the interests of the United States in torpedo or submarine warfare and coast defense.

Mr. GALLINGER. I ask for the yeas and nays on the question of agreeing to the amendment.

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

Mr. DUBOIS (when his name was called). I am paired with the junior Senator from Oregon [Mr. FULTON].

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. CARMACK]. Has he voted?

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. SPOONER. I transfer my pair to the Senator from Washington [Mr. ANKENY], and will vote. I vote "nay."

The roll call was concluded.

Mr. DILLINGHAM. I have a general pair with the Senator from South Carolina [Mr. TILLMAN], which I transfer to the Senator from Connecticut [Mr. HAWLEY], and will vote. I vote "nay."

Mr. CLARK of Wyoming (after having voted in the negative). As the junior Senator from Missouri [Mr. STONE], with whom I am paired, has not voted, I withdraw my vote.

Mr. MONEY. I wish to announce that my colleague [Mr. MCLAURIN] is absent on account of sickness in his family, and has a general pair with the senior Senator from Washington [Mr. FOSTER].

Mr. LATIMER (after having voted in the affirmative). I desire to inquire if the junior Senator from Illinois [Mr. HOPKINS] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. LATIMER. I desire to withdraw my vote, being paired with that Senator.

Mr. CLARK of Wyoming. I suggest to the Senator from South Carolina that we make an exchange of pairs, so that he and I can vote. That will allow the junior Senator from Illinois to stand paired with the junior Senator from Missouri.

Mr. LATIMER. That is satisfactory. I will allow my vote to remain.

Mr. CLARK of Wyoming. I vote "nay."

Mr. HOAR. Has the Senator from Alabama [Mr. PETTUS] voted?

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. HOAR. I am paired with the Senator from Alabama.

The result was announced—yeas 17, nays 36, as follows:

YEAS—17.

| | | | |
|---|---|---|---|
| Berry, | Daniel, | Latimer, | Money, |
| Blackburn, | Dolliver, | Lodge, | Platt, N. Y. |
| Clark, Mont. | Fairbanks, | McCreary, | |
| Clarke, Ark. | Foster, La. | Mallory, | |
| Clay, | Gallinger, | Martin, | |

NAYS—36.

| | | | |
|---|---|---|---|
| Aldrich, | Cullom, | Long, | Proctor, |
| Alger, | Dillingham, | McCumber, | Quarles, |
| Allison, | Dryden, | Millard, | Quay, |
| Bacon, | Foraker, | Morgan, | Scott, |
| Ball, | Frye, | Nelson, | Smoot, |
| Bard, | Hansbrough, | Patterson, | Spooner, |
| Beveridge, | Heyburn, | Penrose, | Teller, |
| Clark, Wyo. | Kean, | Perkins, | Warren, |
| Cockrell, | Kittredge, | Platt, Conn. | Wetmore. |

NOT VOTING—36.

| | | | |
|---|---|---|---|
| Allee, | Culberson, | Gorman, | Mitchell, |
| Ankeny, | Depew, | Hale, | Newlands, |
| Bailey, | Dietrich, | Hawley, | Overman, |
| Bate, | Dubois, | Hoar, | Pettus, |
| Burnham, | Elkins, | Hopkins, | Simmons, |
| Burrows, | Foster, Wash. | Kearns, | Stewart, |
| Burton, | Fulton, | McComas, | Stone, |
| Carmack, | Gamble, | McEnery, | Taliaferro, |
| Clapp, | Gibson, | McLaurin, | Tillman. |

So Mr. GALLINGER'S substitute was rejected.

The PRESIDENT pro tempore. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

EXECUTIVE SESSION.

Mr. FORAKER. 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 one hour and fifty min-

utes spent in executive session the doors were reopened, and (at 5 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, March 16, 1904, at 12 o'clock meridian.

## NOMINATIONS.

*Executive nominations received by the Senate March 15, 1904.*

SECRETARIES OF LEGATION.

Henry W. Shoemaker, of Ohio, to be secretary of the legation of the United States at Lisbon, Portugal, to fill an original vacancy.

Nelson O'Shaughnessy, of New York, to be secretary of the legation of the United States at Copenhagen, Denmark, to fill an original vacancy.

CONSUL.

Louis A. Dent, of the District of Columbia, to be consul of the United States at Dawson City, Yukon Territory, Canada, vice Henry D. Saylor, appointed consul-general at Coburg, Germany.

REGISTER OF WILLS.

James Tanner, of the District of Columbia, to be register of wills for the District of Columbia, vice Louis A. Dent, resigned.

## CONFIRMATION.

*Executive nomination confirmed by the Senate March 15, 1904.*

MARSHAL.

Victor Loisel, of Louisiana, to be United States marshal for the eastern district of Louisiana.

## HOUSE OF REPRESENTATIVES.

TUESDAY, *March 15, 1904.*

The House met at 12 o'clock m.

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

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

### COAL AND ASPHALT LANDS IN THE CHOCTAW AND CHICKASAW NATIONS, IND. T.

Mr. SHACKLEFORD. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the desk.

The Clerk read as follows:

A bill (H. R. 11126) to authorize the Secretary of the Interior to add to the segregation of coal and asphalt lands in the Choctaw and Chickasaw nations, Ind. T.

*Be it enacted, etc.*, That the Secretary of the Interior is hereby authorized and empowered to segregate and reserve from allotment, and to cancel any filings or applications that may heretofore have been made with a view to allotting the following-described lands, situate in the Choctaw Nation, to wit: The north half of the south half of the southeast quarter, and the northeast quarter of the southeast quarter of the southwest quarter of section 9; the north half of the south half of the south half of section 10; the north half of the south half of the south half of section 11, and the north half of the south half of the southwest quarter of section 12, all in township 5 north, range 19 east, containing 250 acres, more or less; and the northwest quarter of the southwest quarter of section 8, township 5 north, range 19 east, and the southwest quarter of the northeast quarter of section 7, township 5 north, range 19 east, containing 80 acres, more or less.

SEC. 2. That the provisions of sections 56 to 63, inclusive, of the act of Congress approved July 1, 1902, entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes, and for other purposes," be, and the same are hereby, made applicable to the lands above described, the same as if the said described lands had been made a part of the segregation, as contemplated by said sections 56 to 63, inclusive, of said above act approved July 1, 1902: *Provided*, That the Secretary of the Interior may, in his discretion, add said lands to and make them a part of the coal and asphalt mining leases now in effect, and to which said lands above described are contiguous, the lands in each case to be added to and made a part of the lease to which they are adjacent and which they join, Government subdivisions being followed as nearly as possible.

The amendments recommended by the committee were read, as follows:

On page 2, line 22, after the word "following," add the following:

"*Provided further*, That the holder or holders of the lease or leases to which such lands shall be added shall, before the same are added, pay the Indian or Indians who have filed upon or applied for such lands as their allotments, or who are in possession thereof, the value of the improvements on the lands, such value to be determined under the direction of the Secretary of the Interior."

Add the following section:

"SEC. 3. That the Choctaw, Oklahoma and Gulf Railroad Company is hereby authorized and empowered to sublet, assign, transfer, and set over the leases which it now has upon coal lands in the Choctaw Nation, Indian Territory, or any of them. The assignees or sublessees of said Choctaw, Oklahoma and Gulf Railroad Company shall file good and sufficient bonds for the faithful performance of the terms of the original leases, to be approved by the Secretary of the Interior."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. SHACKLEFORD. Mr. Speaker, there is a verbal amendment to be made to section 2, on page 3; after the word "improvements," in line 4, insert the word "placed;" and at the end of said line, after the word "land," insert the words "said Indian or Indians."

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

In line 4, page 3, after the word "improvements," insert the word "placed;" and after the word "land," in same line, insert the words "by the said Indian or Indians."

The amendments to the amendment were agreed to.

The amendment as amended was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Interior to add to the segregation of coal and asphalt lands in the Choctaw and Chickasaw nations, Ind. T., and for other purposes."

On motion of Mr. SHACKLEFORD, a motion to reconsider the vote by which the bill was passed was laid on the table.

### POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the post-office appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union (Mr. BOUTELL in the chair).

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the post-office appropriation bill.

Mr. BURTON. Mr. Chairman, it is my desire to address the House upon the increase of national expenditures. This increase is notable in all civilized countries, whether great or small and whatever may be their form of government. It will be profitable to examine into the history and causes of this increase, to investigate whether any dangerous tendencies arise from it, and to attempt to point out a proper policy to be pursued. The average annual expenditures of the United States Government in the last decade of the eighteenth century were $6,835,000. They were greatly increased by the war of 1812, in the decade from 1811 to 1820, but the following decade showed a decrease, and the annual average in the decade ending in 1860 was only $60,000,000. This was followed by the enormous expense of the civil war, and an average annual expenditure approaching ten times as much, or amounting to $530,000,000.

The closing decade of the last century showed an annual average of $407,000,000. If we deduct from the expenditures of the first decade of the Republic interest charges, which were large because of the assumption of State debts and other expenses growing out of the war for independence, the annual average in the last decade of the nineteenth century was very nearly 100 times as great as in the decade from 1791 to 1800, and if we take the last two years for comparison—1902 and 1903—we find them more than 100 times as great. Though the ratio of augmentation has not at all times been so rapid, the same tendency is manifest in all the leading European countries. Two dates may be selected after which there was a notable growth, the years 1830 and 1880. There was a prevalent opinion about the year 1820 that national expenses had reached their maximum. M. Villèle, finance minister of King Louis XVIII, in bringing in a budget in 1822, pointed out that it carried a billion of francs, and made the remark, "Salute these figures, gentlemen; you will never have opportunity to contemplate them again," but he himself lived to see twenty-five budgets exceeding one billion of francs and to a time when the annual average was one and a half billion.

The increase in the years succeeding 1830 was contemporaneous with increase of wealth. If we seek for a date which may be most appropriately regarded as the beginning of the present era of industry and progress we will select the year 1815, the close of the Napoleonic wars. After that year there were decided changes. Influenced by the exhaustion and bloodshed of constant conflicts, controlling forces in diplomacy made a change in the policy of Europe. Instead of a period in which war was continuous, one ensued in which peace was predominant. The individual was more and the state was less. There was a growing and potent sentiment to the effect that the activities of the people should not be guided and shaped for the aggrandizement of the sovereign or the gratification of his ambitions, but for the common benefit of his subjects. An era of invention had commenced at the close of the preceding century, but its benefits had been suspended because of uninterrupted strife. In the fifteen years succeeding 1815 these inventions were made effective, and to them were added great improvements in transportation by the beginnings of railways, the construction and operation of canals, and the development of steam navigation.

With this enlargement of wealth and of the means of communication it was but a normal result that there should be an increase in expenditure. Another period of increase commenced in the year 1880. By a comparison of the year 1880 with the year 1902, it will appear that the expenditures of France have increased 15 per cent; those of Italy, 26 per cent; those of the United States, 76 per cent; those of Austria-Hungary, 83 per cent; of Great Britain, 134 per cent; of Russia, 180 per cent; of Germany, 334 per cent.

The great increase in Great Britain is in a large measure ex-

plained by the expenses of the South African war, and in Russia by the very large amounts expended for building the Siberian Railway, and for the construction of other railways, or taking over the railways formerly owned and operated by private companies.

The Bureau of Labor has kindly prepared certain figures relating to European countries, which, with the consent of the committee, I will file as an exhibit. These figures, however, as showing the relative increase in each, are misleading and to an extent illusory. If we compare the budgets of different nations or compare a budget of the same country in different periods there are three sources from which erroneous conclusions may be derived.

The first is one of bookkeeping merely. A familiar illustration can be derived from the policy of different countries in counting receipts from customs and other sources of taxation. Formerly it was the general practice to count as revenue merely the net amount collected. In the year 1817 a change in France by which the expenses for collection of revenue were counted with other expenditures added to the annual expense account about $24,000,000, and a similar change in Great Britain in 1856 increased the budget by $22,500,000. The prevalent tendency of late is to count the expenses of collecting revenue with other expenses of the government.

Other illustrations of different methods of bookkeeping may be found in the treatment of the income and expenditure of certain activities of the Government. In our own statement of expenditures only the net deficit accruing from the operation of the Post-Office Department is counted. Such was the case in Germany twenty years ago, but now the income of the Post-Office Department is counted on the one side as a receipt and expenditures on the other side. A similar increase arises from the operation of the German state railways. These figures go far to explain the enormous percentage of increase in the expenditures of that country.

A second source of error in comparisons may be found in the different scope of the activities of the state. For instance, a majority of the nations of continental Europe construct, own, and operate railways, and the expenses upon them account very largely for the greater magnitude of the budget.

The third source of error may be found in the different boundary lines between national or federal and local expenditure. For example, in this country 30 per cent of the total amount collected for national, State, and local expenditure goes to the Federal Government. In France the percentage is twice as much, or approximately 60 per cent. The difference in the scope of the enterprises undertaken by the central government may be well illustrated by the number of employees of the two countries. The Civil Service Commission reports that there are 235,000 civil employees of the United States Government. The number has greatly increased in recent years. Of these 235,000, 72,000 are in fourth-class post-offices. France has a population one-half that of the United States; but, according to a statement issued in 1896, there were 466,000 employees of the central government, and at the rate of increase in the preceding decade it is probable that the present number is half a million. Many of the salaries are very small, but this comparison illustrates the very considerable difference between the activities which center in the Federal Government.

There may be said to be two general causes for the increase of national expenditures. One works automatically without the interposition of the legislature. It arises from the necessary enlargement of existing public functions due to the growth of population, to the expansion of territory, and to the higher range of salaries which is correlative with the diminishing purchasing power of money and contemporaneous with improved standards of living.

The second may be said to be under the control of the legislature. Chief among those of this class is the ever-swelling demand for the enlargement of military establishments, the army and the navy. It is to be noticed that this increase exists contemporaneously with a general condition of peace, interrupted by occasional war. The greater cost is due in some degree to improved varieties of armament and equipment employed in war and in a measure to different political ideals. It can not be said that expenses for the army and navy are entirely under the control of the political power, though in a large degree they are. They depend in part upon the position of a state among nations, but more upon the general policy which the dominant influences in each government may choose to adopt.

In no country has the increase in military expenses been so marked as in our own. In the year 1880 the total expenses for the Army and Navy were $42,000,000—twenty-eight millions for the Army and fourteen millions for the Navy. In 1902 these expenses had increased to four times as much. The naval establishment cost in 1902 more than five times as much as in 1880, and under the appropriation bill passed for 1905 it will cost more than seven times as much. The increase between 1902 and 1905 will be more than twice as much as the total cost in 1880.

Another cause of the increase of national expenditures is the enlargement of the scope of the undertakings and enterprises of the state. In this there is found a great question of public policy relating to the dividing line between public and private initiative. It is readily to be noticed that there is a manifest difference in the nature and objects of the two.

Private undertakings look to an immediate return. They are based upon calculations in which the question is considered whether an income can readily be derived from them, so that the venture will prosper as a business or commercial enterprise. National expenditures are based in great degree upon political and social ideals. They look to the ultimate rather than to the immediate future. They should look to the uplifting of the people, to the improvement of industrial conditions, and to betterment in social and moral conditions as well. In this connection it is gratifying to notice that along with the great increase in the expense of war there is one ray of light, for no one item in the budgets of the different civilized countries has shown so large a ratio of increase in the last fifty years as the provision for education. Our own country has shown a constant growth in this particular, but the percentage of increase has been even greater in European countries in recent years than in our own, because an earlier beginning was made here.

Expenses have sometimes been divided into protective and developmental—protective, those which are for the safety of the state, its army, its navy, its police force—things which protect against foreign aggression and against crime and disorder at home; the developmental include those that look to the future, such as public improvements.

Without wishing to add to some remarks made in this House some weeks since, I think it due to say that the proper balance should be struck between these two kinds of expenditure. Everyone will realize that reasonable protection is necessary. The national feeling is perhaps the strongest general impulse among those who owe allegiance to any country; and the defense of the state at home and abroad, the maintenance of its proper prestige, the protection of its citizens in foreign lands, and due provision for the enlargement of its trade and other activities should be taken into account. Danger arises, however, when we allow enthusiasm or misguided patriotism to carry us beyond an ideal which is rational and appropriate for a people whose traditions and interests look toward peace.

In this connection I desire to state that, contrary to what is perhaps a prevalent impression, the burden of national taxation has not increased in this country as rapidly as wealth. We have official statistics of wealth for census years, beginning in the year 1850. It will appear that in 1850 the average wealth per capita of each inhabitant of the United States was $307; in 1860, $513; in 1870, $779; in 1880, $850; in 1890, $1,038; in 1900, while the census statistics are not complete, an estimate made by the Bureau of Statistics places the figure at $1,235.

The expenditure for national purposes in the year 1850 was a little more than one-half of 1 per cent of the wealth of the country. In 1860 it dropped to less than four-tenths. In 1870, for the first and only decennial year, it exceeded 1 per cent. In 1880 it fell to six-tenths of 1 per cent. In 1890 it was forty-eight one-hundredths. In 1900 it increased to fifty-one one-hundreths.

The comparison, however, is clearer if we take a specified year as the basis. Taking the year 1850 as the basis, and representing it by the figure 100, it appears that in three years at the end of decades, the burden of taxation upon wealth was less than in 1850. Those are the years 1860, 1890, and 1900. Counting 1850 as 100, the burden in 1860 was 70; in 1870 (increased by the civil war), 185; in 1880, 113; in 1890, 87; in 1900, 93.

But these figures should not be our excuse for extravagance. They should, on the contrary, lead us to adopt a policy of conservatism and of the utmost care. It may well be questioned whether it is not an essential requisite—or, if not essential, at least preferable—for the development of a people, that the burden of taxation should be diminished from year to year, so that the standard of living may be raised and capital may always be ready for the numerous enterprises which are necessary for the development of commerce and industry and for increasing the wealth of the people. Thus we can not be excused by the enormous advance in the wealth of the country if we allow ourselves to indulge in any line of expenditures which has in it any taint of extravagance.

There are numerous propositions before the country at present with reference to which discussion will arise. They largely belong to the question of the scope of enterprises of the central Government. A proposition is now pending for the expenditure of very large amounts for improvement or construction of public roads in the United States. It is not claimed that these have to do with interstate commerce. The argument for them is the improved condition which will arise from improved methods of communication between local communities. Good roads would confer an economic benefit because the products of the farm

would be more readily carried to market. They would confer a social benefit because there would be readier means of intercourse between town and country and neighboring localities. They have their advantages, all must admit; but we come here to a question which goes to the very essence of all government—can they be provided for most wisely by the central Government, by States, or by local governments?

It would seem that the rule can be derived from the experience of States and communities that expenses are most judicious, are most carefully applied to public objects, are disbursed most economically and efficiently when and in proportion as there is an immediate local interest in the use to which they are applied. And in the same manner improvements and expenditures are kept within well-considered limits in proportion as those who immediately bear the burden decide what undertakings shall be entered upon.

There is also a proposition pending here for a great increase of the pension list. No one will hesitate to vote for any measure which gives due reward to the soldiers of the civil war. In their old age they will be supported, and if they are suffering from wounds or disease, whatever the Government can do for their support will be done, even though it takes the last scruple in the Treasury. But the question must naturally arise, Under what rule should this appropriation be made? Are we willing to establish in this country the standard that for patriotism, for devotion to country, the reward and the chief reward must be in dollars that are raised by national taxation? [Applause.] I do not speak at this time as one opposing this proposition, but to present the question as to what the proper rule should be in this particular.

The pending measure, known as the "post-office appropriation bill," now carries the largest sum of any of the appropriation bills considered by Congress. It recommends for the postal service an aggregate of $169,996,588.75, an increase of more than $16,000,000 over the amount appropriated for the current year, more than twice as much as for the year 1894, two and one-half times as much as for 1890, and more than four and one-half times as much as for 1880.

The Post-Office Department should respond in an exceptional degree to the growth of the country, but so marked an increase makes it desirable to examine into some of its features. In recent years the gain has been greatest in the rural free-delivery service, which has multiplied in cost from $448,000 in 1900, the first year in which it was fully established, to $8,000,000 in 1903, and the proposed expenditure for the ensuing year of 1905 is $20,773,700. So rapid a multiplication of cost is worthy of careful scrutiny. It would be difficult to find an instance in any budget in which there is such a surprising increase in the cost of any branch of the public service. It can not be denied that this service costs nearly five times as much as any revenue derived from it or connected with it. Save Russia, the post-office is a paying institution in practically all of the countries of Europe. While this may not be in accordance with our own policy, the balance of expenses over income in the past has not been large, and the very large expense of this Department threatens to create an additional and undue enlargement of the burdens of taxation.

A statement forwarded me by the bookkeeping department of the Treasury shows that the sum of $25,717,752.85 has been appropriated for expositions. This amount includes the cost of representation in foreign countries, for which inconsiderable sums were expended twenty and even forty years ago; but more than half of the total has been appropriated within the last six years. I am unable to state how much has been or will be repaid. Some of these expositions have commemorated great events of universal interest to all the people, and all of them are associated with occurrences or enterprises more or less interesting, but the disposition to seek national aid has become more and more manifest, so that it will not be long before an exposition in every State will have preferred its demand for an appropriation from the National Treasury. It will be easy to find in each some historical incident so notable as to furnish a basis for the claim that its anniversary should be elaborately celebrated and the National Government bear a large share of the cost. It is well to consider whether the inevitable magnitude of these demands should not cause the abandonment of this class of appropriations, or at least their limitation to an amount sufficient for a suitable governmental exhibit. Every doubtful use of public moneys is not only objectionable in itself, but doubly so in the precedent which it establishes.

The comparative financial condition of the Federal Government on the one side and that of States and municipalities on the other exercise a potent influence upon the situation. The burden of local taxation and of debt, especially in municipalities, is increasing at a very rapid rate. In addition, the fact that so large a share of the national revenues is raised by indirect taxation renders the weight of national taxation seemingly much less oppressive. These reasons and the existence of a surplus in the Treasury tend to create demands upon the National Government for projects and expenditures which otherwise would be undertaken by the States or smaller political divisions.

The increase of deficiency appropriations is to be noted. Supplemental or deficiency budgets are quite common in all countries. It must be conceded that they are undesirable and dangerous to the best ordered administration. Under our parliamentary methods, however, there is an additional danger. A committee or subcommittee may frame a bill for a branch of the public service and seek to secure economy and at the same time sufficient provision for the public functions in question. Afterwards, the amounts recommended and adopted by Congress may be exhausted by some Department of the Government, expenses may be applied for purposes or to an extent which the committee would not have approved, yet another committee or subcommittee not equally familiar with the subject may promptly provide the amount.

I desire to touch briefly upon some of the dangers which pertain to our system of making appropriations and raising revenue and to some of its characteristic features.

The most characteristic feature can be expressed in one word—the word "severance." First, the severance of the executive department from the legislative; next, the severance of the committees or branches of the legislature which provide the revenue from those which determine expenditures, and, third, the severance of the committees which consider estimates and present appropriation bills.

In some governments an entirely different plan is in vogue. The budget is practically prepared, presented, and carried to a vote, or adopted without a vote, by the executive department of the government. In nearly all it has a more controlling influence. But this is not in accordance with our theory of government. There is no lack of reliance upon estimates of the executive department in the making up of our list of expenses in this country.

In early days an able Secretary of the Treasury might almost dominate all classes of expenditures, determine the aggregate amount and the distribution. This was true in the days of Hamilton and of Gallatin, when the executive branch overshadowed the legislative branch. At present the committees of Congress in making up the respective bills consult with no single official. The heads of the different Departments are called upon for information about the needs of the respective branches of the public service. Subordinates in the different Departments are also brought in and questioned about what they want, each with his different ideas concerning the theory of national expenditure, and with even more widely divergent ideas relating to the scale of expenditures to be adopted in his Department. This makes it impossible for any estimate prepared in the executive department to be adequate or controlling or even to exercise more than a limited influence upon the aggregate of national expenditures. When a bill is presented to the President for his approval he must accept or reject it in its entirety. If he should interpose a veto the desirable items of the measure can not be separated from those which he regards as objectionable.

Congress has guarded with great care—and it is not a mere claim of the prerogative of Congress, but is based upon the Constitution itself—the right to determine revenues and expenditures. When estimates come here one committee determines the ways and means of providing revenue, and other committees, quite numerous, determine what shall be expended.

At an earlier time, both in the year when the Committee on Ways and Means was formed and later when it was made a standing committee and endowed with certain prerogatives, that committee controlled not alone revenue but expenditure, and this continued practically until the year 1865. Numerous reasons have been given for the division of the functions of this committee. Those which were accepted then as entirely adequate were that the labor had become too large for one committee and that too much power was lodged in one body of this House. Consequently the Committee on Appropriations was formed in the year 1865. After that different appropriation bills, one by one, were assigned to other committees, leaving a mere minority of appropriation bills with the Committee on Appropriations.

Now, it is evident that under any such system it is impossible to properly harmonize the aggregate of expenses and of receipts, and if changing conditions arise and one is lowered and the other raised, it is exceedingly difficult to make intelligent provision for the changed situation. Not only is the general management of receipts and expenditures intrusted to separate committees, but the control of the expenses of the different branches of the Government is dispersed among many committees. One committee may have an idea "we should have for our department a very large amount." Another committee may think the same. Still another may be dominated by principles and ideas which look toward economy. Numerous suggestions have been made. Perhaps one of the most practicable would be to have a general committee, composed of the heads of all appropriation committees,

which should begin with each session, examine the estimates, and make out approximately the amount which each should receive.

In this connection there is another danger in our system. That is in the relation between the House and the Senate. In some countries the upper house has the right merely to approve or disapprove an appropriation bill as an entirety and not to add, though perhaps to subtract.

Now, in mentioning the danger of having two bodies, one of which may originate but the other may indefinitely amend appropriation bills, no disparagement is expressed for either. If responsibility were left to the sole control of either, no doubt the work would be properly done; but one House will have its opinions concerning an appropriation, and the other House will have very dissimilar opinions upon the same. One body will enlarge a certain appropriation bill or specific items of it to a maximum, and the other body will enlarge another appropriation bill or some of its items to a maximum. The result is a tendency to a maximum in all expenses. The object most to be desired is that the legislative body or other agency having the preparation of the bills making appropriations should have undivided responsibility, and should frame the bills according to established principles, with a well-defined standard of the comparative importance of claims upon the Treasury. It is practically impossible that the standards of two separate coordinate Houses should be the same.

I wish to call attention here to some very great advantages which have been gained. While there has been a growing tendency toward diffusion or dispersion of responsibility through all these years, on the other hand there has been a stricter attention to details, and with it an insistence upon a greater degree of accountability.

The first appropriation bill passed by the House of Representatives became a law September 29, 1789. It contained just twelve and one-half lines and provided for only four items of expenditure—the civil list, Department of War, warrants issued by the late board of the Treasury, and pensions to invalids. That which became a law March 26, 1790, entitled "An act making appropriations for the support of Government for the year 1790," contained a little less than two pages, and is given in seven sections.

The first section is very similar to the act of 1789. Then follow some more specific appropriations in the other sections. Second, expenses arising from and incident to the sessions of Congress; third, contingent charges of the Government; fourth, building of a light-house on Cape Henry and expenses arising from the act for the establishment and support of light-houses, beacons, buoys, and public piers; fifth, personal and miscellaneous claims, including interest on loans; sixth, personal claims. The seventh section authorizes the making of loans.

The third act—of 1791—contains two and two-thirds pages, and specifies the civil list, War Department, and certain specified objects.

Passing on, the act of 1794 contains two and two-thirds pages. That of 1795 contains less than three pages. Among the paragraphs we will find this item, which shows the primitive conditions, and comparatively small appropriations of that day and at the same time the growing disposition to be more specific:

For the expense of firewood and candles for the several offices of the Treasury Department, except the Treasurer's office, $1,500.

Later on these appropriations are divided, separate military, naval, and other bills appearing, and the present system is a gradual outgrowth from that, but with greatly enhanced attention to details in recent years.

Some writers in treating of these subjects have stated that in the earlier history of the Government appropriations were only made for the respective Departments and were there expended by the different Cabinet officers for such purposes as they pleased.

This statement is hardly accurate unless it is limited to a very few years, but it is evident that at that time much greater discretion was left to the different Cabinets and bureaus. New positions were created without the authority of Congress, and salaries were raised to a very considerable extent. The constitutional provision compelling a report of expenditures from time to time was not held to compel annual reports until the year 1800.

A salutary check upon wastefulness was accomplished by the acts of July 12, 1870, and June 20, 1874. These measures were advocated by Mr. Dawes and Mr. Garfield, and required that after two years unused appropriations, excepting those for permanent specific appropriations, rivers and harbors, light-houses, fortifications, public buildings, or the pay of the Navy and Marine Corps, should be covered into the Treasury. The first measure returned to the Treasury $174,000,000 of accumulated unexpended balances. In a single bureau there was an unexpended balance of $36,000,000, the accumulations of a quarter of a century.

Although the manner of regulating income and expenditure in Great Britain is determined in accordance with different ideas upon fundamental principles of government, it will be interesting to give a brief sketch of it, because many have regarded it as the best now in vogue in any country. Estimates are prepared for the different departments by the ministers and supervised by the chancellor of the exchequer. After the speech from the throne demanding supplies, and a vote in response, the whole house resolves itself into what is called a "committee of supply." The estimates are presented by the ministers, and the whole subject is discussed. The committee then makes its recommendations in the form of a report to the house. The house then resolves itself into the committee of the whole on "ways and means" to determine the methods by which the expenditures recommended may be provided.

It will be noticed that this is done after a full discussion and understanding of the amount to be raised. If it is necessary to raise or lower the income tax or the tax on tea, it is done. If it is necessary to impose an export tax on coal or create any other form of revenue, that is done. As stated by Mr. May, the Crown demands money, the Commons grant it, and the Lords assent to the grant. Mr. Gladstone in 1866 laid down the rule that the constitutional duty of the legislative chamber is not to augment, but to decrease expenditure. This principle is a natural outgrowth of the methods employed. The Commons may not increase the appropriations above the estimates. They may, however, diminish or strike out any item. The Lords may strike out any item, though this privilege is theoretical rather than practical.

The French method, which has been much criticised in France and elsewhere, intrusts the budget made up by the ministers to a committee of thirty-three, three from each of eleven groups selected by lot. This committee frames appropriation bills independently of the minister of finance and the cabinet, and even assumes the right to change established law. The budget, after passing the Chamber of Deputies, where it is almost always increased, goes to the Senate, where a policy of greater conservatism prevails. No additions are common in the latter body except to provide for activities or expenses of the Government in pursuance of law which the Chamber of Deputies has stricken out.

In 1876 the Chamber denied the right of the Senate to introduce a new proposition in financial legislation, only conceding the right to reduce or reject altogether. After a lengthy controversy the Chamber yielded the point, but did not concede the right. M. Gambetta, in a plan for the revision of the constitution, advocated giving the Chamber of Deputies the final word on finance, restricting that body, however, so that it would not have power to increase any estimate which came from the minister.

Mr. GILBERT. Mr. Chairman, for my information, how do they ascertain the aggregate in the British House of Commons until each separate department has been investigated to ascertain what are the necessities of that particular department?

Mr. BURTON. Each particular department carefully makes up its list.

Mr. GILBERT. Of the sum total of these items?

Mr. BURTON. They are then submitted to the chancellor of the exchequer, and carefully considered, and where an item is regarded as extravagant it is sent back to the particular department for its consideration, and then the bill is brought before the House of Commons as stated.

I have before me a comparative statement of the receipts and expenditures of the United States for the eight months ending February, 1904. It appears that the total expenses have been $360,000,000, and the total receipts $365,000,000, an excess of receipts of $5,000,000. In the preceding year, for the eight months ending February, 1903, the total expenditures were $344,000,000 and the receipts $377,000,000. Comparing these two years, there was a surplus of $33,000,000 for the eight months of the fiscal year of 1903 and of only $5,000,000 for the eight months of 1904. The receipts of 1903 were $12,000,000 more and the expenditures $16,000,000 less.

There is no occasion for any note of alarm from these figures, but words of caution are not out of place. It is a question whether it would not have been better for us in the years that are passed to have kept down the revenues, thereby maintaining more nearly a balance between revenues and expenditures and doing away with the temptation to extravagance, but these figures bring to our minds the thought that other sources of revenue may be necessary.

A possible danger is apparent here in the absence of any ready provision for flexibility in the amount of revenue. The receipts from established sources change year by year, and they may not rise or fall with the appropriations which are voted. It has been suggested that the Committee on Ways and Means might be charged with the responsibility of supervising all appropriations, criticising such as seem to be objectionable, and opposing or favoring liberal appropriations according to the conditions of the time. It may be desirable for that committee also to consider the subject of prompter provision for changes in the amount of revenue which can be collected. Frequent changes in revenue laws are regarded in this country with distrust and reluctance because of their close interrelation with business conditions. At the

same time the ability to increase or decrease revenue according to existing needs is part of a well-adjusted system of finance.

With a view to meeting unexpected deficiencies the act of June 13, 1898, gave authority to the Secretary of the Treasury to issue certificates of indebtedness, an equivalent of exchequer bills, to an amount not exceeding $100,000,000, payable not exceeding one year from date. It is especially desirable, however, that this method should not be resorted to.

One other feature of our appropriations which is worthy of notice is the very considerable amount of permanent annual appropriations which are paid out of the Treasury without any legislative act. The amount is perhaps one-fifth or one-sixth of the total. They are of the same character as the so-called "consolidated fund" in Great Britain. There are arguments for and against this method of meeting certain kinds of expenses. The argument for permanent annual appropriations is that they give a greater stability to the operations of the Government, that the different undertakings may be carried on and executed without impediment or delay.

Then there is the argument derived from the amount of time consumed in considering these permanent annual charges. It is said that just in proportion as you devote time and pains to examining items which are fixed and necessary, in the same proportion you diminish the care which will be given to those which are mutable and change from year to year. As illustrations, we know the constitutional provision in regard to the Army. Appropriations can not be made for it for more than two years. On the other hand, it is rational to provide for the sinking fund by a permanent annual appropriation. The same is true of the interest upon the public debt. Neither should require annually recurring legislative action. But it must be said on the other side that this custom of expending large amounts, aggregating now, I think, about $100,000,000 or more, without any action by Congress is not in accordance with the most advanced ideas of republican government.

In a report filed in this House in 1893 one hundred and eighty-five different objects were specified for which permanent annual provision was made without any action of Congress.

There is a very manifest incongruity which exists. The expenses of collecting the customs revenue are paid from a permanent appropriation. Those for collecting the internal revenue are annually provided by a bill of Congress. It would seem that there is no reason for this distinction between the two.

In concluding, gentlemen, I desire to say that there is no occasion to indulge in any spirit of pessimism from an account of our financial condition. In the year 1860 about $56,000,000 of revenue was raised. In the year 1866 the amount had then increased, I think, to nearly ten times as much—to about $560,000,000. No nation ever made such a showing as that. I have the exact figures before me, which will be more satisfactory. In the year 1860 the revenue was $56,000,000. With the depleted receipts of 1861 it was only $41,500,000. In 1866 it was $558,000,000, very nearly ten times as great as in 1860. Nothing comparable to that can be found in the history of the world's finances. Industries were flourishing and commerce was making great strides, notwithstanding the absence of millions of men engaged in bloody strife, and when the great armies were disbanded and turned from war back to peace all found immediate employment. That is an illustration of the unsurpassed financial strength and possibilities of this country.

Mr. SIMS. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Ohio yield to the gentleman from Tennessee?

Mr. BURTON. Certainly.

Mr. SIMS. You stated the amount as collected in 1860; was that not upon a metallic currency, upon a gold and silver basis?

Mr. BURTON. I understand so.

Mr. SIMS. And in 1866 it was upon a paper basis?

Mr. BURTON. It was upon a paper basis, and I should have stated that. I do not recollect the exact premium upon gold. It was perhaps from 20 to 25 per cent in 1866.[a]

The problems of national expenditure in the United States pertain to a country boundless in resources, of almost inconceivable variety, with an ever-widening market in which its position as the chief purveyor of the world's wants is becoming more and more assured, a people ready and patriotic in responding to demands for increased taxation, whose Secretaries of the Treasury, unlike finance ministers of other countries, have been subjected to anxiety not to provide for deficits, but to dispose of surpluses. With all these conditions, there may be confidence that no reasonable expenditure need be curtailed.

But at the same time the greatest caution should be exercised against extravagance. The consideration of the nation's finances is worthy to be ranked with the aspirations of patriotism and every form of national advancement, for wisdom or failure there will bring blessing or misfortune to the whole people. [Great applause.]

Mr. Chairman, I desire unanimous consent to enlarge and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The following is in extension of Mr. BURTON'S remarks:

TABLE A.—*Average annual expenditures of the United States Government by decades.*

| | |
|---|---|
| 1791 to 1800 | $6,835,000 |
| 1801 to 1810 | 8,860,000 |
| 1811 to 1820 | 23,895,000 |
| 1821 to 1830 | 16,160,000 |
| 1831 to 1840 | 24,500,000 |
| 1841 to 1850 | 34,100,000 |
| 1851 to 1860 | 60,165,000 |
| 1861 to 1870 | 530,715,000 |
| 1871 to 1880 | 261,530,000 |
| 1881 to 1890 | 268,415,000 |
| 1891 to 1900 | 407,205,000 |

NOTE.—Interest and premiums on bonds purchased are included. Only the net deficit in the operations of the Post-Office Department is counted.

TABLE B.—*Expenditures of several European countries in selected years.*

| | GREAT BRITAIN. Pounds. |
|---|---|
| 1818 | 88,000,000 |
| 1833 | 48,000,000 |
| 1859 | 64,000,000 |
| 1899 | 108,815,000 |
| 1902 | 193,840,000 |

| | FRANCE. Francs. |
|---|---|
| 1815 | 931,000,000 |
| 1828 | 1,024,000,000 |
| 1847 | 1,629,000,000 |
| 1869 | 1,879,000,000 |
| 1902 | 3,604,000,000 |

| | RUSSIA. Rubles. |
|---|---|
| 1869 | 468,798,000 |
| 1875 | 543,221,000 |
| 1880 | 694,505,000 |
| 1890 | 947,869,000 |
| 1897 | 1,415,971,000 |
| 1902 | 1,946,571,000 |

TABLE C.—*Proportion of national expenditures to wealth in United States, census years, 1850 to 1900.*

| Year. | Wealth per capita. | Annual expenditures per capita. | Annual percentage expenditure to wealth. | Increase or decrease in proportion of expenditure to wealth, counting proportion of 1850 as 100. |
|---|---|---|---|---|
| 1850 | $307.69 | $1.70 | 0.005557 | 100.00 |
| 1860 | 513.93 | 2.01 | .003911 | 70.37 |
| 1870 | 779.83 | 8.03 | .010297 | 185.29 |
| 1880 | 850.20 | 5.34 | .00628 | 113.01 |
| 1890 | 1,038.57 | 5.07 | .004884 | 87.88 |
| 1900 | [b]1,235.86 | 6.39 | .00517 | 93.03 |

[a] The premium upon gold in the year ending June 30, 1866, was greater, ranging from 25 to 45 per cent, and on some occasions higher.
[b] As estimated by the Bureau of Statistics.

TABLE D.—*Budgets of six leading European countries from 1880 to 1902, inclusive, with equivalents in United States money, and other data, prepared by the Bureau of Labor.*

FRANCE.

[The budgets are taken from the Statesman's Year Book.]

| Year. | Budget. Francs. | Budget. Equivalent in United States money. | Value of franc. | Population. | Budget per capita. |
|---|---|---|---|---|---|
| 1880 | 3,130,494,244 | $604,185,389.09 | $0.193 | | |
| 1881 | 3,406,154,926 | 657,387,900.72 | .193 | 37,405,290 | $17.57 |
| 1882 | 3,315,368,905 | 639,866,198.67 | .193 | | |
| 1883 | 3,573,907,839 | 689,764,212.93 | .193 | | |
| 1884 | 3,385,409,496 | 653,384,032.73 | .193 | | |
| 1885 | 3,319,113,480 | 640,588,901.64 | .193 | | |
| 1886 | 3,239,084,710 | 625,143,349.03 | .193 | 37,886,566 | 16.50 |
| 1887 | 3,133,731,289 | 604,810,138.78 | .193 | | |
| 1888 | 3,542,462,927 | 683,695,344.91 | .193 | | |
| 1889 | 3,711,685,832 | 716,355,365.58 | .193 | | |
| 1890 | 3,776,712,386 | 728,905,490.50 | .193 | | |
| 1891 | 3,712,969,676 | 716,603,147.47 | .193 | 38,133,385 | 18.79 |
| 1892 | 3,217,825,525 | 621,040,226.33 | .193 | | |
| 1893 | 3,347,691,488 | 646,104,457.18 | .193 | | |
| 1894 | 3,439,020,623 | 663,730,980.24 | .193 | | |
| 1895 | 3,423,893,762 | 660,811,496.07 | .193 | | |
| 1896 | 3,447,918,198 | 665,448,212.21 | .193 | 38,228,969 | 17.41 |
| 1897 | 3,385,367,484 | 653,375,924.41 | .193 | | |
| 1898 | 3,433,418,295 | 662,649,750.24 | .193 | | |
| 1899 | 3,477,575,535 | 671,172,078.26 | .193 | | |
| 1900 | 3,496,809,184 | 674,884,172.51 | .193 | | |
| 1901 | 3,554,354,212 | 685,990,362.92 | .193 | 38,641,333 | 17.75 |
| 1902 | 3,604,415,197 | 695,652,133.02 | .193 | | |

Percentage of increase, 1880 to 1902, 15.14.

ITALY.

| Year. | Budget. | | Value of lira. | Population. | Budget per capita. |
|---|---|---|---|---|---|
| | Lire. | Equivalent in United States money. | | | |
| 1880 | 1,420,226,726 | $274,103,758.12 | $0.193 | | |
| 1881 | 1,426,711,988 | 275,355,413.68 | .193 | 28,459,628 | $9.68 |
| 1882 | 1,321,405,359 | 255,031,234.29 | .193 | | |
| 1883 | 1,563,355,269 | 301,727,566.92 | .193 | | |
| 1884 | a772,206,333 | 149,035,833.85 | .193 | | |
| 1885 | 1,353,266,281 | 261,180,392.23 | .193 | | |
| 1886 | 1,707,312,769 | 329,511,304.42 | .193 | | |
| 1887 | 1,789,413,851 | 345,356,873.24 | .193 | | |
| 1888 | 1,801,757,180 | 347,739,135.74 | .193 | | |
| 1889 | 2,105,765,840 | 406,412,807.12 | .193 | | |
| 1890 | 1,857,906,850 | 358,576,022.05 | .193 | | |
| 1891 | 1,872,133,271 | 361,321,721.30 | .193 | | |
| 1892 | 1,780,942,130 | 343,721,831.09 | .193 | | |
| 1893 | 1,694,275,629 | 326,995,196.40 | .193 | | |
| 1894 | 1,772,018,331 | 341,999,537.88 | .193 | | |
| 1895 | 1,797,782,823 | 346,972,084.84 | .193 | | |
| 1896 | 1,817,712,075 | 350,818,430.48 | .193 | | |
| 1897 | 1,723,541,135 | 332,643,439.06 | .193 | | |
| 1898 | 1,692,234,369 | 326,601,233.22 | .193 | | |
| 1899 | 1,702,316,483 | 328,547,081.22 | .193 | | |
| 1900 | 1,730,208,870 | 333,930,311.91 | .193 | | |
| 1901 | 1,742,590,167 | 336,319,902.23 | .193 | 32,449,754 | 10.36 |
| 1902 | 1,790,959,779 | 345,655,237.35 | .193 | | |

a For a half year. A change was made at this time in the ending of the fiscal year.

Percentage of increase, 1880 to 1902, 26.10.

AUSTRIA-HUNGARY, INCLUDING AUSTRIA AND HUNGARY.

| Year. | Budget. | | Value of florin. | Population. | Budget per capita. |
|---|---|---|---|---|---|
| | Florins. | Equivalent in United States money. | | | |
| 1880 | 840,560,202 | $347,151,363.43 | $0.413 | 37,623,923 | $9.23 |
| 1881 | (a) | | | | |
| 1882 | 931,105,811 | 378,028,959.27 | .406 | | |
| 1883 | (a) | | | | |
| 1884 | (a) | | | | |
| 1885 | 972,366,411 | 382,139,999.52 | .393 | | |
| 1886 | 984,575,194 | 365,277,396.97 | .371 | | |
| 1887 | (a) | | | | |
| 1888 | 1,015,233,258 | 350,255,474.01 | .345 | | |
| 1889 | 1,033,777,444 | 347,349,221.18 | .336 | | |
| 1890 | 1,034,191,020 | 356,795,901.90 | 345 | 41,057,304 | 8.69 |
| 1891 | (a) | | | | |
| 1892 | 1,118,431,380 | 369,082,355.40 | .330 | | |
| 1893 | 1,237,772,277 | 502,535,544.46 | .406 | | |
| 1894 | 1,238,752,555 | 502,933,537.33 | .406 | | |
| 1895 | 1,256,378,821 | 510,089,801.33 | .406 | | |
| 1896 | 1,294,550,485 | 525,587,496.91 | .406 | | |
| 1897 | 1,325,945,679 | 538,333,945.67 | .406 | | |
| 1898 | 1,382,298,426 | 561,213,160.96 | .406 | | |
| 1899 | 2,861,454,358 | b580,875,234.67 | b.203 | | |
| 1900 | 2,983,735,254 | b605,698,256.56 | b.203 | 45,015,000 | 13.46 |
| 1901 | 3,054,754,467 | b620,115,156.80 | b.203 | | |
| 1902 | 3,137,048,993 | b636,820,945.58 | b.203 | | |

a Figures not accessible. b Crowns; 2 crowns equal 1 florin.

From 1880 to 1892 the monetary unit was a silver florin. The value of the florin as here shown is taken from the report of the Director of the United States Mint. Conversions have been made into United States money, but it is very doubtful if the figures as given in United States money show the relative condition of the several annual budgets as they really affected the Austro-Hungarian Empire. The florin was probably worth more in circulation within the country than its commercial value abroad. The amounts as given in United States money from 1880 to 1892 should be used with great caution, if at all. The gold standard was adopted in August, 1892, since which time it is believed the conversion as shown can be safely accepted.

Percentage of increase, 1880 to 1902, 83.44.

KINGDOM OF GREAT BRITAIN AND IRELAND.

| Year. | Budget. | | Value of pound sterling. | Population. | Budget per capita. |
|---|---|---|---|---|---|
| | Pounds sterling. | Equivalent in United States money. | | | |
| 1880 | 84,105,871 | $409,301,221.22 | $4.8665 | | |
| 1881 | 81,995,025 | 399,028,789.16 | 4.8665 | 35,241,482 | $11.32 |
| 1882 | 84,364,653 | 410,560,583.82 | 4.8665 | | |
| 1883 | 88,247,868 | 429,458,249.62 | 4.8665 | | |
| 1884 | 86,589,358 | 421,387,110.71 | 4.8665 | | |
| 1885 | 89,898,222 | 437,489,697.36 | 4.8665 | | |
| 1886 | 94,190,083 | 458,376,038.92 | 4.8665 | | |
| 1887 | 90,869,282 | 442,215,360.85 | 4.8665 | | |
| 1888 | 88,036,259 | 428,428,454.42 | 4.8665 | | |
| 1889 | 87,024,061 | 423,502,592.86 | 4.8665 | | |
| 1890 | 86,723,168 | 422,038,297.07 | 4.8665 | | |
| 1891 | 88,511,943 | 430,743,370.61 | 4.8665 | 38,104,975 | 11.30 |
| 1892 | 90,924,036 | 442,481,821.19 | 4.8665 | | |
| 1893 | 91,069,560 | 443,190,013.74 | 4.8665 | | |
| 1894 | 92,056,068 | 447,990,854.92 | 4.8665 | | |
| 1895 | 94,537,685 | 460,057,644.05 | 4.8665 | | |
| 1896 | 98,498,496 | 479,342,930.78 | 4.8665 | | |
| 1897 | 102,324,921 | 497,964,228.05 | 4.8665 | | |
| 1898 | 104,892,900 | 510,461,297.85 | 4.8665 | | |
| 1899 | 108,815,036 | 529,548,372.69 | 4.8665 | | |
| 1900 | 134,671,823 | 655,380,426.63 | 4.8665 | | |
| 1901 | 184,599,627 | 898,354,084.80 | 4.8665 | 41,605,328 | 21.59 |
| 1902 | 196,843,259 | 957,837,719.92 | 4.8665 | | |

Percentage of increase, 1880 to 1902, 134.04.

RUSSIA.

| Year. | Budget. | | Value of ruble. | Population. | Budget per capita. |
|---|---|---|---|---|---|
| | Rubles. | Equivalent in United States money. | | | |
| 1880 | 694,505,313 | $357,253,533.01 | $0.5144 | | |
| 1881 | 717,461,609 | 369,062,251.67 | .5144 | | |
| 1882 | 702,004,512 | 361,975,120.97 | .5144 | | |
| 1883 | 778,505,423 | 400,463,189.59 | .5144 | | |
| 1884 | 801,997,412 | 412,547,468.73 | .5144 | | |
| 1885 | 866,294,997 | 445,622,146.46 | .5144 | 108,787,235 | $4.10 |
| 1886 | 871,948,732 | 448,530,427.74 | .5144 | | |
| 1887 | 881,341,672 | 407,001,718.30 | .4619 | | |
| 1888 | 888,082,110 | 383,740,279.73 | .4321 | | |
| 1889 | 895,161,810 | 408,014,753.00 | .4558 | | |
| 1890 | 947,869,239 | 432,038,799.14 | .4558 | | |
| 1891 | 962,302,521 | 457,189,927.72 | .4751 | | |
| 1892 | 965,303,066 | 458,615,486.66 | .4751 | | |
| 1893 | 1,040,458,385 | 474,240,931.88 | .4558 | | |
| 1894 | 1,083,601,526 | 514,819,085.00 | .4751 | | |
| 1895 | 1,214,378,030 | 576,951,002.05 | .4751 | | |
| 1896 | 1,361,547,994 | 646,871,451.95 | .4751 | | |
| 1897 | 1,413,971,058 | 671,777,649.66 | .4751 | 129,211,113 | 5.20 |
| 1898 | 1,474,049,923 | 700,321,118.42 | .4751 | | |
| 1899 | 1,571,732,646 | 746,730,180.11 | .4751 | | |
| 1900 | 1,757,387,103 | 903,121,232.23 | .5139 | | |
| 1901 | 1,788,482,006 | 928,937,553.92 | .5194 | | |
| 1902 | 1,946,571,976 | 1,001,316,624.45 | .5144 | | |

The budget is reported in paper rubles in the Statesman's Year Book. The same source gives the value of the paper ruble in English money. The valuation as given in English money has been converted into United States money. Using this valuation, the budget has been converted into United States money. There may be small inaccuracies in the years 1895 to 1899, but the figures can be considered approximately correct.

Percentage of increase, 1880 to 1902, 180.28.

GERMANY.

[1880 to 1903, inclusive.]

| Year. | Budget. | | Value of mark. | Population. | Budget per capita. |
|---|---|---|---|---|---|
| | Marks. | Equivalent in United States money. | | | |
| 1880 | 541,021,537 | $128,763,125.81 | $0.238 | 45,234,061 | $2.85 |
| 1881 | 539,252,640 | 128,342,128.32 | .238 | | |
| 1882 | 596,811,409 | 142,041,115.34 | .238 | | |
| 1883 | 610,737,707 | 145,355,574.27 | .238 | | |
| 1884 | 603,769,704 | 143,697,189.56 | .238 | | |
| 1885 | 610,353,000 | 145,264,014.00 | .238 | 46,855,704 | 3.10 |
| 1886 | 611,930,672 | 145,639,499.94 | .238 | | |
| 1887 | 705,882,344 | 167,999,997.87 | .238 | | |
| 1888 | 904,418,000 | 215,251,484.00 | .238 | | |
| 1889 | 1,203,768,000 | 286,496,784.00 | .238 | | |
| 1890 | 947,307,000 | 225,459,066.00 | .238 | 49,428,470 | 4.56 |
| 1891 | 1,259,918,000 | 299,860,484.00 | .238 | | |
| 1892 | 1,118,453,000 | 266,191,814.00 | .238 | | |
| 1893 | 1,223,727,000 | 291,247,026.00 | .238 | | |
| 1894 | 1,330,979,000 | 316,773,002.00 | .238 | | |
| 1895 | 1,286,546,000 | 306,197,948.00 | .238 | 52,279,901 | 5.86 |
| 1896 | 1,239,251,000 | 294,941,738.00 | .238 | | |
| 1897 | 1,267,025,000 | 301,551,950.00 | .238 | | |
| 1898 | 1,372,853,000 | 326,739,014.00 | .238 | | |
| 1899 | 1,441,579,000 | 343,095,802.00 | .238 | | |
| 1900 | 1,960,591,000 | 466,620,658.00 | .238 | 56,367,178 | 8.28 |
| 1901 | 2,217,122,000 | 527,675,036.00 | .238 | | |
| 1902 | 2,344,586,000 | 558,011,468.00 | .238 | | |
| 1903 | 2,349,742,456 | 559,238,704.53 | .238 | | |

Percentage of increase, 1880 to 1902, 334.32.

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TABLE E.—*Expenditures made for military and naval purposes in the United States, Austria-Hungary, France, Germany, Italy, Russia, and the United Kingdom of Great Britain and Ireland.*

[Prepared by the Bureau of Labor. The data for the United States are taken from Digest of Appropriations, published by the United States Treasury Department, and for foreign countries they are taken from the Statesman's Year Book. The figures for the United States include deficiency bills for preceding years.]

| Country. | Year. | War. | Navy. | Total. |
|---|---|---|---|---|
| United States | 1903 | a$92,794,619.35 | a$75,049,781.29 | a$167,844,400.64 |
| Austria-Hungary | 1903 | b62,827,490.08 | b9,934,986.46 | a72,762,476.54 |
| France | 1903 | b137,223,000.00 | b59,212,156.43 | b196,435,156.43 |
| Germany | 1903 | a135,421,048.00 | a20,685,532.00 | a156,106,580.00 |
| Italy | 1903 | b54,405,687.33 | b24,543,031.05 | b78,948,718.38 |
| Russia | 1903 | b169,910,760.09 | b59,550,089.12 | b229,460,849.21 |
| United Kingdom | 1903 | c319,154,803.00 | d140,946,492.90 | e460,101,295.90 |

a Not including pensions.
b Report does not state whether pensions are included or not.
c Not including pensions, retired pay, etc., amounting to $18,142,312.
d Not including pensions, retired pay, etc., amounting to $11,158,397.85.
e Not including pensions, retired pay, etc., amounting to $29,300,709.85.

TABLE F.—*Itemized appropriations of the United States from 1880 to 1903, inclusive.*

[From Digest of Appropriations, published by the United States Treasury Department. Prepared by the Bureau of Labor. The figures include deficiency bills for preceding years.]

| Year. | Legislative establishment. | Executive establishment. | Judicial establishment. | Foreign intercourse. | Military establishment. | Naval establishment. | Indian affairs. | Pensions. | Public works. | Postal service.[a] | Miscellaneous. | Total. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* | *Dollars.* |
| 1880 | 3,246,798.67 | 13,188,227.23 | 400,746.29 | 1,109,006.30 | 28,172,005.45 | 14,079,725.67 | 4,908,045.63 | 56,200,078.37 | 14,996,377.88 | 3,071,000.00 | 23,032,636.27 | [b]162,404,647.76 |
| 1881 | 3,132,599.90 | 14,074,672.60 | 399,712.63 | 1,196,793.08 | 27,294,140.78 | 14,396,963.47 | 7,648,149.00 | 41,645,356.68 | 16,318,059.54 | 3,895,638.66 | 24,116,126.50 | 154,118,212.64 |
| 1882 | 3,137,286.91 | 15,707,368.05 | 399,374.45 | 1,224,865.03 | 27,871,351.69 | 14,749,443.66 | 5,155,163.35 | 68,232,396.68 | 18,213,996.22 | ---------- | 23,148,568.10 | 177,889,214.17 |
| 1883 | 3,345,249.38 | 18,464,135.10 | 417,127.40 | 1,574,222.94 | 29,139,587.61 | 15,395,613.44 | 7,091,888.95 | 116,000,500.90 | 30,462,458.47 | 74,503.18 | 29,462,830.20 | 251,428,117.54 |
| 1884 | 3,416,388.76 | 18,223,627.31 | 425,372.01 | 2,185,484.22 | 25,531,097.32 | 15,980,437.80 | 6,039,387.24 | 86,576,287.49 | 5,961,351.31 | ---------- | 23,572,132.71 | 187,911,566.17 |
| 1885 | 3,506,374.13 | 19,315,555.27 | 408,313.08 | 1,314,997.90 | 24,813,978.31 | 9,242,496.82 | 6,198,719.67 | 21,565,525.97 | 20,259,030.13 | 4,541,610.58 | 26,284,735.91 | 137,451,397.77 |
| 1886 | 3,504,810.93 | 18,966,959.81 | 408,300.00 | 2,033,656.18 | 24,349,507.54 | 21,689,759.39 | 6,008,612.69 | 60,000,867.92 | 8,943,029.14 | 8,193,652.02 | 16,508,957.98 | 170,608,113.60 |
| 1887 | 3,346,818.11 | 17,997,266.06 | 408,300.00 | 7,315,960.94 | 24,711,352.48 | 17,053,780.59 | 5,647,481.69 | 82,575,488.05 | 23,140,966.20 | 6,501,247.05 | 20,960,721.74 | 209,659,382.91 |
| 1888 | 3,358,385.87 | 18,173,784.80 | 416,200.00 | 1,588,553.96 | 24,011,485.62 | 23,925,483.79 | 5,337,171.10 | 83,167,500.00 | 9,943,998.11 | 3,056,067.13 | 20,057,260.75 | 193,035,861.13 |
| 1889 | 3,621,163.70 | 19,864,279.43 | 445,955.43 | 2,205,440.60 | 24,887,815.21 | 19,553,438.82 | 7,221,526.23 | 85,294,335.20 | 41,353,505.92 | 3,868,919.73 | 36,703,792.57 | 245,060,172.89 |
| 1890 | 3,527,762.77 | 17,607,536.55 | 441,694.73 | 2,312,082.96 | 24,917,291.44 | 22,456,113.48 | 13,698,558.28 | 89,759,496.14 | 11,985,670.68 | 6,875,036.91 | 24,534,195.86 | [c]218,115,439.80 |
| 1891 | 3,816,069.97 | 18,832,944.00 | 461,682.05 | 1,941,393.52 | 24,934,421.45 | 24,015,586.19 | 7,480,954.47 | 123,779,654.63 | 37,983,961.98 | 4,741,772.08 | 39,734,078.62 | 287,722,488.96 |
| 1892 | 3,861,829.49 | 19,250,600.40 | 670,600.00 | 1,844,937.59 | 26,500,756.81 | 31,427,544.94 | 17,651,842.41 | 164,550,383.34 | 19,907,877.39 | 4,051,489.71 | 34,065,217.28 | 323,783,079.36 |
| 1893 | 3,659,513.60 | 18,531,694.87 | 766,035.92 | 1,937,625.75 | 24,824,862.22 | 23,013,752.56 | 8,342,094.94 | 154,795,868.08 | 29,704,237.33 | 5,946,795.19 | 33,187,716.29 | 304,710,196.75 |
| 1894 | 3,873,940.09 | 18,330,597.98 | 700,061.76 | 1,863,244.28 | 24,596,138.53 | 20,779,407.08 | 7,954,962.99 | 180,676,234.12 | 20,822,811.30 | 8,250,000.00 | 31,036,490.41 | 319,011,846.62 |
| 1895 | 4,728,044.60 | 17,991,580.67 | 725,786.01 | 1,793,927.09 | 23,954,822.77 | 24,679,914.41 | 10,970,926.42 | 151,582,873.60 | 26,575,035.29 | 11,016,541.72 | 27,769,367.20 | 301,788,819.78 |
| 1896 | 4,076,216.92 | 18,469,962.94 | 772,625.47 | 1,748,790.83 | 23,668,030.67 | 28,236,956.02 | 8,784,299.93 | 141,383,658.47 | 20,816,551.15 | 9,300,000.00 | 35,800,012.41 | 293,057,104.81 |
| 1897 | 4,214,216.73 | 17,665,846.17 | [d]1,087,808.19 | 1,987,469.93 | 24,451,259.63 | 29,836,066.46 | 7,280,774.93 | 141,329,322.48 | 29,789,508.79 | 11,149,206.13 | 33,994,906.54 | 302,786,385.98 |
| 1898 | 4,727,624.70 | 17,531,950.93 | 836,607.22 | 2,125,762.25 | 23,740,450.04 | 32,574,082.43 | 7,668,073.82 | 141,264,405.19 | 38,127,847.39 | 10,504,040.42 | 32,078,713.15 | 311,179,557.54 |
| 1899 | 4,706,468.56 | 18,796,138.91 | 806,161.20 | 2,625,173.65 | 287,841,446.11 | 107,816,468.08 | 8,680,621.14 | 149,555,896.46 | 44,761,689.00 | 8,211,570.08 | 39,158,660.48 | 673,050,293.63 |
| 1900 | 4,694,934.09 | 19,429,148.59 | 789,138.00 | 23,817,801.73 | 119,257,192.82 | 41,892,707.43 | 8,234,865.74 | 145,498,503.27 | 48,698,747.62 | 7,230,778.79 | 42,965,932.19 | [d]462,509,750.27 |
| 1901 | 5,006,165.45 | 20,898,149.20 | 827,436.87 | 2,101,092.65 | 114,635,127.65 | 55,623,422.30 | 9,828,744.74 | 145,245,554.35 | 40,984,385.88 | 4,954,762.21 | 57,047,301.68 | 457,152,142.98 |
| 1902 | 5,134,904.63 | 20,361,565.03 | 828,747.83 | 2,204,071.05 | 116,728,655.62 | 71,371,459.78 | 10,356,284.96 | 145,260,350.00 | 38,978,879.68 | 2,402,152.52 | 65,678,606.45 | 479,985,657.55 |
| 1903 | 5,290,617.94 | 27,491,680.00 | 909,471.95 | 2,672,763.85 | 92,794,619.35 | 75,049,781.29 | 9,941,299.29 | 140,053,467.00 | 67,401,867.95 | 2,768,919.20 | 62,064,818.86 | 486,439,306.68 |

[a] This column gives the debit balance of expenses over receipts in each year's operation of the Post-Office Department.
[b] In 1880 the population of the United States was 50,155,783; the per capita appropriation, $3.24.
[c] In 1890 the population of the United States was 62,622,250; the per capita appropriation, $3.48.
[d] In 1900 the population of the United States was 76,303,387; the per capita appropriation, $6.06.

NOTE.—The above table does not include interest on the public debt.

Mr. MOON of Tennessee. Mr. Chairman, I yield forty minutes to the gentleman from Missouri [Mr. RUCKER].

Mr. RUCKER. Mr. Chairman, on frequent occasions during this session the House has been entertained with eloquent dissertations upon the unprecedented and universal prosperity of the people of the United States.

Whenever reference has been made on this side of the Chamber to the iniquitous protective-tariff law on our statute books, it has invariably provoked some distinguished statesman on that side to refresh and revive our drooping spirits with an impassioned panegyric on national prosperity.

The Dingley tariff, it is earnestly contended, is the pure fountain from which all national blessings flow, and the argument in support of this contention is rank, illogical, unwarrantable assumption on the part of the advocates of protection.

We are told unblushingly and with apparent candor, in effect, that whatever of happiness and prosperity is enjoyed by the eighty-odd million American citizens is traceable largely, if not entirely, to the salutary and beneficent influences of a tariff for protection.

They arrogantly tell us that under and by reason of this policy which we denounce as pernicious and fraught with so much of hardship and oppression to the masses, that labor has found permanent and remunerative employment, that higher wages have been secured to the workingman, and that the distribution of wealth is just and equitable.

No one will contend that present conditions are as bad as they were a few years ago. On the contrary, it is exceedingly gratifying to be able to state that conditions to-day are improved and the people are happier and apparently more prosperous than they were in the recent past. But I deny that the prosperity of the masses to-day is in any wise or to any extent the result of Republican solicitude for public welfare or of Republican legislation. It is the natural and logical result of conditions which the Republican party can neither influence nor control, and comes to the people, not by reason of the odious robber tariff, but in spite of it.

The small measure of prosperity we witness to-day may or may not be permanent. I am no pessimist, but, Mr. Chairman, if the people of the United States are ambitious to be free in the full sense of the word, and if they indulge the fond hope that they may some time live in free homes and be permitted to enjoy the fruits of their toil, I confidently believe and shall attempt to show they can only reach the goal of their ambition and enjoy a realization of their hopes by a complete victory and triumph over the party in power and the repudiation of all it stands for.

For forty years we have been burdened, oppressed, and cursed with the cruel imposition and heartless exactions of protective laws enacted to foster, encourage, and promote the interests of American industries. During this long period of protection the manufacturers have contributed only 19.67 per cent of the vast total volume of our domestic exports, while those engaged in agricultural pursuits have contributed the enormous proportion of 73.50 per cent, or nearly three-fourths of the entire domestic export trade of the United States.

In this connection, Mr. Chairman, I will read and insert in my remarks an extract from the last report of the Secretary of Agriculture:

THE FARMERS' BALANCE OF TRADE.

The immense exports from the farms of the country lead to an examination of the so-called "balance of trade." This examination reveals what seems to have escaped the attention of the public, and that is that the favorable balance of trade, everything included, is due to the still more favorable balance of trade in the products of the farm.

During the thirteen years 1890-1902 the average annual excess of domestic exports over imports amounted to $275,000,000, and during the same time the annual average in favor of farm products was $337,000,000, from which it is apparent that there was an average annual adverse balance of trade in products other than those of the farm amounting to $62,000,000, which the farmers offset and had left $275,000,000 to the credit of themselves and the country.

Taking the business of 1903, the comparison is much more favorable to the farmers than during the preceding thirteen-year period, since the value of domestic exports over imports was $367,000,000, the entire trade being included, while the excess for farm products was $422,000,000, which was sufficient not only to offset the unfavorable balance of trade of $56,000,000 in products other than those of the farm, but to leave, as above stated, the enormous favorable balance of $367,000,000.

During the last fourteen years there was a balance of trade in favor of farm products, without excepting any year, that amounted to $4,806,000,000. Against this was an adverse balance of trade in products other than those of the farm of $865,000,000, and the farmers not only canceled this immense obligation, but had enough left to place $3,940,000,000 to the credit of the nation when the books of international exchange were balanced.

These figures tersely express the immense national reserve-sustaining power of the farmers of the country under present quantities of production. It is the farmers who have paid the foreign bondholders.

In view of this splendid contribution to foreign commerce, in addition to supplying domestic demands, so clearly and fully stated by Secretary Wilson, the farmers of the United States, under fair, just, and equitable laws, ought to be the happiest, most prosperous, and the most independent people on the face of the earth. But, Mr. Chairman, that great army of wealth producers, the 10,381,765 men of brawn and muscle engaged in agriculture, are being ruthlessly and shamelessly pillaged and robbed. They are the victims of inordinate greed and avarice. The discriminations against them in the Dingley tariff act are so conspicuous and flagrant that its revision is now demanded by thoughtful men who are fair in all political parties.

In response to the demand for revision, which, like Banquo's ghost, "will not down at your bidding," party leaders are wont to tell us that in their own good time, when the spirit moves them just right, they will make necessary revision without Democratic aid or participation. This means, if it means anything except a deliberate purpose to further deceive the people, that they will administer such soothing and painless remedies as the beneficiaries of this infamous system of legalized robbery are quite sure will do them no harm and afford the people no relief.

If you are in good faith why don't you proceed to revise, and begin now? [Applause on the Democratic side.] The people are appealing to you, and the privileged class, the tariff and its offspring—the trusts—have a strong majority on this floor and the largest majority they will ever have in the White House. [Laughter and applause.]

Are the people mistaken or are they so very prosperous that your infallible judgment, exalted patriotism, and wise statesmanship lead your impartial minds to honestly conclude that it is best to keep on letting "well enough" alone? How long will conditions continue to be "well enough?"

The unexpected and phenomenal production of gold and its largely increased coinage in recent years, together with a magnificent balance of trade in our favor, have contributed to raise the per capita of circulation from $21.44 in 1896 to $30.75 on the 1st day of this month, an increase of nearly 50 per cent, and inevitably this great increase in the volume of money in circulation and the bounteous harvest with which we have been blessed have produced better times temporarily, at least.

But statistics of the last ten years demonstrate to my mind, reluctant as I am to accept them, that the masses are not enjoying real, lasting prosperity.

The census returns show that the mortgage indebtedness of the people of the United States between 1890 and 1900 increased 39.48 per cent; that during the same period the number of mortgaged homes increased 39.11 per cent. They also show that during this period of ten years the percentage of families owning free homes decreased 2.6 per cent, while those owning mortgaged homes increased 1.3 per cent and those living in rented homes increased 1.3 per cent.

In this connection I desire to read in support of my statements a table I have prepared from information furnished by the Census Bureau and obtained from the Abstract of the Twelfth Census.

| | 1890. | 1900. | Per cent of increase. |
|---|---|---|---|
| Mortgage indebtedness in the United States | $6,019,679,985 | $8,394,728,733 | 39.48 |
| Number of mortgaged homes in the United States | 1,696,890 | 2,361,606 | 39.11 |
| Per cent of families in the United States having homes: | | | |
| Owned free | 34.4 | 31.8 | ---------- |
| Owned mortgaged | 13.4 | 14.7 | ---------- |
| Rented | 52.2 | 53.5 | ---------- |

These statistics do not inspire or justify the assumption of universal prosperity so eloquently declaimed by gentlemen on the other side. On the contrary, however much we may lament it, they force upon us a sad and unhappy realization of the truth that we are fast ceasing to be a nation of home owners.

The mortgage indebtedness of the United States has increased in ten years at an alarming and prodigious rate—nearly 40 per cent—and the number of mortgaged homes has increased over 39 per cent. This is Republican high-protection prosperity—a kind of prosperity that enables its relentless and merciless creature, the trust, to fasten its poisonous fangs in the homes of the people, and when the unfortunate victim can no longer respond to unreasonable, harsh, and extortionate demands, then to drive him from the old homestead to become a tenant.

In a speech on this floor last December that great party leader, the distinguished gentleman from Iowa [Mr. HEPBURN], said:

> I live in a county of 24,000 people—a farming community. On the 1st day of last October there were $2,580,000 of deposits in the little banks of that county—more than a hundred dollars for every man, woman, and child in the county.

This is a splendid showing for Page County, Iowa, the home of the most influential and powerful advocate of high protection on this floor. But of course his people—his immediate neighbors and close personal friends, citizens of his county and of his State—have prospered under a tariff for protection, or this gallant and fearless Representative would not indorse protection.

The distinguished gentleman from Ohio [Mr. GROSVENOR] after hearing the great speech of the gentleman from Iowa in support of the protective tariff policy of the Republican party, said:

> I do not intend to mar the beauty, the symmetry, and irresistible logic of the gentleman from Iowa.

We may assume that the good people of Athens County, Ohio, are prosperous, too, or surely the great leader from Ohio would not concede the "irresistible logic" of an argument in support of the Dingley tariff.

At this point, Mr. Chairman, I desire to submit some statistics, which I shall incorporate in my remarks, showing the mortgage indebtedness and the number of homes mortgaged in Iowa and Ohio, two of the leading agricultural States of the Union.

| | Mortgage indebtedness. | | Increased indebtedness. | Per cent of increase. |
|---|---|---|---|---|
| | 1890. | 1900. | | |
| Iowa | $199,774,171 | $217,040,258 | $17,266,087 | 8.64 |
| Ohio | 259,842,188 | 325,898,374 | 66,056,186 | 25.42 |
| Page County, Iowa | 1,989,992 | 2,113,264 | 123,272 | 6.19 |
| Athens County, Ohio | 4,333,581 | 5,176,792 | 843,211 | 19.46 |

| | Number of homes mortgaged. | | Increased number of homes mortgaged. | Per cent of increase. |
|---|---|---|---|---|
| | 1890. | 1900. | | |
| Iowa | 104,072 | 118,173 | 14,101 | 13.55 |
| Ohio | 123,423 | 158,355 | 34,932 | 28.30 |
| Page County, Iowa | 1,166 | 1,471 | 305 | 26.16 |
| Athens County, Ohio | 913 | 1,120 | 207 | 22.67 |

These figures, which are carefully compiled from data furnished by the Census Bureau, show that under the operation of this so-called wise and beneficial policy of the Republican party the mortgage indebtedness of Iowa, that stalwart Republican State, has increased 8.64 per cent and the number of mortgaged homes has increased 13.55 per cent in ten years.

In Ohio the increase of mortgage indebtedness from 1890 to 1900 is 25.42 per cent and of mortgaged homes 28.30 per cent.

This is not all. In Page County, Iowa, where we are told the bank deposits equal $100 per capita, these statistics prove that for every dollar deposited in 1903 by the more fortunate there was a like sum in 1900 plastered upon the homes of the people. To be entirely accurate, statistics show that in 1900 there was secured by mortgage—not chattel mortgage, municipal or corporate indebtedness, but by deeds of trusts upon homes of the people of Page County, Iowa—a sum equal to $87.40 for each and every man, woman, and child in that county. [Applause on the Democratic side.]

In Athens County, Ohio, the home of the chief idolater of high tariff, mortgage indebtedness has increased 19.46 per cent and the number of mortgaged homes 22.67 per cent in ten years. These are additional evidences of the wholesome and highly beneficial results of so-called protection. Iowa and Ohio are great agricultural States, and under normal conditions the people ought to prosper. But the blight of tariff for protection falls upon producers everywhere, and, insidiously, day by day steals the fruits of labor to fill the coffers of those who reap where they have not sown. [Applause on the Democratic side.]

Col. J. H. Brigham, Assistant Secretary of Agriculture, in an interview published in the Washington Post recently, used this language:

> It is very well understood by intelligent farmers that trade conditions now existing do not secure to the farmer the full share of the value of his products that rightfully belong to him. They also know that existing combinations compel the farmer to pay more than is equitable for the implements with which he tills the soil and the supplies of the farm and home. It is also well understood that the farmer bears more than his full share of the burden of taxation.

Thus, with great precision and accuracy, speaks one high in authority, whose official duties require him to study the condition of those engaged in agricultural pursuits. Why, in the name of common decency and of all that is right and fair, should "trade conditions" be sacredly preserved and long continued which rob the farmer of part "of the value of his products that rightfully belongs to him?"

What justification can a great political party urge for willfully, knowingly, and deliberately compelling the farmers of the United States to pay "more than their full share of the burden of taxation?"

These are vital questions which you, my Republican friends, will soon be called upon to answer, and I predict your attempted answer, like Macbeth's "Amen," will "stick in your throats." Your siren song of prosperity, with which you have gained and held public confidence, won't always avail you. A day of reckoning is approaching, and, in my judgment, the time is not remote when the "intelligent farmers" of the United States will arise in their might and, as a reasonable and richly merited punishment for your many sins and transgressions, will banish you from political place and power forever. [Applause on the Democratic side].

Mr. Chairman, I have also compiled some statistics of two great manufacturing States—Massachusetts and Connecticut—which I will put in the RECORD:

| | 1890. | 1900. | Per cent of increase. |
|---|---|---|---|
| Mortgage indebtedness: | | | |
| Massachusetts | $323,277,668 | $498,780,877 | 54.29 |
| Connecticut | $79,921,071 | $109,298,055 | 36.76 |
| Number of homes mortgaged: | | | |
| Massachusetts | 66,249 | 101,809 | 53.68 |
| Connecticut | 28,518 | 38,991 | 36.72 |

This table proves that even in States where protected industries thrive and prosper the masses are not prosperous. In Massachusetts the mortgage indebtedness increased 54.29 per cent and the number of homes mortgaged increased 53.68 per cent, and in Connecticut mortgage indebtedness increased 36.76 per cent and the number of homes mortgaged increased 36.74 per cent in ten years.

But note in comparison what the tariff is doing for protected industries. While wage-earners and farmers are oppressed and burdened and debts are rapidly increasing upon their homes, protected enterprises of all kinds are growing fabulously rich.

I shall insert as part of my remarks this table, giving a summary of manufactures in Massachusetts and Connecticut.

*Summary of manufactures.*

[Statistical Abstract, 1902.]

| | 1880. | 1890. | 1900. |
|---|---|---|---|
| CONNECTICUT. | | | |
| Number of establishments | 4,488 | 6,822 | 9,128 |
| Capital | $120,480,275 | $227,004,496 | $314,696,736 |
| Total wages | 43,501,518 | 66,465,317 | 82,767,725 |
| Cost of materials | 102,183,341 | 123,183,080 | 185,641,219 |
| Value of products | 185,697,211 | 248,336,364 | 352,824,106 |
| Net profits above cost of materials and labor | 40,012,352 | 58,687,967 | 84,415,162 |
| MASSACHUSETTS. | | | |
| Number of establishments | 14,352 | 26,923 | 29,180 |
| Capital | $303,806,185 | $630,032,341 | $823,264,287 |
| Total wages | 128,315,362 | 205,844,337 | 228,240,442 |
| Cost of materials | 386,972,655 | 473,199,434 | 552,717,955 |
| Value of products | 631,135,284 | 888,160,403 | 1,035,198,989 |
| Net profits above cost of materials and labor | 115,847,267 | 209,116,632 | 254,240,592 |

Here it is shown that each and every one of the protected industries in these States makes an average annual profit over and above the total cost of labor and materials of about $9,000,000.

In Connecticut the 9,128 concerns made in 1900 above the cost of labor and materials $84,415,162, and in Massachusetts the 29,160 establishments cleared the colossal sum of $254,240,592.

But we hear the argument that a protective tariff aids labor in securing permanent and profitable employment.

I will now read and insert in the RECORD a table found in the Abstract of the Twelfth Census, from which we may discover what great things protection has done for labor.

*Comparative summary, 1890 to 1900, Twelfth Census.*

| | Date of census. | | Per cent of increase, 1890 to 1900. |
|---|---|---|---|
| | 1900. | 1890. | |
| Number of establishments | 512,276 | 355,405 | 44.1 |
| Capital | $9,831,486,500 | $6,525,050,759 | 50.7 |
| Salaried officials, clerks, etc., number | 397,092 | 461,001 | 13.9 |
| Salaries | $404,112,794 | $391,984,660 | 3.1 |
| Wage-earners, average number | 5,314,539 | 4,251,535 | 25.0 |
| Total wages | $2,327,295,545 | $1,891,209,696 | 23.1 |
| Men, at least 16 years of age | 4,114,348 | 3,326,964 | 23.7 |
| Wages | $2,019,954,204 | $1,659,215,858 | 21.7 |
| Women, at least 16 years of age | 1,031,608 | 803,686 | 28.4 |
| Wages | $281,679,649 | $215,367,976 | 30.8 |
| Children, under 16 years | 168,583 | 120,885 | 39.5 |
| Wages | $25,661,692 | $16,625,862 | 54.3 |
| Miscellaneous expenses | $1,027,865,277 | $631,219,783 | 62.8 |
| Cost of materials used | $7,346,358,979 | $5,162,013,878 | 42.3 |
| Value of products, including custom work and repairing | $13,010,036,514 | $9,372,378,843 | 38.8 |

These are the latest official figures, and they make it plain that from 1890 to 1900 capital employed in manufacture increased 50 per cent, the value of products increased 38.8 per cent, while the number of wage-earners only increased 25 per cent. This table also shows that with a 25 per cent increase in the number of laborers there was only a 23 per cent increase in total wages paid—a direct reduction of 2 per cent of the wage of every man who earns his bread by the sweat of his brow. It also shows that in 1900 the number of "women at least 16 years of age" who were compelled to delve and toil in workshops for food and raiment was 28.4 per cent more than in 1890.

This is not all. Shameful as it is, unwelcome as the truth may be, statistics show that the number of "children under 16 years of age"—little boys and girls—who are driven by necessity to work for bread has increased 39.5 per cent in ten years, and this, too, in an era of unequaled and unrivaled prosperity.

I warn you—you who espouse the doctrine of protection—that you will not be allowed to escape responsibility for conditions which force "children under 16 years of age" into the great sweat shops of the country. [Applause on the Democratic side.]

Yes; Republican tariff for protection does find employment for labor—the labor of women and children. You breed and nurture and shelter a rapacious, remorseless, ill-shapen monster, politely called the "trusts." This hideous monster, the handiwork of genius inspired and directed by the devil, not content with the huge drops of sweat wrung from the brow of every son of toil who has reached manhood's estate, in fiendish glee demands for its insatiate appetite the sacrifice of the time and labor of women and children. [Applause on the Democratic side.]

Mr. Chairman, I challenge the Republican party to present any good, logical, or satisfactory reason, excuse, or justification for its tenacious support of a policy which enables the protected industries of the United States to compel American consumers to pay higher prices for their goods and wares than they ask and receive for the same products in foreign markets. Yet this is one of the baneful results of your damnable policy of protection. [Applause on the Democratic side.] Farmers and wage-earners, being forced to buy in markets where protection has strangled and murdered competition, are helpless victims of the greed and rapacity of conscienceless and heartless scoundrels whose wholesale robbery is sanctioned by law.

The American Machinist of September 26, 1889, said:

Just why American manufacturers will sell machinery and other goods from 10 to 30 per cent cheaper in Europe than they will sell them to be used at home is rather puzzling, but anyone curious in the matter can easily enough find out that many of them do that.

Mr. A. B. Farquhar, in a letter to the Farmers' Call, of Quincy, Ill., on July 30, 1890, said:

The fact is that our protective laws are a monstrous swindle upon the agricultural community. But, as I have explained, the farmer is being destroyed.

In May, 1901, Mr. Charles M. Schwab, then president of the steel trust, testifying before the Industrial Commission, said:

It is quite true that export prices are made at a very much lower rate than those here.

In Mr. Schwab's testimony this question and answer appear:

Q. Is it a fact, generally true of all exporters in this country, that they do sell at lower prices in foreign markets than they do in the home market?—A. That is true; perfectly true.

Mr. Chairman, I will include in my remarks a short table, published in 1890 in a pamphlet entitled "Protection's Home Market," which shows the difference, at that time, in domestic and foreign wholesale prices of a few articles of common use:

| Article. | Domestic price. | Foreign price. |
|---|---|---|
| Cultivators | $11.00 | $8.40 |
| Plows | 14.00 | 12.60 |
| Axes, per dozen | 8.25 | 7.20 |
| Kettles | 1.40 | .85 |
| Wire nails, per 100 pounds | 2.25 | 1.35 |
| Table knives, per gross | 15.00 | 12.00 |
| Horse nails, per pound | .17 | .14 |
| Barbed wire, per 100 pounds | 3.00 | 2.00 |
| Rivets, per 100 pounds | 10.00 | 5.55 |
| Typewriters | 100.00 | 60.00 |
| Sewing machines: | | |
| Fine | 27.50 | 20.75 |
| Medium | 22.00 | 17.50 |
| Cheap | 18.00 | 12.00 |

In the light of these and other available statistics, all emanating from Republican sources, I am surprised, amazed, and astounded at the temerity of gentlemen who still argue that a protective tariff is conducive to the welfare of the people. It occurs to me that a man who has the hardihood to face his constituents and plead with them to cleave to the delusive hope of protection for the good it has done or that it may do in carrying blessings into the homes of the masses must have cheek of such gigantic proportions that a whole buffalo robe wouldn't make side whiskers for him. [Laughter.]

A few days ago we were derisively asked, "What does the Democratic party stand for?"

The old party stands, as it has always stood, for equal rights to all and special privileges to none. It stands for that great true principle, once of universal acceptation, that "governments derive their just powers from the consent of the governed." It stands as the proud champion of the oppressed wage-earner and producer, resisting further encroachment of organized wealth, the tariff worshipers, the trusts, the devil, and the Republican party. It stands for revision of the tariff, without hostile intent to any legitimate business, but with an unalterable purpose, if intrusted with power, to perform its duty though the combined trusts in the United States should perish in less time than it took the President to produce abortion in Colombia and deliver the infant Republic of Panama. [Laughter and applause.]

The Democratic party stands on tiptoe of expectancy, looking with hopeful eye into the near future, confidently believing the "intelligent farmers" and wage-earners of the United States have discovered the emptiness and barrenness of Republican promises and the utter insincerity of the party, and that they will, in next November, tear from you the robes of hypocrisy and "put in every honest hand a whip to lash the 'G. O. P.' naked through the world, even from the East to the West." [Loud applause on the Democratic side.]

Mr. MOON of Tennessee. I yield twenty minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Chairman, labor legislation interests men of all conditions. It often is subjected to the harshest and most unmerited criticism. There are many who are unable to discuss measures intended to benefit the condition of the laborer or mechanic without resort to language of the most intemperate character. There is a mistaken but very prevalent belief that all legislation proposed for the betterment of labor is in reality a covert attack upon capital. In economics labor is not antagonistic to capital, nor are the interests of capital contrary to those of labor. Both are essential to all true progress. Each has its part, its rights, its privileges, and if those rights and privileges were always respected and ever regulated by the eternal principles of justice there would be no conflict of interest.

It is unfortunately true, however, that from time immemorial labor has been compelled to combine and to struggle vigorously for its own protection; and legislation has been imperative to eradicate and to prevent abuses which, if permitted to continue, would seriously menace the welfare of society.

LABOR LEGISLATION IN NEW YORK.

The State of New York, like most other States of the Union, has from time to time enacted what are known as "labor laws," and it is my purpose at this time briefly to discuss some features of them in connection with certain decisions of the New York court of appeals.

In 1897 the legislature passed what is known as the "Labor law." It is chapter 415 of the laws of 1897 and is entitled "An act in relation to labor, constituting chapter 32 of the general laws." Pursuing the policy initiated some years previously of codifying the general laws of the State, this act was intended as, and in fact was, a codification of the general laws affecting labor. Embraced within it are the salient features of fifty laws, which had been enacted at different times, commencing in 1870. The comprehensiveness of the act is apparent from a partial enumeration of the subjects contained therein. It defines a legal day's work; it regulates the wages on public works, the number of hours that constitute a day's work in various industries, and the method of paying wages to employees in certain employments; it provides for the preference in employment of certain persons in public works; it recognizes and protects labels, brands, and devices used by labor organizations; it has provisions for the safety and comfort of employees in factories, upon scaffolding, and on buildings in cities.

By its terms a commission of labor statistics and free public employment bureaus are created, as well as a board of arbitration; and it includes many other beneficial provisions, among which may be specially mentioned those for the protection of minors and of women employed in factories. While there might well be an honest difference regarding some provisions of the law, yet a condition that compelled a State to enact that—

> No person or corporation operating a line of railroad of 30 miles in length or over, in whole or in part within this State, shall permit or require a conductor, engineer, fireman, or trainman, who has worked in any capacity for twenty-four consecutive hours, to go again on duty or perform any kind of work, until he has had at least eight hours' rest—

should be sufficient justification, without elaborate argument, to convince humane men that gross abuses existed in the industrial world which could be eradicated only by legislation.

PREVAILING RATE OF WAGES AND EIGHT-HOUR PROVISION.

The provision of the law which has given rise, perhaps, to the greatest controversy, both in and out of the courts, is section 3 of the act. As amended by chapter 567 of the laws of 1899, the section is as follows:

> Hours to constitute a day's work: Eight hours shall constitute a legal day's work for all classes of employees in this State, except those engaged in farm and domestic service, unless otherwise provided by law. This section does not prevent an agreement for overwork at an increased compensation, except upon work by or for a municipal corporation or by contractors or subcontractors therewith. Each contract to which the State or a municipal corporation is a party which may involve the employment of laborers, workmen, or mechanics shall contain a stipulation that no laborer, workman, or mechanic in the employ of the contractor or subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life or property. The wages to be paid for a legal day's work, as hereinbefore defined, to all classes of such laborers, workmen, or mechanics upon all such public work or upon any material to be used in connection therewith shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where such public work on, about, or in connection with which such labor is performed in its final or completed form is to be situated, erected, or used.
>
> Each such contract hereafter made shall contain a stipulation that each such laborer, workman, or mechanic employed by such contractor, subcontractor, or other person on, about, or upon such public work shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum, nor shall any officer, agent, or employee of the State or of a municipal corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract which in its form or manner of performance violates the provisions of this section.

This section is given at length because it has been the subject of such controversy, and has been passed upon in two cases in the court of appeals. It seeks not alone to prescribe the length of a legal day's work, but it requires the payment of the prevailing, or going, wages upon public works. Its provisions are most drastic, not only forfeiting the contractor's rights for a violation of the provisions of this law, but absolutely prohibiting a State or municipal officer making payment upon a contract for public work which has not been performed in compliance with the provisions of the law. It is often referred to as the "eight-hour law," and frequently as "the prevailing rate of wages law."

PREVAILING RATE OF WAGES PROVISION UNCONSTITUTIONAL IN PART.

The section first came before the court of appeals for review in the Rodgers case (166 N. Y., 1).

That was an appeal from the appellate division of the supreme court in the first department, which reversed an order of the special term denying the relator's application for a peremptory writ of mandamus commanding the comptroller of the city of New York to deliver a warrant on the chamberlain for the amount due upon a contract for grading a certain street, and granting the application.

The contract made with the city of New York contained, in addition to the clauses usual in such contracts, a provision that the contractor would pay his workmen not less than the prevailing rate of wages in the locality, as required by the provision of the labor law just read. The contract was completed, all conditions requisite to the issuing of a warrant fulfilled by the relator, but the comptroller of the city refused to deliver a warrant for the amount due because the contractor had not in all cases paid the prevailing rate of wages to his employees.

The court of appeals held the labor law, so far as it relates to such a case, to be unconstitutional for the following reasons, as stated in the syllabus: First, because in its actual operation it permits and requires the expenditure of the money of the city or that of the local property owner for other than city purposes. Second, because it invades rights of liberty and property in that it denies to the city and the contractor the right to agree with their employees upon the measure of their compensation and compels them in all cases to pay an arbitrary and uniform rate which is expressed in vague language, difficult to define or ascertain and subject to constant change from artificial causes. Third, because it virtually confiscates all property rights of the contractor under his contract for breach of his engagement to obey the statute, and attempts to make acts and commissions penal which in themselves are innocent and harmless, and in effect imposes a penalty for the exercise of the right to agree with employees upon the terms and conditions of employment.

The court was not unanimous in its decision. A vigorous dissenting opinion was read by Chief Judge Parker (see Appendix A) and one also by Judge Haight, in which the law was defended as a proper exercise of legislative power, and the contentions of the majority on all points strongly combated.

DIRECT EMPLOYEES OF STATE OR MUNICIPALITY ENTITLED TO PREVAILING RATE OF WAGES.

This is peculiarly interesting since the decision in the case of Ryan *v.* City of New York (177 N. Y., 271), handed down on January 24, 1904. In that case it is held that the "prevailing rate of wages" provision of the labor law, so far as it relates to the direct employees of the State or of a municipality thereof, is constitutional. So that, as a result of these decisions of the court of appeals, employees of the State or of municipalities upon public works must be paid the "prevailing rate of wages," while those employed under contract on such works need not be so paid.

In the Rodgers case the prevailing opinion was written by Judge O'Brien and dissenting opinions by Judges Parker and Haight, while in the Ryan case the prevailing opinion is written by Judge Parker and Judge O'Brien writes in dissent. (See opinion of Parker, J., in Appendix B.)

UNITED STATES SUPREME COURT FOLLOWS JUDGE PARKER.

Judge Parker, in his opinion in the Ryan case, cites the case of Aiken *v.* State of Kansas (191 U. S., 207), which upholds a statute of Kansas providing that eight hours shall constitute a day's work for all laborers, workmen, mechanics, or other persons now employed, or who may hereafter be employed, by or on behalf of

Kansas, or by or on behalf of any county, city, township, or other municipality of said State. Not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, and other persons employed by or on behalf of the State of Kansas, or any county, city, township, or other municipality of said State. All contracts hereafter made by or on behalf of any county, city, township, or other municipality of said State, with any corporation, person, or persons, for the performance of any work, or the furnishing of any material manufactured within the State of Kansas, shall be deemed and considered as made upon the basis of eight hours constituting a day's work. I now quote from the language used by Judge Parker:

A violation of the statute is a misdemeanor. (Referring to the Kansas statute.) Atkin made a contract with a municipality—Kansas City—to pave a street. He was convicted under the statute and the conviction affirmed by the Kansas supreme court. It was argued before the United States Supreme Court that the statute violates the fourteenth amendment in that it deprives the contractor of his liberty and property without due process of law, and denies him the equal protection of the laws. The court holds that the statute does not violate the fourteenth amendment, and in the course of the opinion, written by Mr. Justice Harlan, says:

"If a statute," counsel observes, "such as the one under consideration is justifiable, should it not apply to all persons and to all vocations whatsoever? Why should such a law be limited to contractors with the State and its municipalities? Why should the law allow a contractor to agree with a laborer to shovel dirt for ten hours in a day in performance of a private contract and make exactly the same act, under similar conditions, a misdemeanor when done in performance of a contract for the construction of a public improvement? Why is liberty with reference to contracting restricted in one case and not in the other?"

These questions—indeed, the entire argument of defendant's counsel—seem to attach too little consequence to the relation existing between a State and its municipal corporations. Such corporations are the creatures, mere political subdivisions, of the State for the purpose of exercising a part of its powers. They may exert only such powers as are expressly granted to them or such as may be necessarily implied from those granted. What they lawfully do of a public character is done under the sanction of the State. They are, in every essential sense, only auxiliaries of the State for the purposes of local government.

They may be created or, having been created, their powers may be restricted or enlarged or altogether withdrawn at the will of the legislature, the authority of the legislature, when restricting or withdrawing such powers, being subject only to the fundamental condition that the collective and individual rights of the people of the municipality shall not thereby be destroyed. [Citing cases.] In the last cases cited we said that a municipal corporation is, so far as its purely municipal relations are concerned, simply an agency of the State for conducting the affairs of government, and as such it is subject to the control of the legislature.

The court quotes with approval from the opinion in City of Clinton *v.* Cedar Rapids and Missouri River Railroad Company (24 Iowa, 455, 475): "Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislatures. It breathes into them the breath of life, without which they can not exist. As it creates, so it may destroy. If it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might, by a single act, if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all municipal corporations in the State, and the corporations could not prevent it. We know of no limitation upon this right, so far as the corporations themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature."

After referring to the possible motive of the legislature in making the statute, the court continued: "We have no occasion here to consider these questions or to determine upon which side is the sounder reason, for whatever may have been the motives controlling the enactment of the statute in question we can imagine no possible ground to dispute the power of the State to declare that no one undertaking work for it or for one of its municipal agencies should permit or require an employee on such work to labor in excess of eight hours each day and to inflict punishment upon those who are embraced by such regulations and yet disregard them. It can not be deemed a part of the liberty of any contractor that he be allowed to do public work in any mode he may choose to adopt without regard to the wishes of the State. On the contrary, it belongs to the State, as guardian and trustee for its people and having control of its affairs, to prescribe the conditions upon which it will permit public work to be done on its behalf or on behalf of its municipalities. No court has authority to review its action in that respect. Regulations upon this subject suggest only considerations of public policy, and with such considerations the courts have no concern.

This case fully sustains the contentions urged by Judge Parker in his dissenting opinion in the Rodgers case.

DRESSED-STONE LAW UNCONSTITUTIONAL.

Section 14 of the labor law (chap. 415, Laws 1897) is commonly known as the "dressed-stone law." It provides that "all stone used in State and municipal works, except paving blocks and crushed stone, shall be worked, dressed, and carved within the State." There is also a provision for the insertion in all contracts of a clause that the contractor shall comply with the law in this respect, and for a failure to do so the contract shall be revoked and the State or municipality released from all liability.

This provision of the labor law was passed upon by the court of appeals in a proceeding similar to that in the Rodgers case. The court held (People ex rel. Treat *v.* Coler, 166 N. Y., 144) that the section was violative of the State constitution, and that so far as it compelled municipalities and contractors to use in the construction of public works only such stone as is cut, carved, or dressed in the State of New York is a regulation of commerce between the States which the legislature has no power to make, and is void under the commerce clause of the Federal Constitution. In this case, too, following his opinion in the Rodgers case, Judge Parker dissents, and submits his reasons for holding the law not to be in conflict with the Federal Constitution. (See opinion in Appendix C.)

CONVICT-MADE GOODS.

In many States efforts have been made to prevent convict-made goods being placed on the market in competition with the products of free labor. The necessity of keeping convicts employed, recognized as imperative by all criminologists, has added to the difficulties of a problem not easy of solution. If convicts are employed in industries the products of which can not be utilized by the State, some means must be adopted for disposing of them. There are many who realize how detrimental to free labor it is to have such convict-made goods placed on the markets without restrictions.

The people of New York have been keenly alive to the necessity of restrictive measures to protect free labor from the unpaid convict labor, and so, in the constitutional revision of 1894, incorporated into the organic law of the State the following:

The legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails, and reformatories in the State; and on and after the 1st day of January, in the year 1897, no person in any such prison, penitentiary, jail, or reformatory shall be required or allowed to work, while under sentence thereto, at any trade, industry, or occupation wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given, or sold to any person, firm, association, or corporation. This section shall not be construed to prevent the legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State or any political division thereof. (Const. 1894, art. 3, sec. 29.)

In 1896 the so-called "convict-made goods label act" (chap. 921, Laws 1896) was passed. It required all goods made by convict labor in any penal institution to be labeled "convict made" before being sold or exposed for sale within the State. The law was undoubtedly aimed at convict-made goods of other States, since the products of convict labor of New York could not under the constitutional provision just quoted be placed upon the market. The essential features of this act are now sections 50 to 54 of the labor law, except that in the act of 1896 a provision was added to the penal code (sec. 384b) which made it a misdemeanor to have in possession for the purpose of sale, or offering for sale, any convict-made goods without the brand or label required by law, or to remove or deface any such brand or label.

In People *v.* Hawkins (157 N. Y., 1) this law was held by the court of appeals to be unconstitutional, because it was an attempt to regulate interstate commerce and thus violative of the commerce clause of the Federal Constitution. Judges Bartlett and Parker wrote dissenting opinions, insisting that the act was a proper exercise of legislative power. (See opinion of Parker, J., Appendix D.)

The true purpose of the law was tersely stated by Judge Parker in the following language:

This statute neither prohibits nor attempts to prohibit other States or citizens of other States from putting prison-made goods upon our markets, nor does it prohibit our own citizens from buying or selling them; if it did, then, concededly, the statute would be in violation of the commerce clause of the Federal Constitution and void; it simply requires that prison-made merchandise shall be so branded that our citizens shall know where the goods they are buying were made.

WHAT CONGRESS MIGHT DO.

There is pending in this House a bill (H. R. 10006) to prevent the use by the various Departments of the Federal Government of convict-made goods. It occurs to me that a wise exercise of the power reposed in Congress would be the enactment of a law that would require all prison-made goods, that enter into interstate commerce or are sold in the Territories and the District of Columbia, to be marked or labeled in such a way as to be readily distinguishable from the products of free labor. Such a law, drafted on the lines of the oleomargarine act, would certainly be constitutional. And surely there is more reason for protecting free labor from competition with unpaid convict labor than there is for protecting the makers of butter at the expense of those engaged in the manufacture of oleomargarine.

THE BAKERS' CASE.

In January of this year (1904) another case of importance and upholding a section of the labor law was decided.

Section 110 of article 8 of the labor law is as follows:

No employee shall be required or permitted to work in a biscuit, bread, or cake bakery or confectionery establishment more than sixty hours in any one week or more than ten hours in one day, unless for the purpose of making a shorter workday on the last day of the week; nor more hours in any one week than will make an average of ten hours per day for the number of days during such week in which such employee shall work.

By subdivision 3, section 3841, of the penal code, a violation of the section is made a misdemeanor.

A conviction under the penal code was upheld by the court of appeals in People *v.* Lochner. (177 N. Y., 145.) Elaborate opinions upholding the conviction were read by Judges Parker, Gray, and Vann, and dissenting opinions by Judges O'Brien and Bartlett.

The law is upheld on the ground that it is a valid exercise of the police power of the legislature relating to the public health,

and therefore does not violate either the State or the Federal constitutions.

The following from the opinion of Judge Parker (see Appendix E) clearly defines the proper attitude for courts to assume in passing upon the constitutionality of legislative acts, as it restrains the court to the sphere intended under our system of government, and it contrasts strongly with the action of the courts in many cases.

The courts—

He says—

are frequently confronted with the temptation to substitute their judgment for that of the legislature. A given statute, though plainly within the legislative power, seems so repugnant to a sound public policy as to strongly tempt the court to set aside the statute, instead of waiting, as the spirit of our institutions require, until the people can compel their representatives to repeal the obnoxious statute.

In the early history of this country eminent writers gave expression to the fear that the power of the courts to set aside the enactments of the representatives chosen to legislate for the people would in the end prove a weak point in our governmental system, because of the difficulty of keeping the exercise of such great power within its legitimate bounds.

So far in our judicial history it must be said that the courts have in the main been conservative in passing upon legislation attacked as unconstitutional, but occasionally, and especially when a case is on the border line, it is quite possible that the judgment of the court that the legislation is unwise may operate to carry the decision to the wrong side of that border line. Certain it is that the courts have greatly extended their jurisdiction over many administrative acts that were originally supposed not to present cases for the court to pass upon, and in that way the courts have come to play a very important part in State and municipal administration.

The decisions to which I have called attention have settled many vexed questions that grew out of the enactment of the labor law. In those in which various provisions of the act have been held unconstitutional the people of New York have acquiesced with the same loyalty as in those wherein the law has been upheld. The decisions are important, too, not merely because they determine the law in New York, but by reason of the high esteem in which the court of final resort in New York is held by the courts of other States and the influence its determinations must necessarily have upon the judiciary of the country.

RIGHTS OF LABOR ORGANIZATIONS.

There is one other case to which I desire to call attention. It may be of more interest here on account of certain pending legislation than any already discussed. Certainly it should be carefully weighed by those citizens of my own State who have been so outspoken in condemnation of what are known as the "anti-injunction" and the "anti-conspiracy" bills (H. R. 89, 1234, 4063, and 8136). The case to which I refer is the National Protective Association of Steam Fitters and Helpers et al. *v.* James M. Cumming et al. (170 N. Y., 315). As in most of the cases in the court of appeals in which labor questions are involved, the court is almost evenly divided in the case, although in no instance has the court in such cases divided on political lines.

This action grew out of a dispute between rival labor organizations. Charles McQueed, a member of the National Protective Association of Steam Fitters and Helpers, a corporation organized under the laws of New York, brought an action on behalf of himself and his fellow-members to restrain the board of delegates and certain individuals, members of the Board of Delegates and of the Enterprise Association of Steam Fitters and of the Progress Association of Steam Fitters and Helpers, from preventing the employment of the plaintiffs and from coercing their discharge by any employer, through threats, strikes, or otherwise, and to recover damages.

The trial court gave judgment restraining defendants from—

preventing the work, business, or employment of the plaintiff corporation or any of its members in the city of New York or elsewhere, and from coercing or obtaining by command, threats, strikes, or otherwise the dismissal or discharge by any employer, contractor, or owner, of the members of the plaintiff corporation, or the plaintiff McQueed, or any or either of them from their work, employment, or business, or in any wise interfering with the lawful business or work of the plaintiff corporation or of its members. But the defendants are not, nor is any one of them, enjoined and restrained from refusing to work with the plaintiff or any member of the plaintiff corporation.

This judgment was reversed in the Supreme Court, and its action was affirmed by the court of appeals and judgment absolute ordered for the defendant.

It appears, from an examination of the case, that the defendants, Cumming and Nugent, members of the board of delegates and representing the Enterprise and Progress associations, had caused the plaintiff and other members of the national association to be discharged from various buildings in the course of erection, and the employment in their stead of members of the Progress and Enterprise associations. The discharges were the results of statements on the part of the delegates that unless the plaintiffs were discharged there would be general strikes called upon the buildings where plaintiffs were employed. I desire to quote, at this point, briefly from the opinion of Judge Parker (in full in Appendix F). He lays down in the most comprehensive terms the rule that members of a labor union have not only the right to refuse to work with others, but that it does not affect their right because the reason given does not seem adequate to other people so long as the object to be attained is a legal one. He says:

Stated in other words, the propositions quoted recognize the right of one man to refuse to work for another on any ground that he may regard as sufficient, and the employer has no right to demand a reason for it. But there is, I take it, no legal objection to the employee's giving a reason, if he has one, and the fact that the reason given is that he refuses to work with another who is not a member of his organization, whether stated to his employer or not, does not affect his right to stop work, nor does it give a cause of action to the workman to whom he objects because the employer sees fit to discharge the man objected to rather than lose the services of the objector.

The same rule applies to a body of men who, having organized for purposes deemed beneficial to themselves, refuse to work. Their reasons may seem inadequate to others, but if it seems to be in their interests as members of an organization to refuse longer to work, it is their legal right to stop. The reason may no more be demanded as a right of the organization than of the individual, but if they elect to state the reason their right to stop work is not cut off because the reason seems inadequate or selfish to the employer or to organized society. And if the conduct of the members of an organization is legal in itself, it does not become illegal because the organization directs one of its members to state the reason for its conduct. * * *

It is the giving of this information (that unless members of the plaintiff organization were discharged and those of defendant organizations employed, general strikes would be ordered), a simple notification of their determination, which it was right and proper and reasonable to give, that has been characterized as "threats" by the special term, and which has led to no inconsiderable amount of misunderstanding since. But the sense in which the word was employed by the court is of no consequence, for the defendant associations had the absolute right to threaten to do that which they had the right to do. Having the right to insist that plaintiff's men be discharged and defendant's men be put in their place if the services of the other members of the organization were to be retained, they also had the right to threaten that none of their men would stay unless their members could have all the work there was to do.

This decision is of the utmost importance to those really interested in laboring men and mechanics organized for the betterment of their condition. It is refreshing to have it stated in such unmistakable terms that men do not sacrifice rights merely by banding into what are known as "labor organizations."

Within the past few weeks I have frequently attempted to state this principle in answering communications severe in denouncement of the so-called "anti-injunction" bills now pending in this House. I had in mind this language used in the Cummings case by Judge Parker:

A man may threaten to do that which the law says he may do, provided that, within the rules laid down in those cases, his motive is to help himself. A labor organization is endowed with precisely the same legal right as is an individual, to threaten to do that which it may lawfully do.

Such a declaration of what the law is can readily be comprehended by the lay mind; yet it is often misunderstood and sometimes ignored even by those charged with the duty of interpreting the law.

IMPARTIAL ADMINISTRATION OF LAW ESSENTIAL FOR WELFARE OF SOCIETY.

I have no desire to pose as the champion of lawlessness by members of labor organizations any more than to excuse those aggregations of capital which conduct their operations in defiance of law. Unlawfulness on the part of either labor or capital is inexcusable, and the laws should be enforced impartially against all violators, regardless of the accidental attribute of wealth or of its lack. As was well said by the President in his annual message to this Congress:

No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right, not asked as a favor.

This is an age of organization. Everywhere the tendency seems to be towards concentration. Capital combines that industrial enterprises may be carried on in a style more colossal than the world has ever before imagined; labor organizes the more easily to resist the continued encroachments of aggrandized wealth and to better the condition of the masses. Within recent times the industrial world has undergone a rapid evolution. In the transition abuses have grown up which, on all sides, it is conceded must speedily be eliminated. Society suffers from actions that seemingly transcend the law, but yet are difficult to control by legal process. Our duty is to build up, not to destroy. Our best efforts should be directed so to legislate that neither organized labor nor organized capital shall be done injustice, but that both shall be so regulated, controlled, and promoted by wise and sane measures that the interests of all men shall be advanced and the social equilibrium undisturbed. [Loud applause.]

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APPENDIX A.

PEOPLE EX REL. RODGERS VS. COLER, 166 NEW YORK, 1.

PARKER, Ch. J. (dissenting).

The reasoning by which the decision about to be made is sought to be supported fails to persuade me that it is other than a judicial encroachment upon legislative prerogative; for it is that and nothing less if the statute does not offend against either the Federal or State constitution. If the statute, which seems to be regarded by some as vicious in its tendency, attempted to regulate the question of wages as between citizens of the State so as to affect even in the slightest degree the basis on which one citizen should contract with another, then not only would much of the discussion which this statute has invoked be relevant, but the decision about to be made would be unquestionably sound.

The legislature, however, intended nothing of the kind, and the statute not

only omits to express any such purpose, but it is so carefully guarded as to leave no room for doubt that the legislature, appreciating the limits of its authority, intended to and did simply provide with certainty that those who work directly for the State or upon public works within the State shall receive that which may be termed "going wages" in the locality in which any particular public work is being carried on as will at once appear from a reading of the statute, so much of which as is germane to the question under discussion being set out in the statement of facts. In other words, the legislature, which is vested with the power to direct the conduct of the business operations of the State, by this statute has not only declared it to be the policy of the State as a proprietor to pay the prevailing rate of wages, but has enjoined upon its several agents and agencies the duty of executing this policy. An attack upon this statute, therefore, assails the right of the State as a proprietor to pay such wages as it chooses to those who either work for it directly or upon any work of construction in which it may be engaged.

No one has presumed to challenge the right of an individual either to pay the prevailing rate of wages in his locality or, if he concludes to have his work done by contract, to refuse to award it to a contractor who will not agree to pay the going wages to all employees that may be engaged upon the work. But the State seems to be regarded in some quarters as having less power as a proprietor than an individual, so that what an individual may contract to do in the performance of his own work the State itself may not do when it assumes the rôle of proprietor and attempts the construction of important work.

Now, having called attention to the fact that the statute by its terms is expressly limited to laborers employed upon the work of which the State, in its entirety or through some subdivision thereof, is the proprietor, we come to the question whether there is any provision of either the Federal or State constitution that so far restricts the power of the State in constructing its buildings or other public works that it has less liberty of action than one of its citizens.

That it has, to say the least, as much power as a proprietor as has any of the individuals of which its citizenship is comprised would seem to be a self-evident proposition. But as evidence is not wanting that it is not so regarded by others the subject must have some consideration. In 1889 the legislature provided by statute that from and after the passage of the act the wages of day laborers employed by the State, or any officer thereof, should not be less than $2 per day. (Chapter 380 of the Laws of 1889.) It is difficult to imagine from what source the idea could have been born that this statute was unconstitutional, in view of the fact that it was known of all men that the legislature had always fixed the compensation of its executive, legislative, and judicial officers, and had provided from the beginning what compensation, if any, should be paid to all the county and city officers throughout the State. Indeed, the compensation for every kind and character of service whatsoever had always been fixed either by the legislature directly or through agencies created by it, the original source of power in all cases being the legislature.

Nevertheless, there were those who conceived the absurd idea that there was some distinction between the compensation for day laborers and the compensation for all others engaged in the service of the State, and so the demand of one Clark, who was employed upon the canals for the compensation fixed by the legislature, was challenged and finally came to this court, where the question was put at rest by a unanimous decision, which held that "there is no express or implied restriction to be found in the Constitution upon the power of the legislature to fix and declare the rate of compensation to be paid for labor or services performed upon the public works of the State; that legislation is doubtless open to criticism from the standpoint of sound policy and expediency, but the courts have nothing to do with these questions so long as it is not in conflict with the Constitution, and we think that a general law regulating the compensation of laborers employed by the State or by officers under its authority, which disturbs no vested right or contract, was within the power of the legislature to enact, whatever may be said as to its wisdom or policy." (Clark *v.* State of New York, 142 N. Y., 401.)

Now, certainly it need not be argued that, if the Constitution contains no restriction "upon the power of the legislature to fix and declare the rate of compensation to be paid for labor or services performed on the public works of the State," there is nothing in the Constitution to restrict the power of the legislature in declaring that "the rate of compensation to be paid for labor or service performed on the public works of the State" "shall (in the language of the statute) not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where such public work on, about, or in connection with which labor is performed, in its final or completed form is to be situated, erected, or used." So, if authority be needed, we have the authority of this court that the legislature has the power to provide that the policy of the State shall be to pay the going rate of wages in the locality in which a public work is to be done and to command its agents to obey its directions in that regard.

For illustration, were it now engaged in the erection of a new capitol, the public officer or officers having in charge the construction by appointment of the legislature would, under the authority of the Clark case, be obliged to pay the prevailing rate of wages in Albany, and if, in the course of construction, it should be determined to do some part of the work by contract, as was the case during the last year of work upon the capitol, those having in charge the construction would be obliged to provide in the contract that the contractor should pay the prevailing rate of wages in Albany. Of course a contractor would not be obliged to accept a contract under such terms, but certainly would do so if he wished to work, for the State as proprietor would have the right to impose any terms it might choose as a condition of awarding the contract, just as an individual might do.

Terms might thus be imposed which would be wise or very foolish for both the State and the contractor, in the estimation of the latter; but it is the proprietor's right to be unwise if he so wills, in which respect the State is perhaps both in theory and practice on an equality with its citizens. The provision in the contract requiring, in effect, that he should pay the going wages would, of course, interfere with his liberty to hire men for lower wages. So a provision that he must use a certain brand of cement which is no better and costs more than other brands would interfere with his liberty to buy first-class cement at a lower price than the brand named. A provision that some or all of the figure work cut out of stone should be done by workmen from Italy, would perhaps interfere with the employment at less expense of men of equal or greater skill at home who could do equally good or better work, and to that extent his liberty to so contract as to make a greater profit for himself, without injury to the proprietor, would be interfered with, but it is interfered with only because he assents to the proprietor's wishes and contracts that it shall be so, and hence his liberty is not interfered with at all within the meaning of the constitution; for he has solemnly covenanted in his agreement that he shall not be at liberty to do anything in the course of the performance of the contract that shall be contrary to the wishes of the proprietor, as expressed in the written contract.

I have yet to hear an argument from any quarter offered for the purpose of showing that the State, as a proprietor, could not in the erection, for instance, of a new capitol, fix the wages to be paid by its contractors, provide that its sculptors should come from Italy, its decorators from Paris, its stone from specific quarries in Massachusetts, and its cement from England, when perhaps better results could be obtained should only residents of this State be employed and the material purchased within its own borders. But it is said that this statute goes further and applies not only to the work undertaken by the State at large, but also to the public works carried on in the several municipalities of the State, the particular case before the court growing out of a contract made between the city of New York and the relator, by which the latter agreed to regulate and grade West One hundred and thirty-fifth street in that city from Amsterdam avenue to the Boulevard.

The authority of the State, however, is supreme in every part of it, and in all of the public undertakings the State is the proprietor. For convenience of local administration the State has been divided into municipalities, in each of which there may be found local officers exercising a certain measure of authority, but in that which they do they are but the agents of the State, without power to do a single act beyond the boundary set by the State acting through its legislature.

Charters are given to cities by means of which are created what are known as "municipal corporations," but the creation is solely for the purpose of doing the work of the State in the particular locality affected, and in the creation of these agencies the legislature designates the number of officers, determines what they shall be called, prescribes what particular portion of the municipal work each shall do, fixes their compensation, and provides a method by which shall be chosen a proper amount of assistance, clerical and otherwise, to perform the work, and from time to time enlarges or restricts the fields of labor of the several officers; it also from time to time by special enactment authorizes undertakings of large public importance, not contemplated, perhaps, at the time of the granting of the charter or at the time of a general revision of it. If the legislature becomes dissatisfied with the general working of a charter it may change it or create a new one, for it is possessed of supreme authority to provide the method by which the municipal affairs shall be conducted and to determine what great public works, if any, shall be undertaken. If it shall determine that the city is in need of a large supply of pure and wholesome water, the legislature, and the legislature alone, may provide the machinery by which that result may be accomplished. In the doing of it the legislature may devolve the administration of the details of the work upon the local municipal officers already in existence, or it may select another agency without even consulting the wishes of either the taxpayers or the voters of a city, as was the case in the building of the new aqueduct, which was authorized by chapter 490 of the laws of 1883.

The act was entitled "An act to provide new reservoirs, dams, and a new aqueduct, with the appurtenances thereto, for the purpose of supplying the city of New York with an increased supply of pure and wholesome water." It contained full authority for the execution of this vast undertaking, which was expected to and did cost the city of New York very many millions of dollars, under the direction of six commissioners named in the act, upon whom was devolved both the power and the duty of effectuating the purpose of the legislature as expressed in the statute. The constitution has, of course, imposed some restrictions upon the legislative power, such, for instance, as that the legislature shall not authorize the construction of a street surface railroad without the consent of the local authorities and 50 per cent of the abutting property owners, or in lieu thereof the consent of the appellate division of the supreme court. But prior to the incorporation of such a provision into the constitution the legislature had the power, and until 1850 exercised it, of authorizing the construction of street surface railroads without the consent of either the local authorities or the property owners, as will appear from an examination of the statutes referred to in Ingersoll *v.* Nassau Railroad Company. (157 N. Y., at p. 466.)

Similar instances almost without number might be multiplied, all of which would serve as illustrations merely that the State acting through its legislature has absolute power and control over all the public works within the State, undertaken and carried on with public funds, whether the work be paid for by a municipality or by the State at large, and that those who let the contracts, superintend the construction, audit the bills and pay them, are in such work but the agents of the State, whether the agency be created by the provisions of a charter or by special enactment. If authority be needed in support of this proposition, it may be found in Williams *v.* Eggleston (170 U. S., 304). At page 310 the court says: "A municipal corporation is, so far as its purely municipal relations are concerned, simply an agency of the State for conducting the affairs of government, and as such it is subject to the control of the legislature."

Authority to the same effect may also be found in cases in this court, of which Mayor *v.* Tenth National Bank (111 N. Y., 446) is a type. In that case the question presented was whether the city of New York could be compelled by the legislature to pay to the Tenth National Bank moneys that it had advanced without authority of law to the county commissioners which were in part misappropriated by them, the balance of the moneys being used in the construction of the court-house in New York City. The act of the legislature requiring the city to pay to the bank the moneys advanced by it was upheld in this court, and in the course of the opinion the court said: "Municipal corporations are creatures of the State and exist and act in subordination to its sovereign power. The legislature may determine what moneys they may raise and expend, and what taxation for municipal purposes may be imposed; and it certainly does not exceed its constitutional authority when it compels a municipal corporation to pay a debt which has some meritorious basis to rest on."

Other authorities in which the proposition is in effect either decided or asserted that a municipal corporation is simply an agency of the State for the conduct of the affairs of government, and therefore subject to the control of the legislature in all respects except as expressly limited by the constitution, are: In re Protestant Episcopal School (46 N. Y., 178); Terrett *v.* Taylor (9 Cranch, 43); Payne *v.* Treadwell (16 Cal., 221); Jones *v.* Town of Lake View (151 Ill., 663); Mayor, etc., of Frederick *v.* Groshon (30 Md., 433); Groff *v.* Mayor, etc., of Frederick City (44 Md., 67); State Bank *v.* Madison (3 Ind., 43); City of Paterson *v.* Society for E. U. M. (24 N. J. L., 385); State ex rel. Cleveland *v.* Board of Finance, etc. (38 N. J. L., 259); In re Dalton (59 Pac. Rep., 836).

In the latter case the petitioner was arrested for violating the provisions of chapter 114 of the laws of 1891 of the State of Kansas, which provided that eight hours should constitute a day's work for laborers, workmen, mechanics, and other persons employed by or on behalf of the State of Kansas, or by or on behalf of any county, city, township, or other municipality in the State. He sought to be relieved from trial through habeas corpus proceedings, claiming that the act was unconstitutional. The court thought that the statute was constitutional, and in the course of the opinion the court said:

"Whatever orders the State may give directly to its own agents it may require of its political subdivisions, instrumentalities of said government, such as counties, cities, townships. These subdivisions are merely involuntary political or civil divisions of the State, created by statute to aid in the administration of government. 'A county is one of the civil divisions of a country for judicial and political purposes, created by the sovereign power of the State of its own will, without the particular solicitation, consent, or concurrent action of the people who inhabit it; a local organization, which for the purpose of civil administration is invested with certain functions of corporate existence.' It has been held competent for the legislature to establish a State road and cast the cost and expense thereof upon the county in which the road lies, without the consent of the officers or people of the county.

And, in like manner, it may require the county to build a certain kind or number of bridges at specified places, another county to build roads in a particular locality, and another to build public buildings; and for this and other public purposes the counties and other municipalities could be required to levy a tax and make other provisions for the payment of such improvements. Indeed, everything relating to the management of counties, cities, and townships not defined and limited by the Constitution may be taken away by the State, acting through its legislature; and as to these political divisions and their agents the legislature has the same power that it possesses over State officers. We conclude, therefore, that the statute under consideration is a mere direction of the State to its agents and a proper exercise of its power in that respect."

If the views so far expressed be sound, it would seem to follow that the position taken by the State in enacting this statute is precisely like that of an individual who for any reason determines that if it be a little more than honest, as that term is usually employed, it is not more than just to pay for a thing what it is fairly worth, and that the principle should be applied as well to the compensation of labor as to the payment for material, and hence decides that in construction work he will pay the market price. The State, having determined upon such a course of action by this statute, directs its agents and agencies, wherever throughout the State they may be situated, that in the doing of a public work they shall pay the going wages whenever the work is to be done by day's work, and whenever it is to be done by contract, then the agent, wherever situated, shall put into the contract that it executes by authority of the State a provision that the contractor shall pay such rate.

There are no authorities in this State that militate against the position that I have taken. On the contrary, such as there are support it. In People v. Warren (77 Hun, 120) the defendant had been charged before a police magistrate with a violation of section 504, chapter 105 of the laws of 1891, entitled "An act to revise the charter of the city of Buffalo." That charter provided, among other things, that "in contracting for any work required to be done by the city a clause shall be inserted that the contractor submitting proposals shall bind himself in the performance of such work not to discriminate either as to workmen or wages against members of labor organizations, or to accept any more than eight hours as a day's work, to be performed within nine consecutive hours."

The defendant having been convicted, an appeal was taken to the general term, fifth department, where the argument was made that the statute was unconstitutional because offending against the provisions of section 1, article 14 of the Constitution of the United States, and of the provisions of section 1, article 1 of the constitution of the State of New York. It was held by a unanimous court that the statute was constitutional, and the judgment of conviction was affirmed. Subsequently an unsuccessful attempt was made to secure a different result through the instrumentality of a writ of habeas corpus. I take an extract from the opinion, which was written by Judge Hatch, because it is in point on the next proposition that I propose to discuss. "It is said that defendant is an independent contractor, and consequently the rules we have invoked have no application to the case. If this were conceded it might not be possible to answer the claim. But the assertion itself, as I view the facts, is far from being true. In the sense that the defendant is doing work for the city of Buffalo to furnish all material and labor in making a public improvement for a given sum, it is a fact. But that it is relieved from the obligations imposed by the State upon the city of Buffalo and assumed by it is not true as matter of law. * * * The city said to the defendant and to all other contractors when it invited the bids for the performance of the work, 'The statute is one of the conditions which must be complied with and an obligation which must be assumed by the contracting party.' The defendant was not obliged to bid. The conditions imposed applied equally to all who should bid. The act of bidding was with full knowledge and voluntary. Under these conditions defendant made its bid, and when awarded the contract voluntarily executed the same and assumed the obligations imposed upon the city by the statute. How can it be said that he was an independent contractor, freed of obligations? He was an independent contractor, but he is not independent of the obligations imposed by the contract." (People ex rel. Warren *v.* Beck, 10 Misc. Rep., 77.)

It should also be said before passing to the consideration of the contract that the judge before whom this matter came at special term was of the opinion that the act is constitutional, and while there was a difference of view in the appellate division as to certain questions, not one of the judges of that court expressed an opinion that the State in so far as it directed its agents to insert a provision in the contract that the prevailing rate of wages should be paid, acted beyond its power.

Indeed, in the prevailing opinion it is said: "I am satisfied that the legislature has power to prescribe the form of contracts which shall be made by municipal corporations with those entering into contracts with it. No one is bound to enter into such a contract or to do work for a municipal corporation, but when he does he must accept the terms of the contract as prescribed by law, and if he voluntarily makes a contract by which he is to receive pay only upon condition of his performing certain obligations or doing work that he agrees to do in a certain way, the contractor certainly can not complain if the city refuses to pay except upon his compliance with the terms of the engagement."

Since the argument there has been evolved the notion that the few constitutional limitations upon the power of the State to control at will through legislative action all the affairs of municipalities, in some way helps out the contention of the majority that the State is not the proprietor in the grading and construction of the street in question. It seems to me that the effect of these exceptions is to prove the rule, if proof be needed, that the State can do what it chooses in respect to public improvements anywhere within its borders, whether the territory affected be within city limits or in the rural sections of the State, provided only that it does not transcend the limitations that the people have seen fit to place upon that power by means of the constitution. That instrument will be searched in vain for any restrictions upon the power of the legislature to grade or improve highways. The legislature may provide for the building of bridges over streams separating counties, or towns, or both. It may do this at the expense of the State, or at the expense of the towns affected, or of the adjoining counties, or the expense may be apportioned in such manner as the State sees fit. It may build and improve roads at the joint expense of the State and the locality more immediately benefited by the construction of the road, or part of the expense may be assessed upon the property of individuals abutting upon the improved highway; and in cities it may determine to have streets graded and improved and the entire expense assessed upon the property in the neighborhood which is supposed to benefit by the improvement; or it may assess the entire sum upon the city, or apportion the cost between the two. But, however the moneys necessary to pay the expense of such an improvement may be raised, it is the State that authorizes the improvement, selects the agency by which it is conducted, and alone determines the source from which the money needed to pay the expense shall come, and its power in that respect has no limitation whatever.

The prevailing opinions discuss a question which is not up for decision—namely, whether the legislature has the power to provide that the municipal authorities shall pay to their employees going wages. As the discussion which that question has received is, in my opinion, obiter, I shall not refer to it further than to say that I dissent from the views expressed in relation thereto on the ground that the statute offends no provision of the constitution when it undertakes to provide that the city shall pay the prevailing rate of wages to those who work for it. Who denies the power of the legislature to fix the rate of compensation for the mayor, the comptroller, the police commissioner, the clerk, the attendant, and the messenger? If anyone does I have not heard him. Why may it not then fix the rate of compensation of the engineer in charge of its heating and ventilating apparatus, its skilled mechanics, or its street sweepers? Where in the constitution is to be found the provision that so discriminates between the classes into which the public service is divided as to allow the legislature to provide certainty and stability of compensation as to the one and denies a similar power as to the other? My attention has not been called to such a provision, nor have I been able to find it after diligent search.

I have considered the constitutionality of the statute, because it has been insisted, as I think erroneously, that the feature of the statute which is in controversy here is unconstitutional. But if, on the other hand, it were to be conceded that it is unconstitutional, I do not see how it could avail this relator. If the contract were silent on the subject, and the claim made was that the contractor could not recover for work performed because he had not complied with the provisions of the statute requiring contractors to pay the prevailing rate of wages, then he would not only be in a position to attack the constitutionality of the statute, but an adjudication that it was unconstitutional would relieve him from the necessity of paying the prevailing rate of wages. But that is not this case. In the contract between the city and this relator it is agreed in terms that "the wages to be paid for a legal day's work, as hereinbefore defined, to all classes of such laborers, workmen, or mechanics upon all such public work, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where such public work on, about, or in connection with which labor is performed, in its final or completed form, is to be situated, erected, or used." And it was further in terms agreed that "this contract shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of the labor law." So that not only in terms did the contractor agree to pay the prevailing rate of wages, but the agreement also in effect made the provisions of the labor law a part of the contract.

Whether, therefore, the statute was unconstitutional or not, there was nothing to prevent this relator from consenting to the incorporation of the phraseology of the statute into the contract, and when he did that and voluntarily executed the contract, as in this case, he can not effectively plead as an excuse for the violation of his contract that, inasmuch as certain of its provisions are void when embodied in a statute, they are also void when incorporated into a voluntarily executed contract.

While the majority of the appellate division agreed that the statute was constitutional in so far as it provided for the payment of the prevailing rate of wages, and also that the relator, having voluntarily executed the contract, he is entitled to payment for work done only upon condition of his performing its stipulations, still they were of the opinion that the relator was entitled to a mandamus because the officers of the municipal corporation had failed to avoid the contract prior to the institution of the proceeding.

If the conclusion of the majority was wrong in this respect, they conceded that the defendant rightly succeeded at special term, and, as it seems to be very clear that it was wrong, I shall content myself with a brief presentation of the reasons, and shall omit all reference to the question, also discussed, whether the contract became void by direct operation of the statute upon the contract and its conceded breach. If the statute purported to accomplish such a result, the court thought that it might be unconstitutional. But I shall not consider whether it does purport to accomplish such a result or whether, if it did, it would offend against the constitution, for, as I view it, the question is not before us. Certainly it can not affect the disposition of this matter if what the comptroller did operated to avoid the contract. It is because I think he did all that the situation required in order to enable the city to take advantage of the relator's breach of the contract that leads me to a different result than that reached by the appellate division, for we alike agree on the constitutionality of the statute, so far as it is involved in the proceeding and in the binding effect of every provision of the contract.

It is not easy to appreciate the argument that admits the validity of the contract; its open violation by the relator; concedes that the provision is clear and unambiguous that declares it shall be null and void in the event of such a violation, and still contends that a recovery may be had in the face of the defense urged by every legal method, viz, that the relator can not recover because the contract has become void by his act.

What act it was necessary for the comptroller to do in order to take advantage of the defense the relator had furnished other than first to refuse to pay and afterwards to defend on the ground that the contract was void, owing to the relator's violation of it, has not been suggested. It has been found easier, no doubt, to say that the comptroller, as the fiscal officer, had to do something than to point out the thing he had to do.

It is the relator's violated agreement which entitles the defendant to claim that this contract is no longer of any effect. For it must not be forgotten that this relator comes into court admitting that he has violated the contract by failing to pay the prevailing rate of wages as he agreed to do, and by his contract he agreed that the effect of his failure to do so should cause the contract to become void and of no effect.

The argument that the relator is entitled to a mandamus against the comptroller because he had not avoided the contract before this proceeding was instituted, seems to me without force. It appears affirmatively that the comptroller was not informed that the relator was violating his contract until the 19th day of April, 1900, and that he set on foot an investigation for the purpose of learning the truth of the matter immediately thereafter, with the result that the information received by him was fully confirmed.

Now, the certificate made by the commissioner of highways certifying to the correctness of the relator's account, showing a balance due, to secure a warrant, for which this proceeding was instituted, was dated April 23, 1900, or only four days after the comptroller was first advised of any act leading him to suspect that the relator was violating the contract. From these facts it is apparent that there was nothing in the situation to justify the conclusion that the comptroller allowed him to go on with his work after knowledge on the part of the comptroller that it was within his power to avoid the contract on behalf of the municipality.

On the contrary, it is apparent that no part of the work for which a warrant is claimed was performed after the comptroller's knowledge of the relator's default. This proceeding was instituted about three weeks afterwards, and hence it is manifest that, so far as this claim is concerned, the relator has nothing to complain of in the conduct of the comptroller, assuming, without admitting, that a complaint of that general character could have any legal value toward restoring to life a void contract.

This proceeding was instituted against the comptroller because he refused to deliver to the relator a warrant for the amount of the certified account. The reason for it is set up in his return, and is to the effect that the relator had executed a contract by which he had agreed that in the event of his failure to perform certain of its terms and conditions the contract should be void; that he had failed to comply with such terms, and that hence the contract is

void and the city not liable. Now, if there is anything else that the comptroller was bound to do under the circumstances in order to get rid of paying the amount claimed to be due under a contract that had become void, it has not been pointed out. He resisted payment both before and after the commencement of legal proceedings on the ground that the contract had become void because of the conduct of the contractor, and that is all he was obliged to do in order to relieve the city from making further payments under a void contract.

If the facts were as assumed by the learned judge at the appellate division, that the city authorities with knowledge of the violation of a contract which authorized the city to treat it as void nevertheless permitted the contractor to go on with his work by which the amount in question was earned, it might very well be that a court of equity would undertake to relieve a party from the loss that would otherwise result on the ground that it was the duty of the officers of the city to speak and not to hide their intentions for the purpose of getting work for nothing out of the contractor. But those considerations have no place in a proceeding by mandamus where the relator can only succeed by establishing a clear legal right to that which he demands.

I advise a reversal of the order of the appellate division and an affirmance of that of the special term.

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## APPENDIX B.

### RYAN VS. CITY OF NEW YORK, 177 NEW YORK, 271.

PARKER, Ch. J.: There are two questions presented by this review. The first is, Has the legislature power to provide that its employees and those of the several municipalities shall receive "not less than the prevailing rate" of wages in the locality? In other words, has the legislature—which possesses all the power of the sovereign not expressly withheld by the Constitution—power to provide that work done for it or its several subdivisions shall be paid for at such a rate as individuals and corporations in the same locality pay?

That question was before this court some years ago in so far as it affects the right of the legislature to fix the rate of wages of laborers upon the works of the State. (Clark *v.* State of New York, 142 N. Y., 101.) In 1889 the legislature passed an act (L. 1889, ch. 380) providing that the rate of wages upon the public works of the State should be $2 a day. That was more than the then prevailing rate, and there were those who questioned the power of the State to interfere with its agents in fixing the wages of men working under them. They thought the superintendent of public works had the sole power of fixing wages of employees in that department, and therefore could defy the direction of the legislature as to the amount of compensation to be paid, although he could disburse such moneys only as were appropriated by the legislature. And they entreated the attorney-general to commence an action to have the court declare the impotency of the legislature to interfere on the important subject of compensation to laborers.

But when the case reached this court in 1894 the attorney-general was unable to point to the provision of the constitution which divested the representatives of the people for all matters of legislation of this power, and vested it in the several inferior officials having charge of certain administrative duties conferred upon them in the majority of instances by acts of the same legislature. The court, unaffected, as was its duty, by the argument that the statute was unwise and mindful that its duty was discharged fully and could only be discharged by declaring whether the legislature had the power to enact the statute complained of, unanimously held that the power belonged to it. Judge O'Brien, writing for the unanimous court, says (142 N. Y., 101, 105): "There is no express or implied restriction to be found in the constitution upon the power of the legislature to fix and declare the rate of compensation to be paid for labor or services performed upon the public works of the State."

The principle of that decision controls this one. There the legislature undertakes to fix arbitrarily the sum to be paid to every employee of the State. Here the legislature undertakes to provide for the payment of not less than the prevailing rate of wages, not only to the direct employees of the State, but also to its indirect employees working in its several subdivisions—the cities, counties, towns, and villages. In the administration of the affairs of those subdivisions, as well as in those of the State at large, the legislature is unrestrained unless by express provisions of the constitution. As expressed in Rodgers's case (166 N. Y., 1, 29): "The authority of the State is supreme in every part of it and in all of the public undertakings the State is the proprietor. For convenience of local administration the State has been divided into municipalities, in each of which there may be found local officers exercising a certain measure of authority, but in that which they do they are but the agents of the State, without power to do a single act beyond the boundary set by the State, acting through its legislature." Thus all of these agencies and employees in the several municipalities are doing the work of the State, which is the sovereign and master.

Nevertheless, we find that the argument is again made, as in 1894 in Clark's case, that the legislature is without power to interfere with the agencies it has created for the government of the municipalities. And this is said in the face of the decision in Clark's case, and notwithstanding the fact that the legislature has the power at any time to absolutely change the form of government of a municipality, to blot out of existence any municipal charter, or to consolidate several municipalities under a single charter, as it did in the creation of Greater New York. And this argument is made in spite of the many well-known illustrations of the power of the legislature to control the affairs of municipalities. The scope of that power is illustrated by the construction of the new aqueduct by a board created by the legislature, the expense being charged upon the city of New York, although not a single officer of the city had a voice in controlling the expenditure of the millions that its construction involved; and by the act compelling the elevation of the Harlem railroad tracks in the city of New York, and the imposition of one-half of the expense, amounting to several millions, upon the city of New York, the work all being done through an agency created by the State.

Not only does the legislature fix the salaries of the principal municipal officers throughout the State, but in the city of New York, where this case arises, it fixes the rate of compensation for many laborers. The street-cleaning department will serve as an illustration. The charter provides for the payment of definite sums in some cases, and for a maximum sum in others, for a force numbering over 5,000 employees in that department, and including 3,100 sweepers and 1,600 drivers, hostlers, and stable foremen. The charter in this respect has the support of Clark's case (supra). Now, there are a few mechanics connected with the department whose compensation is not fixed by the charter, and who, therefore, come under the prevailing-rate provision of the labor law. Their compensation could be fixed, of course, at a definite sum, as that of the other employees is, but instead it is provided in effect that they shall be paid at a rate not less than that paid by others for similar services in that locality. Certainly no one can argue that the legislature can provide that the street sweeper shall be paid, for example, $2 a day, but can not provide that he shall be paid the prevailing rate of wages when that happens to be $2. But if one can be found who will attempt to make such an argument, surely it can be safely said that he can not find a constitutional provision upon which to rest it.

Since the foregoing was written the opinion of the United States Supreme Court in Atkin *v.* State of Kansas (191 U. S., 207) has been brought to our attention. It is in point and decides the question in accordance with the views we have already expressed. A Kansas statute provides that "eight hours shall constitute a day's work for all laborers, workmen, mechanics, or other persons now employed, or who may hereafter be employed, by or on behalf of the State of Kansas, or by or on behalf of any county, city, township, or other municipality of said State. * * * Not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, and other persons employed by or on behalf of the State of Kansas, or any county, city, township, or other municipality of said State. * * * All contracts hereafter made by or on behalf of the State of Kansas, or by or on behalf of any county, city, township, or other municipality of said State, with any corporation, person, or persons, for the performance of any work or the furnishing of any material manufactured within the State of Kansas shall be deemed and considered as made upon the basis of eight hours constituting a day's work."

A violation of the statute is a misdemeanor. Atkin made a contract with a municipality—Kansas City—to pave a street. He was convicted under the statute, and the conviction affirmed by the Kansas supreme court. It was argued before the United States Supreme Court that the statute violates the fourteenth amendment in that it deprives the contractor of his liberty and property without due process of law and denies him the equal protection of the laws. The court holds that the statute does not violate the fourteenth amendment, and in the course of the opinion, written by Mr. Justice Harlan, says: "'If a statute,' counsel observes, 'such as the one under consideration, is justifiable, should it not apply to all persons and to all vocations whatsoever? Why should such a law be limited to contractors with the State and its municipalities? * * * Why should the law allow a contractor to agree with a laborer to shovel dirt for ten hours a day in performance of a private contract, and make exactly the same act under similar conditions a misdemeanor when done in performance of a contract for the construction of a public improvement? Why is liberty with reference to contracting restricted in one case and not in the other?'

These questions—indeed, the entire argument of defendant's counsel—seem to attach too little consequence to the relation existing between a State and its municipal corporations. Such corporations are the creatures, mere political subdivisions, of the State for the purpose of exercising a part of its powers. They may exert only such powers as are expressly granted to them, or such as may be necessarily implied from those granted. What they lawfully do of a public character is done under the sanction of the State. They are, in every essential sense, only auxiliaries of the State for the purposes of local government.

They may be created, or, having been created, their powers may be restricted or enlarged, or altogether withdrawn, at the will of the legislature; the authority of the legislature, when restricting or withdrawing such powers, being subject only to the fundamental condition that the collective and individual rights of the people of the municipality shall not thereby be destroyed. (Citing several cases, the last being Williams *v.* Eggleston, 170 U. S., 304, 310.) In the last cases cited we said that "a municipal corporation is, so far as its purely municipal relations are concerned, simply an agency of the State for conducting the affairs of government, and as such it is subject to the control of the legislature."

The court quotes with approval from the opinion in City of Clinton *v.* Cedar Rapids and Missouri River Railway Company (24 Iowa, 455, 475): "Municipal corporations owe their origin to and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they can not exist. As it creates, so it may destroy. If it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might, by a single act, if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the State, and the corporation could not prevent it. We know of no limitation upon this right, so far as the corporations themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature."

After referring to the possible motive of the legislature in making the statute, the court continued: "We have no occasion here to consider these questions or to determine upon which side is the sounder reason, for whatever may have been the motives controlling the enactment of the statute in question, we can imagine no possible ground to dispute the power of the State to declare that no one undertaking work for it or for one of its municipal agencies should permit or require an employee on such work to labor in excess of eight hours each day and to inflict punishment upon those who are embraced by such regulations and yet disregard them. It can not be deemed a part of the liberty of any contractor that he be allowed to do public work in any mode he may choose to adopt, without regard to the wishes of the State. On the contrary, it belongs to the State as guardian and trustee for its people, and having control of its affairs to prescribe the conditions upon which it will permit public work to be done on its behalf or on behalf of its municipalities. No court has authority to review its action in that respect. Regulations upon this subject suggest only considerations of public policy. And with such considerations the courts have no concern."

The case under consideration is not controlled by Rodgers's case (166 N. Y., 1). The decision in that case is that so much of the statute as in effect requires a contractor for municipal work to agree that he will pay his workmen not less than the prevailing rate of wages, and makes the contract void if he fails to pay at such rate, at least, is unconstitutional. It is said by the court in support of that decision that the statute invades rights of liberty and property in that it denies to the contractor the right to agree with employees as to the rate of compensation, and imposes a penalty upon the right of the contractor to agree with employees upon terms of employment. It is true that in one of the prevailing opinions argument sufficiently broad to cover this case is made, but it is not necessary for the decision, and is obiter, and therefore need not be followed. Our conclusion is that so much of the statute as is involved in this case is constitutional.

The second question presented by the record is: Did the plaintiff waive his right to insist that his compensation should be at the prevailing rate of wages for rammers in the city of New York? Section 3 of the labor law does not attempt to fix in dollars and cents the wages to be paid to those employed on State or municipal work, but provides that such wages "shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality." The statute, therefore, made it the duty of the person charged with employing plaintiff to ascertain the prevailing rate of wages for similar services in the city, and then to fix the compensation at that amount, or a still greater one, and by the section following the legislature undertook to assure such action by the officials commanded to fix wages at not less than the prevailing rate by providing that an official violating the provisions of the act would be guilty of malfeasance in office, and be suspended or removed.

We must assume—in view of the fact that the question arises from a demurrer to the complaint—that all of its allegations are true, and that the officer employing the plaintiff did not obey the statute, and hence became subject to its penalties. But that fact in no wise aids the plaintiff in his present contention. He had been in the employ of the city for some time prior to May 10, 1894—when the statute went into operation—at the rate of $3 a day, and

that sum the city continued to pay, and he to receive without protest, for a period of six years. The prevailing rate of wages for that period was $3.50 a day, and the employing officer should have fixed plaintiff's wages at that sum or greater. But he did not do it, and while the plaintiff could have properly insisted that the officer should heed the command of the statute in that respect, he chose instead to continue in the service of the city without objecting to the compensation.

Now, "it is well settled by authority that a man may waive any right that he has, whether secured to him by contract, conferred on him by statute, or guaranteed him by the Constitution." (People ex rel. McLaughlin *v.* Bd. Police Comrs., 174 N. Y., 450, 456, and cases cited.) And the legal effect of plaintiff's action in accepting from time to time during a period of six years, without protest, the wages paid to him by the city, was to waive any claim that he might have had at the time to insist that the employing officer should fix his rate of compensation at a greater sum than he did.

It follows that plaintiff is not entitled to recover.

The judgment should be affirmed, with costs.

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## APPENDIX C.

### PEOPLE EX REL. TREAT VS. COLER, 166 NEW YORK, 144.

PARKER, Ch. J. (dissenting): I do not concur in the decision of the court, because:

1. The relator bound himself by an agreement, voluntarily entered into with the city of New York, to have the stone used on its work cut and dressed within the State of New York. He is not relieved from the performance of his agreement in that respect because the city insisted that unless he so agreed he could not obtain the contract, when it need not have so insisted, because there was no valid statute requiring it.

If it be true that section 14 of the labor law is unconstitutional, because in directing the city authorities to insert in the contract the cut-and-dressed-stone provision the legislature invades municipal rights and powers (which I *still doubt*), nevertheless the municipal authorities who were to determine what provisions should be incorporated into the contract were not bound to resist the statute on that ground, and might, as they did, heed its suggestions and give them effect. For if the right were theirs to determine the conditions of the agreement, without interference from the legislature, it was none the less their determination because some part of it was borrowed from a statute that they were not bound to heed. And it was just as much their determination as it would have been had some part of it been borrowed from the form of a contract employed by some other municipality that they could but need not follow. So, whether the contract was void or not, the municipal authorities had the power to insist, as they did, upon the conditions in controversy, and the contractor had the right to reject or accept the contract on those terms. He chose to accept, and he should now be held to this agreement as the other party to it demands.

2. Section 14 of the labor law does not violate the State constitution. My reasons for that position are sufficiently presented by the dissenting opinions in People ex rel. Rodgers *v.* Coler. (166 N. Y., 25, 41.)

3. Section 14 of the labor law is not in contravention of the Federal Constitution.

If that section sought to prevent the citizens of this State from using stone cut and dressed in another State, it would unquestionably offend against the commerce clause of the Federal Constitution and be void. But the statute does not attempt to interfere with the liberty of any citizen to have such stone as he may use cut and dressed where and by whom he shall choose. On the contrary, the statute is but an attempt on the part of a sovereign State to exercise the same function of choice in such regard as the Constitution secures to the citizen.

While the State can not say to the citizen that he must have the stone used in his residence cut and dressed within the State, neither the Federal nor State constitution prevent him from deciding that he will not build a residence unless the stone to be used in it are cut and dressed within the State, nor from incorporating into a contract with a builder a provision that unless every stone used in the structure be both cut and dressed within the State the contract shall be void and the contractor deprived of compensation.

But the liberty of contract with which the citizen is endowed is no greater than that with which the State is invested when it enters on a scheme of construction for the public good. If, as respects freedom of contract, all the people of the State acting together are not greater than one of the units—a citizen—they are at least as great and may be as capricious as it is possible for an individual to be touching the style of architecture, quality of materials, character of workmen, and rate of compensation that they will offer for work to be performed.

The legislature in a statute authorizing the construction of any public work may provide for every detail if it chooses, or it may delegate the whole or some part of the details to an agent or agency. But whichever method it may adopt the choice of materials and of men and the determination whether the work shall be done by day's work or by contract are the choice and determination of the sovereign—the people—speaking through their chosen representative—the legislature—upon which has been conferred every power and authority not expressly forbidden it by the constitution, including, therefore, necessarily, the power to determine whether in a public structure brick or stone shall be used, and if the latter, from what quarries they shall be taken, where cut and dressed, and by whom; and that is all that section 14 of the labor law seeks to accomplish.

It may not be wise for a legislature to thus discriminate as to its public work in favor of its own citizens, but whether it be or not the courts have no right to inquire, for they are without authority to correct a statute even if in their judgment it be founded on an erroneous view of sound principles of political economy. A statute is law, which the courts must both obey and administer unless it violates either the Federal or State constitution, in which event it is void, and as the courts decide what the law is, they may so declare. But when, as in this case, the statute complained of relates only to the administration of the business affairs of the State, it can not, I think, be said to offend against the commerce clause of the Federal Constitution, for through it the legislature is but exercising the right of choice that belongs to the people as a whole as well as to the individual proprietor.

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## APPENDIX D.

### PEOPLE VS. HAWKINS, 157 NEW YORK, PAGE 1.

PARKER, Ch. J. (dissenting).

If the prevailing opinion correctly construes section 29, article 3, of the State constitution, the conclusion reached by it is well founded, for it has not been declared by the people of this State by an amendment to the organic law that the public welfare demands that free labor shall not be put in competition with prison labor. As construed, the provision was not intended to prevent dealing in any article of merchandise even if made by convicts in our own State prisons, but it "simply abolished what was known as the 'contract' system of labor in prisons, whereby the profits of the labor of convicts were secured by contractors or private parties."

I deem it safe to say that such a construction will surprise the members of the convention that recommended the constitution to the people for adoption as well as it will surprise the public at large, for the propriety and wisdom of the provision in question was the subject of much discussion in the public prints and elsewhere at the time of its submission to the people. On the one hand it was urged as most unjust that labor employed in manufacturing should be subjected to the competition of unpaid, compulsorily enforced labor, while on the other it was strenuously insisted that the burdens of the taxpayers should not be added to by restraining the convict from contributing in whole or in part to his own support.

That the provision has been heretofore read by those charged with the administration of the affairs of prisons and those engaged in a consideration of the question from the standpoint of public interest, according to the natural and ordinary meaning of the language employed, seems to me demonstrated by the opinion of Judge Bartlett. I shall, therefore, assume that the people of the State have forbidden the selling of articles manufactured in our prisons for the reason that they deemed it to be against a sound public policy to permit some of the citizens of the State skilled in certain kinds of labor to be subjected to competition with the unpaid labor of convicts.

It is now too late to consider the subject generally from the point of view of the political economist, for the people, in whom reside all power, have set at rest that question so far as this State is concerned. This statute neither prohibits nor attempts to prohibit other States, or the citizens of other States, from putting prison-made goods upon our markets; nor does it prohibit our own citizens from buying or selling them; if it did, then, concededly, the statute would be in violation of the commerce clause of the Federal Constitution and void; it simply requires that prison-made merchandise shall be so branded that our citizens shall know where the goods they are buying were made.

This they have a right to know, for they voted to burden themselves with additional taxation rather than longer to permit a competition which they regarded as a public wrong, and they are, therefore, entitled to such legislation as will permit them to know the truth in regard to articles offered them for sale, in order that they may not, through lack of information, have forced upon them that which they would not buy advisedly. The commerce clause of the Federal Constitution does not stand in the way of their having such information, inasmuch as the constitution of this State establishes a public policy in the working out of which the legislature may go to this extent at least under the police power of the State.

The decisions of the United States Supreme Court in the oleomargarine and other cases, some of which are referred to in Judge Bartlett's opinion, furnish adequate support for that assertion. They establish, generally, that commerce between the States may be regulated to some extent under the police power of the State, which includes, among other things, efforts to prevent fraud and deception on purchasers. In view of the public policy declared by the people of this State through their constitution I am of the opinion that this statute is well within the police power of the State, and therefore, under the decision in the Slaughterhouse cases, not repugnant to the Federal Constitution.

I concur with Judge Bartlett for a reversal of the judgment.

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## APPENDIX E.

### PEOPLE VS. LOCHNER, 177 NEW YORK, 145.

PARKER, Ch. J.: Defendant's conviction is under subdivision 3, section 384*l*, penal code, which makes a violation of Article VIII, chapter 415, laws 1897, a misdemeanor. The judgment is affirmed by the appellate division.

Defendant urges as ground for a reversal that Article VIII, which on its face purports to be, as we shall see later, an exercise of the police power of the State, offends against the first section of the fourteenth amendment to the United States Constitution. That section provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." It is also claimed that the statute violates those provisions of the State constitution which declare that "no member of this State shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers" (Constitution, art. 1, sec. 1), "nor be deprived of life, liberty, or property without due process of law." (Constitution, art. 1, sec. 6.)

The first cases in which the fourteenth amendment is discussed by the United States Supreme Court are the Slaughterhouse cases (83 U. S., 36), wherein is challenged the Louisiana statute authorizing the removal of noxious slaughterhouses from the more densely populated part of New Orleans and their location where they could least affect the health and comfort of the people, and to that end granting a corporation exclusive right for twenty-five years to maintain slaughterhouses within three parishes, containing between 200,000 and 300,000 people, and including New Orleans. This is held to be a police regulation for the health and comfort of the people, and, therefore, within the power of the State legislature, and not affected by the fourteenth amendment, which the court says is not intended to interfere with the exercise of police power by the States.

In Barbier *v.* Connolly (113 U. S., 27) the Supreme Court has before it a San Francisco ordinance prohibiting work in public laundries within defined territory from 10 p. m. to 6 a. m., claimed to be repugnant to the fourteenth amendment. The court rules that the ordinance is well within the police power, and, in the course of the opinion, says: "Neither the amendment—broad and comprehensive as it is—nor any other amendment was designed to interfere with the power of the State, sometimes termed its police power, to prescribe regulations to promote the health, peace, morals, education, and good order of the people, and to legislate so as to increase the industries of the State, develop its resources, and add to its wealth and prosperity" (p. 31).

There are many interesting cases in the United States Supreme Court sustaining statutes of different States which in terms seem repugnant to the fourteenth amendment, but which that court declares to be within the police power of the States. Among them are statutes declaring a railroad company liable for damages to an employee although caused by another employee (127 U. S., 205); fixing the damages at double the value of stock killed, when due to the neglect of a railroad company to maintain fences (129 U. S., 26); requiring locomotive engineers to be licensed, and providing that the railroad company employing them pay the fees of examination (128 U. S., 96); requiring cars to be heated otherwise than by stoves on railroads over 50 miles in length (165 U. S., 628); providing for immediate payment of wages by railroad companies to discharged employees (173 U. S., 404); prohibiting options to sell grain (184 U. S., 425); providing for inspection of mines at expense of owners (185 U. S., 203), and one declaring void all contracts for sales of stocks on margins (187 U. S., 606).

I shall call special attention to but one other case, namely, Holden *v.* Hardy (169 U. S., 336). In that case the court reviews at length many of the cases arising under the fourteenth amendment, beginning with the Slaughterhouse cases. The case involves a Utah statute providing that "The period

of employment of workingmen in all underground mines or workings shall be eight hours per day, except in cases of emergency where life or property is in imminent danger." Violation is made a misdemeanor. The conviction of one Holden under that statute is affirmed by the United States Supreme Court.

It is argued by defendant in that case that the statute has no relation to the health or safety of the public or the persons affected, or if so, only in a very remote degree, while its direct and principal effect is to interfere with the rights and liberties of the contracting parties; that the right to contract contains three essential and indispensable elements, guaranteed and protected by the United States Constitution, namely, "the right of the employer and employee to agree upon (1) the character of the service to be performed, (2) the amount to be paid for such service, and (3) the number of hours per day during which the service is to continue;" that the destruction or abridgment of one element is a destruction or abridgment of the whole of said right to contract; that the statute abridges the "privileges and immunities" in that it deprives the employer and the employee of perfect freedom and liberty to pursue unmolested a lawful vocation in a lawful manner; that the rights of the employer and employee in that direction were unlimited before the adoption of the fourteenth amendment, and that since its adoption it is beyond the power of any State to make any laws abridging or destroying such rights.

This latter contention—which if sustained would practically prevent all further development of the police power on the part of the States—is overborne by the court. Many cases passed upon by the court since the adoption of the fourteenth amendment are cited, furnishing illustrations tending to justify the boast of the devotees of the common law, that by the application of established legal principles the law has been and will continue to be developed from time to time so as to meet the ever-changing conditions of our widely diversified and rapidly developing business interests. The court quotes from Mr. Justice Matthews in Hurtado *v.* California (110 U. S., 516, 530): "This flexibility and capacity for growth and adaptation is the peculiar boast and excellence of the common law. * * * The Constitution of the United States was ordained, it is true, by descendants of Englishmen, who inherited the traditions of English law and history; but it was made for an undefined and expanding future and for a people gathered and to be gathered from many nations and of many tongues. * * * There is nothing in Magna Charta, rightly construed as a broad charter of public right and law, which ought to exclude the best ideas of all systems and of every age; and as it was the characteristic principle of the common law to draw its inspiration from every fountain of justice, we are not to assume that the sources of its supply have been exhausted. On the contrary, we shall expect that the new and various experiences of our own situation and system will mold and shape it into new and not less useful forms."

The court illustrates by forceful examples the necessity of recognizing in legal decisions the change of conditions. After calling attention to the fact that in the early history of the country there was no occasion for any special protection of a particular class, as we were almost purely an agricultural country, it instances coal mining and the manufacture of iron. When these industries began in Pennsylvania as early as 1716, they were carried on in such a limited way and by such primitive methods that no special laws were deemed necessary to protect operatives, but since that time they have assumed such vast proportions in that and other States, and developed so many dangers to the safety and life of those engaged in them, that laws to meet such exigencies have become necessary. It calls attention to many protective statutes enacted in many different States providing for fire escapes in hotels, theaters, factories, and other large buildings; inspection of boilers; appliances to obviate the dangers incident to railroad and steamboat transportation; the protection of dangerous machinery against accidental contact; the shoring up of ventilation shafts; means for signaling in mines for fresh air; the elimination as far as possible of dangerous gases, and safe means of hoisting and lowering employees in mines.

It is said that statutes providing such safeguards "have been repeatedly enforced by the courts of the several States; their validity assumed, and, so far as we are informed, they have been uniformly held to be constitutional" (169 U. S., 366, 394), which, of course, means that the courts of the several States making these decisions hold that such statutes do not deprive citizens of any of the rights or privileges guaranteed by the Constitution, nor deprive them of property without due process of law, for every State constitution contains such a provision or its equivalent. Of such illustrations the court further says (p. 387): "They are mentioned only for the purpose of calling attention to the probability that other changes of no less importance may be made in the future, and that while the cardinal principles of justice are immutable, the methods by which justice is administered are subject to constant fluctuation, and that the Constitution of the United States, which is necessarily and to a large extent inflexible and exceedingly difficult of amendment, should not be so construed as to deprive the States of the power to so amend their laws as to make them conform to the wishes of the citizens as they may deem best for the public welfare without bringing them into conflict with the supreme law of the land."

This broad-minded view—which is characteristic of the development of the law by this great court since the adoption of the fourteenth amendment—should, and doubtless will be followed by the courts of the several States whenever called upon to determine whether statutes offend against the provisions of State constitutions similar or equivalent to the provisions of the fourteenth amendment. The cases cited, and the reasoning of the court, to which but brief reference is made here, demonstrate that this statute does not offend against the fourteenth amendment, and it necessarily follows that it is not repugnant to equivalent provisions in our State constitution.

This court throughout all its history has maintained the same position as that taken by the United States Supreme Court. Many authorities could be cited in support of that assertion, but none need be, for they are all in one direction.

The impossibility of setting the bounds of the police power has up to this time prevented any court from attempting it, and the reason for it is well stated by Judge Gray in People *v.* Ewer (141 N. Y., 129, 132). He says: "It is difficult, if not impossible, to define the police power of a State, or, under recent judicial decisions, to say where the constitutional boundaries limiting its exercise are to be fixed. It is a power essential to be conceded to the State in the interest and for the welfare of its citizens. We may say of it that when its operation is in the direction of so regulating the use of private property or of so restraining personal action as manifestly to secure or to tend to the comfort, prosperity, or protection of the community no constitutional guaranty is violated, and the legislative authority is not transcended." In that case the constitutionality of section 292, Penal Code, is questioned. That section makes it a misdemeanor to exhibit as a dancer a female child under 14 years of age. The court denies that the statute violates our constitution because it deprives the mother, the person arrested, of the rights and privileges secured to her by the constitution.

In People ex rel. Nechamcus *v.* Warden, etc. (144 N. Y., 529), the constitutionality of chapter 602, Laws 1892, is challenged. The act provides for examination and registration of master plumbers, and makes it a misdemeanor for any person to engage in that trade without such registration. This court holds the statute to be within the police power of the legislature, and, therefore, not repugnant to the constitution. Judge Gray says, in the opinion (p. 535): "There has been much discussion upon the subject of what is a valid exercise of the police power of the State through legislative enactment, and there is little to be added to what this and other courts have said. The police power extends to the protection of persons and of property within the State. In order to secure that protection they may be subjected to restraints and burdens by legislative acts.

"If the act is a valid and reasonable exercise of the police power of the State, then it must be submitted to, as a measure designed for the protection of the public and to secure it against some danger, real or anticipated, from a state of things which modifications in our social or commercial life have brought about. The natural right to life, liberty, and the pursuit of happiness is not an absolute right. It must yield whenever the concession is demanded by the welfare, health, or prosperity of the State. The individual must sacrifice his particular interest or desires if the sacrifice is a necessary one in order that organized society as a whole shall be benefited. That is a fundamental condition of the State, and which in the end accomplishes by reaction a general good, from which the individual must also benefit."

In Health Department *v.* Rector, etc. (145 N. Y., 32), the court considers a provision of the New York consolidation act requiring that tenement houses already erected shall be furnished by the owners with water, "whenever they shall be directed so to do by the board of health," "in sufficient quantity at one or more places on each floor, occupied or intended to be occupied by one or more families." The health department served a notice requiring defendant to supply water, as commanded by the statute, in buildings owned by it. Defendant refused to do so, and an action was brought by the health department to compel compliance. Defendant contends in that case that the statute violates that provision of the State constitution which declares that no member of this State shall "be deprived of life, liberty, or property without due process of law."

This court holds that the statute does not offend against the constitution, but that it is a valid exercise of the police power; that the legislature, by virtue of that power, can direct that improvements or alterations shall be made in existing houses at the owners' expense when it clearly appears that it tends in some plain and appreciable manner to guard and protect the public; and that a compensation need not be made to the owner in such case, the effect of the act being not to appropriate private property, but simply to regulate its use and enjoyment by the owner. Judge Peckham, writing the opinion of the court, says (p. 43): "Laws and regulations of a police nature, though they may disturb the enjoyment of individual rights, are not unconstitutional, though no provision is made for compensation for such disturbances. They do not appropriate private property for public use, but simply regulate its use and enjoyment by the owner."

People *v.* Havnor (149 N. Y., 195) is a case as near the border line, perhaps, as any to be found in this State—certainly very much nearer to it than the case under consideration. It exhaustively considers the authorities in this State bearing upon the police power. The case involves the constitutionality of what is known as the "Sunday barber law," which makes it a misdemeanor for any person to carry on the business or work of a barber on the first day of the week, except in the city of New York and the village of Saratoga, where such business or work may be carried on until 1 o'clock in the afternoon of that day. The statute is held to be constitutional, because a valid exercise of the police power. The opinion is written by Judge Vann. After a careful examination of the authorities, he presents the underlying question in this way (p. 201): "The vital question, therefore, is whether the real purpose of the statute under consideration has a reasonable connection with the public health, welfare, or safety."

After stating that the object of the act is to require the observance of Sunday, not as a holy day, but as a day of rest and recreation, he proceeds—with argument buttressed by authority in this State and in other jurisdictions—to answer the question in the affirmative. In the course of the argument he says (p. 203): "According to the common judgment of civilized men, public economy requires, for sanitary reasons, a day of general rest from labor, and the day naturally selected is that regarded as sacred by the greatest number of the citizens, as this causes the least inconvenience through interference with business. It is to the interest of the State to have strong, robust, healthy citizens, capable of self-support, of bearing arms, and of adding to the resources of the country. Laws to effect this purpose, by protecting the citizen from overwork and requiring a general day of rest to restore his strength and preserve his health, have an obvious connection with the public welfare. * * * The statute under discussion tends to effect this result, because it requires persons engaged in a kind of business that takes many hours each day to refrain from carrying it on during one day in seven. This affords an opportunity, recurring at regular intervals, for rest, needed both by the employer and the employed, and the latter at least may not have the power to observe a day of rest without the aid of legislation. * * * As barbers generally work more hours each day than most men the legislature may well have concluded that legislation was necessary for the protection of their health."

The pertinency and controlling force of that argument to the question under consideration here will be manifest when we come to an examination of the statute.

No authorities can be found in this court which conflict with the cases to which I have called attention. Rodgers's case (166 N. Y., 1) is cited in opposition, but why I can not see. The police power is not even considered in that case, the defense to that portion of the statute which is condemned as unconstitutional because it requires a stipulation in all contracts with the State and municipalities that the contractor shall "pay the prevailing rate of wages at least" being rested on the ground (1) that the State as proprietor can do what an individual proprietor can do, namely, insist upon any reasonable provision in a contract as a condition for doing the work; (2) that the State is proprietor not only as to contracts for work for the benefit of the entire State, but also as to contracts for work authorized by it for the various subdivisions of the State made for convenience of administration; (3) that hence it violates no provision of the constitution.

Having shown by an examination of a few of the leading authorities relating to the police power that the decisions of this court are in harmony with those of the United States Supreme Court, and having specially brought out some of the arguments in those decisions for the purpose of presenting something of the vast scope of that power, we come next to the question, In what spirit should the court approach the consideration of a statute said on the one hand to offend against the constitution and on the other to be a proper exercise of the police power?

The courts are frequently confronted with the temptation to substitute their judgment for that of the legislature. A given statute, though plainly within the legislative power, seems so repugnant to a sound public policy as to strongly tempt the court to set aside the statute, instead of waiting, as the spirit of our institutions require, until the people can compel their representatives to repeal the obnoxious statute.

In the early history of this country eminent writers gave expression to the fear that the power of the courts to set aside the enactments of the representatives chosen to legislate for the people would in the end prove a weak point in our governmental system, because of the difficulty of keeping the exercise of such great power within its legitimate bounds. So far in our ju-

dicial history it must be said that the courts have in the main been conservative in passing upon legislation attacked as unconstitutional, but occasionally, and especially when a case is one on the border line, it is quite possible that the judgment of the court that the legislation is unwise may operate to carry the decision to the wrong side of that border line. Certain it is that the courts have greatly extended their jurisdiction over many administrative acts that were originally supposed not to present cases for the court to pass upon, and in that way the courts have come to play a very important part in state and municipal administration. Some expression of our views on that subject is given in Matter of Guden (171 N. Y., 529, 535).

Now, when considering the mental attitude with which the court should begin an examination of this question, it is well to have in mind not only the great breadth and scope of the police power and the legislative control over it as expressed in some of the opinions from which we quote supra, but it is also well to have in mind some of the expressions of this court as to the way in which the court should approach the consideration of such a question as this, involving the constitutionality of a statute.

Judge Andrews says, in People v. King (110 N. Y., 418, 423): "By means of this power the legislature exercises a supervision over matters affecting the common weal. * * * It may be exerted whenever necessary to secure the peace, good order, health, morals, and general welfare of the community, and the propriety of its exercise within constitutional limits is purely a matter of legislative discretion with which courts can not interfere."

Judge Gray says, in Nechamcus's case (supra): "The courts should always assume that the legislature intended by its enactments to promote those ends [public health, comfort, and safety], and if the act admits of two constructions, that should be given to it which sustains it and makes it applicable in furtherance of the public interests." (144 N. Y., 529, 536.)

"Whether the legislation is wise is not for us to consider. The motives actuating and the inducements held out to the legislature are not the subject of inquiry by the courts, which are bound to assume that the lawmaking body acted with a desire to promote the public good. Its enactments must stand, provided always that they do not contravene the constitution, and the test of constitutionality is always one of power, nothing else. But in applying the test the courts must bear in mind that it is their duty to give the force of law to an act of the legislature whenever it can be fairly so construed and applied as to avoid conflict with the constitution." (Bohmer v. Haffen, 161 N. Y., 390, 399.)

Where there "is room for two constructions, both equally obvious and reasonable, the court must, in deference to the legislature of the State, assume that it did not overlook the provisions of the constitution, and designed the act * * * to take effect. Our duty, therefore, is to adopt the construction which, without doing violence to the fair meaning of the words used, brings the statute into harmony with the provisions of the constitution." (Supervisors v. Brodger, 112 U. S., 261, 268; People ex rel. Burrows v. Supervisors of Orange Co., 17 N. Y., 236, 241; People ex rel. Bolton v. Albertson, 55 N. Y., 50, 54; Matter of Gilbert El. Rwy. Co., 70 N. Y., 361, 367; Matter of N. Y. & L. I. Bridge Co. v. Smith, 148 N. Y., 540, 551.)

The court is inclined to so construe the statute as to validate it. (People v. Equitable Trust Co., 96 N. Y., 387, 394; People ex rel. Sinkler v. Terry, 108 N. Y., 1, 7; Matter of N. Y. El. R. R. Co., 70 N. Y., 327, 342; People ex rel. Killen v. Angle, 109 N. Y., 534, 567; Rogers v. Common Council of Buffalo, 123 N. Y., 173, 181; People ex rel. Carter v. Rice, 135 N. Y., 473, 484.)

"Every act of the legislature must be presumed to be in harmony with the fundamental law until the contrary is clearly made to appear." (People ex rel. Kemmler v. Durston, 119 N. Y., 569, 577.)

"Before an act of the legislature can be declared void as repugnant to the constitution the conflict must be manifest." (Matter of Stillwell, 139 N. Y., 337, 341.)

"If the act and the constitution can be so construed as to enable both to stand, and each can be given a proper and legitimate office to perform, it is the duty of the court to adopt such construction." (People v. Rosenberg, 138 N. Y., 410, 415.)

The statute under consideration in that case is held to be within the police power, as is the statute considered in the following case:

"It is not necessary to the validity of a penal statute that the legislature should declare on the face of the statute the policy or purpose for which it was enacted." (People v. West, 106 N. Y., 293, 297.)

Having considered the authorities bearing upon the subject of the exercise of police power at greater length than could be justified were it not for the different view that obtains in this court as to the authority of the legislature to pass the statute in question, and having glanced at a few authorities indicating the frame of mind in which the court should approach the consideration of the question of the constitutionality of an act of the legislature, we come to the consideration of the statute in question, aided by the principles established by the United States Supreme Court and the courts of this State, to which reference has been made.

I quote the whole statute, notwithstanding its length, in order that it may be at once determined, upon its mere reading, whether the purpose of the legislature was to subserve, in some measure, the public good under the police power of the State.

"ARTICLE VIII.—*Bakeries and confectionery establishments.*

"SEC. 110. *Hours of labor in bakeries and confectionery establishments.*—No employee shall be required or permitted to work in a biscuit, bread, or cake bakery, or confectionery establishment more than sixty hours in any one week or more than ten hours in any one day, unless for the purpose of making a shorter workday on the last day of the week, nor more hours in any one week than will make an average of ten hours per day for the number of days during such week in which such employee shall work.

"SEC. 111. *Drainage and plumbing of buildings and rooms occupied by bakeries.*—All buildings or rooms occupied as biscuit, bread, pie, or cake bakeries shall be drained and plumbed in a manner conducive to the proper and healthful sanitary condition thereof, and shall be constructed with air shafts, windows, or ventilating pipes sufficient to insure ventilation. The factory inspector may direct the proper drainage, plumbing, and ventilation of such rooms or buildings. No cellar or basement not now used for a bakery shall hereafter be so occupied or used unless the proprietor shall comply with the sanitary provisions of this article.

"SEC. 112. *Requirements as to rooms, furniture, utensils, and manufactured products.*—Every room used for the manufacture of flour or meal food products shall be at least 8 feet in height, and shall have, if deemed necessary by the factory inspector, an impermeable floor constructed of cement, or of tiles laid in cement, or an additional flooring of wood, properly saturated with linseed oil. The side walls of such rooms shall be plastered or wainscoted. The factory inspector may require the side walls and ceiling to be whitewashed at least once in three months. He may also require the woodwork of such walls to be painted. The furniture and utensils shall be so arranged as to be readily cleansed, and not prevent the proper cleaning of any part of the room. The manufactured flour or meal food products shall be kept in dry and airy rooms, so arranged that the floors, shelves, and other facilities for storing the same can be properly cleaned. No domestic animals, except cats, shall be allowed to remain in a room used as a biscuit, bread, pie, or cake bakery or any room in such bakery where flour or meal products are stored.

"SEC. 113. *Wash rooms and closets; sleeping places.*—Every such bakery shall be provided with a proper wash room and water-closet or water-closets apart from the bake room, or rooms where the manufacture of such food product is conducted, and no water-closet, earth closet, privy, or ash pit shall be within or connected directly with the bake room of any bakery, hotel, or public restaurant.

"No person shall sleep in a room occupied as a bake room. Sleeping places for the persons employed in the bakery shall be separate from the rooms where flour or meal food products are manufactured or stored. If the sleeping places are on the same floor where such products are manufactured, stored, or sold, the factory inspector may inspect and order them put in a proper sanitary condition.

"SEC. 114. *Inspection of bakeries.*—The factory inspector shall cause all bakeries to be inspected. If it be found upon such inspection that the bakeries so inspected are constructed and conducted in compliance with the provisions of this chapter, the factory inspector shall issue a certificate to the persons owning or conducting such bakeries.

"SEC. 115. *Notice requiring alterations.*—If, in the opinion of the factory inspector, alterations are required in or upon premises occupied and used as bakeries, in order to comply with the provisions of this article, a written notice shall be served by him upon the owner, agent, or lessee of such premises, either personally or by mail, requiring such alterations to be made within sixty days after such service, and such alterations shall be made accordingly."

That the public generally are interested in having bakers' and confectioners' establishments cleanly and wholesome in this day of appreciation of, and apprehension on account of, microbes, which cause disease and death, is beyond question. Not many years ago the baking was largely done in the family, but now in a large percentage of the houses in cities and villages the baker is relied on to a large extent to furnish bread, biscuits, cake, and pie, as well as confectionery, while over many country roads the bakers' wagons go twice a week or more to supply the farmers and inhabitants of small settlements with their wares. Indeed, it can be safely said that the family of today is more dependent upon the baker for the necessaries of life than upon any other source of supply.

That being so it is within the police power of the legislature to so regulate the conduct of that business as to best promote and protect the health of the people. And to that end the legislature undertakes to provide, by a statute which bears on its face evidence of an intelligent draftsman acquainted with the dangers of insanitary conditions in such establishments, for proper drainage and plumbing of the building and rooms occupied for such purpose.

Is there room to doubt that the sole purpose of the legislature in prohibiting the use of cellars for bakeries unless the occupant first complies with the sanitary provisions of this article is to protect the public from the use of the food made dangerous by the germs that thrive in darkness and uncleanness? Is it possible that anyone can question that the sole purpose of the legislature is the safeguarding of the public health when it provides for floors, ceilings, and side walls of such material as that they may be readily cleansed; compels the keeping of flour or meal food products in dry and airy rooms, so arranged that the storing facilities can be properly cleaned, and prohibits the keeping of domestic animals within such rooms?

And will anyone question the motive which induced the prohibition of a "water-closet, earth closet, privy, or ashpit * * * within or connected directly with the bake room of any bakery, hotel, or public restaurant?" If not, why should anyone question the object of the legislature in providing in the same article and as a part of the scheme that "no employee shall be required or permitted to work" in such an establishment "more than sixty hours in any one week," an average of ten hours for each working day. It is but reasonable to assume from this statute as a whole that the legislature had in mind that the health and cleanliness of the workers, as well as the cleanliness of the workrooms, was of the utmost importance, and that a man is more likely to be careful and cleanly when well, and not overworked, than when exhausted by fatigue, which makes for careless and slovenly habits, and tends to dirt and disease.

If there is opportunity—and who can doubt it—for this view, then the legislature had the power to enact as it did, and the courts are bound to sustain its action as justified by the police power, as we see from the authorities referred to earlier in this opinion.

I hear but one argument advanced for the purpose of convincing the mind that the object of this statute is not to protect the public, and that argument is that Article VIII is to be found in the labor law. Therefore it is said it is a labor law, not a health law.

The question presented by that argument is, Does the label or the body of the statute prevail? Does calling a statute names deprive it of its intended and real character? If a statute relating principally to banking happens, in the course of codification, to be incorporated as an article in the general corporation law, does it cease to operate on the banking business? I submit without argument that the questions answer themselves.

Assuming, however, for the purpose of argument only, that the label is of such substantial importance that it may be accepted as against the obvious meaning of the statute, then I say that Article VIII bears its own title, which is: "Bakeries and confectionery establishments." All that is contained in that article relates to bakeries and confectionery establishments and their conduct, and to no other subject whatever. Therefore it is fully, appropriately, and harmoniously entitled.

Again, inasmuch as it is obvious, as we have seen, from a mere reading of the statute, that the legislative purpose is to benefit the public, we must assume—even if the object of the legislature in limiting the hours of work of employees is not to protect the health of the general public, who take the wares made by such employees—that the legislature intends to protect the health of the employees in such establishments; that, for some reason sufficient to it, it has reached the conclusion that in work of this character men ought not to be employed more than an average of ten hours a day. Now, that being so—and certainly no more restricted view of that statute can be taken by those who would destroy it—we find that the action of the legislature is within the police power not only under the authorities of the United States, but of this State and of this court.

Special attention has already been called to Holden's case (169 U. S., 366). A Utah statute making it a misdemeanor to employ a man more than eight hours per day in "underground mines or workings" is sustained, and a conviction thereunder upheld by the United States Supreme Court, on the ground that it is within the police power of the State to pass such a statute. That interesting case—to which I have made extended reference supra—is in point and controlling so far as the fourteenth amendment is concerned, and should be controlling in this court so far as equivalent provisions of our State constitution are concerned.

It must also be held, under the authority of Havnor's case (supra)—even though it may be assumed from the reading of the statute that the object of the legislature is to protect employees in such establishments from working more than ten hours a day—that it is within the police power, and therefore not repugnant to the State constitution. The statute which that case passes upon makes it a misdemeanor to carry on the business of a barber on the first day of the week, and a judgment of conviction under that law is affirmed in this court because "The statute under consideration has a reasonable con-

nection with the public health, welfare, or safety." Certainly if this court could so hold in that case, it must so hold in this, even under the construction of the statute which those would give to it who are affected by the fact that Article VIII, chapter 32, general laws, is grouped with twelve other articles, the compilation being known as the "labor law," instead of being in the domestic law with articles entitled "flour and meal," "beef and pork," or in the public health law with articles such as "adulteration," "practice of medicine," or the like.

Again, many medical authorities classify workers in bakers' or confectioners' establishments with potters, stonecutters, file grinders, and other workers whose occupation necessitates the inhalation of dust particles, and hence predisposes its members to consumption. The published medical opinions and vital statistics bearing upon that subject standing alone fully justify the section under review as one to protect the health of the employees in such establishments, and it is the duty of this court to assume that the section was framed not only in the light of but also with full appreciation of the force of the medical authority bearing upon the subject—authority which reasonably challenges the attention and stimulates the helpfulness of the philanthropist.

The conclusion necessarily follows, therefore, from an examination of the statute in the light of the authorities cited, that the purpose of Article VIII, and every part of it, including the provision in question, is to benefit the public; that it has a just and reasonable relation to the public welfare, and hence is within the police power possessed by the legislature. But if, in violation of the duty of the court, as stated in Brodger's case (supra)—which is "to adopt the construction which, without doing violence to the fair meaning of the words used, brings the statute into harmony with the provisions of the constitution"—we award to the title of a general law such potency as causes it to overcome both the title and the provisions of an article therein, thus making the provision a labor law, we are still required to hold that it is within the police power.

The judgment should be affirmed.

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APPENDIX F.

NATIONAL PROTECTIVE ASSOCIATION VS. CUMMING, 170 NEW YORK, 315.

PARKER, Ch. J.: The order of the appellate division should be affirmed, on the ground that the facts found do not support the judgment of the special term. In the discussion of that proposition I shall assume that certain principles of law laid down in the opinion of Judge Vann are correct, namely:

"It is not the duty of one man to work for another unless he has agreed to, and if he has so agreed, but for no fixed period, either may end the contract whenever he chooses. The one may work, or refuse to work, at will, and the other may hire or discharge at will. The terms of employment are subject to mutual agreement, without let or hindrance from anyone.

"If the terms do not suit or the employer does not please, the right to quit is absolute, and no one may demand a reason therefor. Whatever one man may do alone he may do in combination with others, provided they have no unlawful object in view. Mere numbers do not ordinarily affect the quality of the act. Workingmen have the right to organize for the purpose of securing higher wages, shorter hours of labor, or improving their relations with their employers. They have the right to strike—that is, to cease working in a body by prearrangement until a grievance is redressed, provided the object is not to gratify malice or inflict injury upon others, but to secure better terms of employment for themselves. A peaceable and orderly strike, not to harm others, but to improve their own condition, is not in violation of law."

Stated in other words, the propositions quoted recognize the right of one man to refuse to work for another on any ground that he may regard as sufficient, and the employer has no right to demand a reason for it. But there is, I take it, no legal objection to the employee's giving a reason, if he has one, and the fact that the reason given is that he refuses to work with another who is not a member of his organization, whether stated to his employer or not, does not affect his right to stop work, nor does it give a cause of action to the workman to whom he objects because the employer sees fit to discharge the man objected to rather than lose the services of the objector.

The same rule applies to a body of men who, having organized for purposes deemed beneficial to themselves, refuse to work. Their reasons may seem inadequate to others, but if it seems to be in their interest as members of an organization to refuse longer to work, it is their legal right to stop. The reason may no more be demanded, as a right, of the organization than of an individual, but if they elect to state the reason their right to stop work is not cut off because the reason seems inadequate or selfish to the employer or to organized society. And if the conduct of the members of an organization is legal in itself, it does not become illegal because the organization directs one of its members to state the reason for its conduct.

The principles quoted above recognize the legal right of members of an organization to strike—that is, to cease working in a body by prearrangement until a grievance is redressed, and they enumerate some things that may be treated as the subject of a grievance, namely, the desire to obtain higher wages, shorter hours of labor, or improved relations with their employers; but this enumeration does not, I take it, purport to cover all the grounds which will lawfully justify members of an organization refusing, in a body and by prearrangement, to work. The enumeration is illustrative rather than comprehensive, for the object of such an organization is to benefit all its members and it is their right to strike, if need be, in order to secure any lawful benefit to the several members of the organization, as, for instance, to secure the reemployment of a member they regard as having been improperly discharged, and to secure from an employer of a number of them employment for other members of their organization who may be out of employment, although the effect will be to cause the discharge of other employees who are not members.

And whenever the courts can see that a refusal of members of an organization to work with nonmembers may be in the interest of the several members, it will not assume, in the absence of a finding to the contrary, that the object of such refusal was solely to gratify malice and to inflict injury upon such nonmembers.

A number of reasons for the action of the organization will at once suggest themselves in a case like this. One reason apparent from the findings in this case, as I shall show later, is the desire of the organization that its own members may do the work the nonmembers are performing. And another most important reason is suggested by the fact that these particular organizations, associations of steam fitters, required every applicant for membership to pass an examination testing his competency. Now, one of the objections sometimes urged against labor organizations is that unskillful workmen receive as large compensation as those thoroughly competent. The examination required by the defendant associations tends to do away with the force of that objection as to them. And, again, their restriction of membership to those who have stood a prescribed test must have the effect of securing careful as well as skillful associates in their work, and that is a matter of no small importance in view of the state of the law, which absolves the master from liability for injuries sustained by a workman through the carelessness of a coemployee.

So long as the law compels the employee to bear the burden of the injury in such cases it can not be open to question but that a legitimate and necessary object of societies like the defendant associations would be to assure the lives and limbs of their members against the negligent acts of a reckless coemployee, and hence it is clearly within the right of an organization to provide such a method of examination and such tests as will secure a careful and competent membership, and to insist that protection of life and limb requires that they shall not be compelled to work with men whom they have not seen fit to admit into their organization, as happened in the case of the plaintiff McQueed.

While I purpose to take the broader ground, which I deem fully justified by the principles quoted, as well as the authorities, that the defendants had the right to strike for any reason they deemed a just one, and further, had the right to notify their employer of their purpose to strike, I am unable to see how it is possible to deny the right of these defendant organizations and their members to refuse to work with nonmembers, when, in the event of injury by the carelessness of such coemployees, the burden would have to be borne by the injured, without compensation from the employer and with no financial responsibility, as a general rule, on the part of those causing the injury; for it is well known that some men, even in the presence of danger, are perfectly reckless of themselves and careless of the rights of others, with the result that accidents are occurring almost constantly which snuff out the lives of workmen as if they were candles, or leave them to struggle through life maimed and helpless. These careless, reckless men are known to their associates, who not only have the right to protect themselves from such men, but, in the present state of the law, it is their duty, through their organizations, to attempt to do it as to the trades affording special opportunities for mischief arising from recklessness.

I know it is said in another opinion in this case that "workmen can not dictate to employers how they shall carry on their business, nor whom they shall or shall not employ;" but I dissent absolutely from that proposition, and assert that, so long as workmen must assume all the risk of injury that may come to them through the carelessness of coemployees, they have the moral and legal right to say that they will not work with certain men, and the employer must accept their dictation or go with out their services.

If it be true, as was recently intimated by the supreme court of Pennsylvania in Durkin *v.* Kingston Coal Company (171 Pa. St., 193), that an act of the legislature which undertakes to "reverse the settled law upon the subject and declare that the employer shall be responsible for an injury to an employee resulting from the negligence of a fellow-workman" is unconstitutional—a doctrine from which I dissent (see Tullis *v.* L. Erie & W. R. R. Co., 175 U. S., 348), but which it is possible may receive the support of the courts—then the only opportunity for protection, in the future as well as the present, to workmen engaged in dangerous occupations is through organizations like these defendant associations, which restrict their memberships to careful and skillful men and prohibit their members from working with members of other organizations which maintain a lower standard or none at all. For the master's duty is discharged if the workman be competent, and for his recklessness, which renders his employment a menace to others, the master is not responsible.

But I shall not further pursue this subject. My object in alluding to it is to emphasize the fact that there are other purposes for which labor organizations can be effectually used than those quoted above; and also, because it is fairly inferable from the facts found that the members of plaintiff association were objectionable to defendants because not up to the latter's standards, so as to make them eligible for membership in defendant organizations, and that this was the motive for defendants' acts in holding a strike and notifying their employer of their intention to do so. But whether this be so or not, when it can be seen from the facts found that such or other motives of advantage to themselves may have prompted defendants' action, a court which can review only upon the law certainly will not presume that another and an unlawful motive and one not stated in the findings of fact, prompted the action of the organization and its members. In other words, this court can not import into the findings of fact a fact that is not therein expressed. This is not a case of unanimous affirmance, but one of reversal, and under section 1338 of the code of civil procedure we are to assume that the appellate division intended to affirm the facts as found by the trial court, and having so affirmed them it then reversed because they were insufficient in law to support the judgment. It is our duty, therefore, if we discover that the facts as actually found are insufficient to support the conclusion of law, to sustain the action of the appellate division in reversing the judgment. (Nat. Harrow Co. *v.* Bement & Sons, 163 N. Y., 505, and cases cited.)

In Bowen *v.* Matheson (14 Allen, 499) the court had before it on demurrer a declaration in an action where the defendants' business had been practically broken up, and it said: "In order to be good the declaration must allege against the defendants the commission of illegal acts. Its allegations must be analyzed to ascertain whether they contain a sufficient statement of such acts." This was followed by an interesting analysis which resulted in disclosing that no illegal act was alleged notwithstanding the liberal use of such extravagant words and phrases as "maliciously conspiring together," and "fellow-conspirators as aforesaid in pursuance of their conspiracy as aforesaid," whereupon the demurrer was sustained and a precedent created which should be followed in this case.

Now, before taking up the findings of fact for analysis in the light of the principles quoted above, as was done in Bowen's case, and with the view of showing that they do not sustain the judgment of the special term, I wish to again call attention to the rules quoted, and particularly to so much of them as intimates that if the motive be unlawful or be not for the good of the organization or some of its members, but prompted wholly by malice and a desire to injure others, then an act, which would be otherwise legal, becomes unlawful.

To state it concretely, if an organization strikes to help its members, the strike is lawful. If its purpose be merely to injure nonmembers, it is unlawful. If the organization notifies the employer that its members will not work with nonmembers, and its real object is to benefit the organization and secure employment for its members, it is lawful. If its sole purpose be to prevent nonmembers working, then it is unlawful. I do not assent to this proposition, although there is authority for it. It seems to me illogical and little short of absurd to say that the every-day acts of the business world, apparently within the domain of competition, may be either lawful or unlawful according to the motive of the actor. If the motive be good, the act is lawful; if it be bad, the act is unlawful. Within all the authorities upholding the principle of competition, if the motive be to destroy another's business in order to secure business for yourself the motive is good; but, according to a few recent authorities, if you do not need the business or do not wish it then the motive is bad, and some court may say to a jury, who are generally the triers of fact, that a given act of competition which destroyed A's business was legal if the act was prompted by a desire on the part of the defendant to secure to himself the benefit of it, but illegal if its purpose was to destroy A's business in revenge for an insult given.

But for the purpose of this discussion I shall assume this proposition to be sound, for it is clear to me that, applying that rule to the facts found, it will appear that the appellate division order should be sustained.

While I shall consider every fact found by the learned trial judge, I shall consider the findings in a different order, because it seems to me the more

logical order. He finds "that the defendants Cumming and Nugent, while acting in their capacity of walking delegates for their respective associations and members of the board of delegates, caused the plaintiff McQueed and other members of the plaintiff association to be discharged by their employers from various pieces of work upon buildings in the course of erection * * * by threatening the * * * employers that if they did not discharge the members of the plaintiff association and employ the members of the Enterprise and Progress associations in their stead, the said walking delegates would cause a general strike of all men of other trades employed on said buildings, and that the defendant Cumming, as such walking delegate, did cause strikes, * * * in order to prevent the members of the plaintiff association from continuing with the work they were doing at the time the strike was ordered, and that said employers, by reason of said threats and the acts of the defendants Cumming and Nugent, discharged the members of the plaintiff association and employed the members of the Enterprise and Progress associations in their stead."

Now, there is not a fact stated in that finding which is not lawful within the rules which I have quoted supra. Those principles concede the right of an association to strike in order to benefit its members; and one method of benefiting them is to secure them employment, a method conceded to be within the right of an organization to employ. There is no pretense that the defendant associations or their walking delegates had any other motive than one which the law justifies of attempting to benefit their members by securing their employment. Nowhere throughout that finding will be found even a hint that a strike was ordered or a notification given of the intention to order a strike for the purpose of accomplishing any other result than that of securing the discharge of the members of the plaintiff association and the substitution of members of the defendant associations in their place. Such a purpose is not illegal within the rules laid down in the opinion of Judge Vann, nor within the authorities cited therein; on the contrary, such a motive is conceded to be a legal one. It is only where the sole purpose is to do injury to another, or the act is prompted by malice, that it is insisted that the act becomes illegal. No such motive is alleged in that finding. It is not hinted at. On the contrary, the motive which always underlies competition is asserted to have been the animating one.

It is beyond the right and the power of this court to import into that finding, in contradiction of another finding or otherwise, the further finding that the motive which prompted the conduct of defendants was an unlawful one, prompted by malice and a desire to do injury to plaintiffs without benefiting the members of the defendant associations.

I doubt if it would ever have occurred to anyone to claim that there was anything in that finding importing a different motive from that specially alleged in the finding had not the draftsman characterized the notice given to the employers by the associations of their intention to strike as "threats."

The defendant associations, as appears from the finding quoted, wanted to put their men in the place of certain men at work who were nonmembers working for smaller pay, and they set about doing it in a perfectly lawful way. They determined that if it were necessary they would bear the burden and expense of a strike to accomplish that result, and in so determining they were clearly within their rights, as all agree. They could have gone upon a strike without offering any explanation until the contractors should have come in distress to the officers of the associations asking the reason for the strike. Then, after explanations, the nonmembers would have been discharged and the men of defendant associations sent back to work. Instead of taking that course, they chose to inform the contractors of their determination and the reason for it.

It is the giving of this information, a simple notification of their determination, which it was right and proper and reasonable to give, that has been characterized as "threats" by the special term, and which has led to no inconsiderable amount of misunderstanding since. But the sense in which the word was employed by the court is of no consequence, for the defendant associations had the absolute right to threaten to do that which they had a right to do. Having the right to insist that plaintiff's men be discharged and defendants' men put in their place if the services of the other members of the organization were to be retained, they also had the right to threaten that none of their men would stay unless their members could have all the work there was to do.

The findings further stated that the defendants, Cumming and Nugent, were the walking delegates of the defendant associations, and as such were members of the board of delegates of the building trades in New York, and were therefore in control of the matters in their respective trades. The trial court also found "that the defendant, Cumming, threatened to cause a general strike against the plaintiff association and against the plaintiff, McQueed wherever he found them at work, and that he would not allow them to work at any job in the city of New York, except some small jobs where the men of the Enterprise Association were not employed, and that he and the defendant, Nugent, threatened to drive the plaintiff association out of existence."

Now, this finding should be read in connection with and in the light of, the other findings which I have already read and commented on and which show that the purpose of the strike was to secure the employment of members of the defendant associations in the places filled by the members of plaintiff's association, who were willing to work for smaller wages, a perfectly proper and legitimate motive, as we have seen. But if the other findings be driven from the mind while considering this one, which the opinions of the appellate division indicate was not justified by the evidence, it will be found that it fairly means no more than that the defendant associations did not purpose to allow McQueed and the members of his association to work upon any jobs where members of defendant associations were employed; that they were perfectly willing to allow them to have small jobs, fitted perhaps for men who were willing to work for small wages, but that the larger jobs, where they could afford to pay and would pay the rate of wages demanded by defendant associations, they intended to secure for their members alone—a determination to which they had a perfect right to come, as is conceded by the rules which I have quoted.

Having reached that conclusion, defendants notified McQueed, who had organized an association when he failed to pass the defendants' examination, that they would prevent him and the men of his association from working on a certain class of jobs. They did not threaten to employ any illegal method to accomplish that result; they notified them of the purpose of the defendants to secure this work for themselves and to prevent McQueed and his associates from getting it, and in doing that they but informed them of their intention to do what they had a right to do, and when a man purposes to do something which he has the legal right to do there is no law which prevents him from telling another, who will be affected by his act, of his intention.

A man has a right under the law to start a store and to sell at such reduced prices that he is able in a short time to drive the other storekeepers in his vicinity out of business, when, having possession of the trade, he finds himself soon able to recover the loss sustained while ruining the others. Such has been the law for centuries. The reason, of course, is that the doctrine has generally been accepted that free competition is worth more to society than it costs, and that, on this ground, the infliction of damages is privileged. (Commonwealth *v.* Hunt, 4 Metcalf, 111, 134.)

Nor could this storekeeper be prevented from carrying out his scheme because, instead of hiding his purpose, he openly declared to those storekeepers that he intended to drive them out of business in order that he might later profit thereby. Nor would it avail such storekeepers, in the event of their bringing an action to restrain him from accomplishing their ruin by underselling them, to persuade the trial court to characterize the notification as a "threat," for on review the answer would be: A man may threaten to do that which the law says he may do, provided that, within the rules laid down in those cases, his motive is to help himself.

A labor organization is endowed with precisely the same legal right as is an individual to threaten to do that which it may lawfully do.

Having finished the discussion of the facts, I reiterate that, within the rules of law I have quoted, it must appear, in order to make out a cause of action against these defendants, that in what they did they were actuated by improper motives, by a malicious desire to injure the plaintiffs. There is no such finding of fact, and there is no right in this court to infer it if it would, and from the other facts found it is plain that it should not if it could.

The findings conclude with a sentence which commences as follows: "I find that the threats made by the defendants and the acts of the said walking delegates in causing the discharge of the members of the plaintiff association by means of threats of a general strike of other workmen constituted an illegal combination and conspiracy." That is not a finding of fact, but a conclusion of law, that the trial court erroneously, as I think, attempted to draw from the facts found, which I have already discussed, and which clearly, in my judgment, require this court to hold that the defendants acted within their legal rights.

In the last analysis of the findings, therefore, it appears that they declare that members of the organizations refused to work any longer (as they lawfully might); that they threatened to strike (which was also within their lawful right), but without any suggestion whatever in the findings that they threatened an illegal or unlawful act. And such findings are claimed to be sufficient to uphold a judgment that absolutely enjoins the defendant associations and their members from striking. This is certainly a long step in advance of any decision brought to my attention.

I have refrained from discussing the authorities because it seemed unnecessary, for the reason already stated in this opinion. But it seems not out of place to suggest that the decisions of the English courts upon questions affecting the rights of workmen ought, at least, to be received with caution, in view of the fact that the later ones are largely supported by early precedents which were entirely consistent with the policy of the statute law of England, but are hostile not only to the statute law of this country, but to the spirit of our institutions. In support of this view reference to a few early statutes of England will be made.

The statutes (for there are two) of laborers, passed in 1349 and 1350 (23 Ewd. III, and 25 Edw. III, st. 1) provided "that every man and woman of what condition he be, free or bound, able in body, and within the age of three score years," and not having means of his own, "if he in convenient service (his estate considered) be required to serve, he shall be bounden to serve him which so shall him require." And the statutes provide that in case of refusal to serve punishment by imprisonment might be inflicted, and that the laborer should take the customary rate of wages and no more. These statutes not only regulated the wages of laborers and mechanics, but they confined them to their existing places of residence and required them to swear to obey the provisions of the statutes. Sir James Fitzjames Stephen, in his History of the Criminal Law of England (Vol. III, p. 204), says: "The main object of these statutes was to check the rise in wages consequent upon the great pestilence called the 'black death.'"

Nearly two hundred years later, and in 1548, a more general statute was passed which forbade all conspiracies and covenants of artificers, workmen, or laborers, "not to make or do their work but at a certain price or rate," or for other similar purposes, under the penalty on a third conviction of the pillory and loss of an ear, and to "be taken as a man 'infamous.'" (2 and 3 Edw. VI, c. 15.)

Fourteen years later the prior statutes were to some extent amended and consolidated into a longer act, entitled "An act containing divers orders for artificers, laborers, servants of husbandry, and apprentices." It provided in effect that all persons able to work as laborers or artificers and not possessed of independent means or other employments are bound to work as artificers or laborers on demand. The hours of work are fixed; power is given to the justices in their next session after Easter to fix the wages to be paid to mechanics and laborers; elaborate rules are laid down as to apprenticeship, and it further provides that for the future no one is to "set up, occupy, use, or exercise any craft, mystery, or occupation now used" until he has served an apprenticeship of seven years. (5 Eliz., c. 4.) This statute remained in force practically for a long period of time and was not formally repealed until the year 1875.

In the year 1720 an act was passed declaring all agreements between journeymen tailors "for advancing their wages or for lessening their usual hours of work" to be null and void, and subjecting persons entering into such an agreement to imprisonment with or without hard labor for two months. (7 Geo. I, st. 1, c. 13.) Similar enactments were passed as to employees in other manufactures and trades.

The act of 1800 (40 Geo. III, c. 60) provided for a penalty of three months' imprisonment without hard labor or two months with hard labor for every journeyman, workman, or other person who "enters into any combination to obtain an advance of wages, or lessen or alter the hours of work, * * * or who hinders any employer from employing any person as he thinks proper, or who, being hired, refuses without any just or reasonable cause to work with any other journeyman or workman employed or hired to work."

The same penalty is inflicted upon persons who attend meetings held for the purpose of collecting money to further such effort, and the act also makes it an offense to assist in maintaining men who are on strike. This statute, as well as the others referred to, have at last been swept away, but necessarily their influence has been not inconsiderable in shaping the decisions of the courts of England.

The order should be affirmed and judgment absolute ordered for defendants on the plaintiffs' stipulation with costs.

Mr. MOON of Tennessee. I yield twenty minutes to the gentleman from New York [Mr. WILSON].

Mr. WILSON of New York. Mr. Chairman, I take occasion to give my unreserved approval of the bill making appropriations for the Post-Office Department, and I do so with the greatest pleasure.

I said "my unreserved approval," but I ought to qualify that statement a little. I approve of the bill heartily, but with the reservation that I wish the appropriations were even larger and more liberal than they are for certain items, which I shall particularize and dwell upon further as I proceed with my remarks.

First of all, I wish to say a word in regard to the minority re-

port accompanying the bill. I concur fully in the views of the minority as expressed in this report. I knew what it contained, and it was my intention to sign the report; but it so happened that I was not at the Capitol when the document was made ready to send to the printer, so my signature thereto is absent; but I wish it understood by all that the absence was accidental.

As will be seen by all who read the minority report, that document raises no objections against the pending bill itself. It criticises none of the branches of the service and recommends no decreases in any of the items. It simply deplores the prevailing methods of administration in the Department, whereby it has come to pass that Congress has no knowledge and can get no knowledge, at first hand, as to the proper cost of the various arms of the service, but has to take the word of the Department officials for it, thus becoming merely a collection of clerks for carrying out the propositions of the Department chiefs.

Coming now to the bill itself, I repeat that I consider it a meritorious, well-balanced measure in the main, though I could have wished, and do wish, that larger provisions had been made for certain objects. The rural free-delivery service is well provided for, which is very right and proper; but I regret that the claims of the city letter carriers did not receive somewhere near proportionate recognition. The appropriation mentioned for the rural service shows an increase over last year of 34½ per cent; that for the letter carriers only 6 per cent. The appropriation for clerks in the first and second class offices is increased 10 per cent. This is also very right and well deserved, and I am glad of it; but the letter carriers certainly deserve fully as well as the indoor clerks.

There are no members of the postal service, unless perhaps the railway mail agents, who face so much danger and discomfort and who work so hard for the public good as the letter carriers. The rural-route agent has to face storms too, but he does it in a wagon, and the letter carrier does it on foot. In the coldest weather the letter carrier can not wear thick, warm gloves—they interfere with his handling of the mail. In the slipperiest walking he must push ahead at any risk, and cover his rounds on time.

The great benefit the letter carriers render to the community is pretty well understood and appreciated in a general way, but the service is underpaid, and the salaries ought to be materially increased, yet the present bill does not increase the salaries at all. The increase of 6 per cent in the gross appropriation for this branch of the service is simply to provide for its further extension over a wider field. Five hundred thousand dollars is appropriated for the increase of salaries of the post-office clerks, which is meritorious.

A letter carrier has to act as substitute—or "sub," as they call it—for two years before he can get an appointment. During this preliminary period he makes about $25 a month. The first year of his regular appointment he receives $600; the second year, $800; the third year, $1,000. This makes four years he has to work, at about an average of $625 a year, before reaching the princely salary of $1,000—and even that much too small, as we must all agree. In some instances he has to "sub" for three or four years.

Moreover, the letter carriers must be men of the highest character and of a superior order of intelligence, the very kind of men who usually receive the highest grades of salaries in general business concerns. Many of them are married and have to support a family, in these expensive times, by hard, exhausting, responsible labor on $1,000 a year! I respectfully submit, without further argument, that it is about time for Congress to take some suitable action for the benefit of the letter carriers of this country.

One other matter I wish to allude to specially, and then I will trespass no longer upon the valuable time of the committee. That matter is the pneumatic-tube service. This, Mr. Chairman, I am fully convinced is one of the most valuable adjuncts of the postal service ever invented. Last year $800,000 was appropriated for this object, of which it is understood there is a large unexpended balance on hand, so that the Post-Office Committee felt that a further allowance of $500,000 for the next year would be sufficient. I trust that it may be found so, and that nothing may happen to cripple this great benefit to the people or tend to retard its extension.

In all our large cities, covering wide expanses of territory under one municipality, the pneumatic-tube mail service has proved the only satisfactory solution of the problem of how to practically annihilate time and space. Mail wagons, hurried forward by the swiftest horses and driven by the most expert drivers, have been tried and found wanting. So have the electric street cars. So have the elevated railroads. They all can go just so fast and no faster, and they all are in constant danger of getting blockaded.

The pneumatic tubes do reduce to a minimum the time and labor of conveying mail matter from one point to another in a city. They are a great success, and they should be extended rapidly and on a liberal scale in all our large cities, where they should be connected with every railroad station so as to facilitate and accelerate the transmission of all outgoing and incoming mails. This is a practical suggestion, the adoption of which would cost little and would benefit the community enormously. I trust it may be acted upon favorably by Congress and the postal authorities without any needless delay. It is especially needed in New York and Brooklyn, but would no doubt be welcomed in Chicago, Boston, St. Louis, and many other large cities.

This extension of the pneumatic-tube service should be no mere bagatelle. It should not mean merely the conveyance of a few special-delivery or registered letters. It should be developed into a great, comprehensive mail-transportation system, carrying, if not all the mail matter, at least all the letters between the main office in a city and all the branch offices, and also, as I have said, to and from the railroad stations. The last-named feature is in reality the most important of all. The fast mail from the West, we will say, is drawing into the railroad terminal at New York, It has four or five mail cars full of mail matter. The bulk of the first-class mail is made up of business letters to New York and Brooklyn firms from correspondents in Chicago, St. Louis, Milwaukee, San Francisco, and all over the West, and also from the Philippines, China, and Japan. The postal clerks on the train, we will suppose, have made up the letters into bunches of suitable size and shape for transmission by pneumatic tube. If so transmitted they will have reached the main office, three miles away, in less time than it takes to tell about it. The bundles for Brooklyn will also reach as quickly the main office in that borough, five miles away, and across a river at that.

By such transportation a delay of at least half an hour in the case of New York and an hour in the case of Brooklyn is obviated. Millions of dollars' worth of business is consequent upon this single day's mail. In many of the transactions the utmost haste is requisite. Every hour, every minute, is precious. The hour gained by the pneumatic tube may be of great importance to the merchant receiving the early order, by reason of its enabling him to fill the order in time for shipment the same day, and saving thereby perhaps twelve or twenty-four hours' time. In like manner, by means of the pneumatic tube in connection with the outgoing mails, the hour for closing mails at the main office and branch offices can be postponed, and this, too, will add much valuable time to the day of the business man.

I trust that within a few years this pneumatic-tube service may be as completely organized and universally used in our cities as the telephone service, with which it will vie in usefulness; and I would be very glad to see the appropriation for this purpose materially increased in the present bill, and the appropriation for the letter carriers as well. [Loud applause.]

Mr. OVERSTREET. Mr. Chairman, I yield thirty minutes to the gentleman from Indiana [Mr. CROMER].

[Mr. CROMER addressed the committee. See Appendix.]

Mr. OVERSTREET. I yield the floor to the gentleman from Tennessee [Mr. MOON].

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from Georgia [Mr. GRIGGS] one hour or such time as he may desire.

Mr. GRIGGS. Mr. Chairman, I am going to submit to this imposing array of empty chairs a few remarks on the post-office appropriation bill and on some other questions connected with the administration of the Post-Office Department, simply because it is easier to stand here and talk it than it is to sit down and write it and put it in the RECORD.

The gentleman from Indiana [Mr. CROMER] who has just taken his seat criticises quite severely the report of the Post-Office Committee, which proposes to increase the salary of the letter carriers to the extent of $120 a year, because, in his opinion, this increase is not a sufficient return to them for the labor they perform as such carriers. In reply to that, it is a truth which no gentleman here can or will attempt to deny that the proposed salary of $720 for rural carriers is a larger income than the average income of the men to whom that mail is delivered and who work equally hard the year round.

I submit to the House that $120 is a sufficient increase for this committee to recommend and for the House to make at one time, with a deficit staring the Post-Office Department in the face greater than has appeared within the last ten or twelve years, or since my service in this body and on this committee.

The gentleman from Indiana [Mr. CROMER] insists that the carriers should be authorized to solicit subscriptions for newspapers and further takes the astounding position that these carriers should be given the privilege of refusing to solicit subscriptions for particular newspapers which happen to be obnoxious to them. He says that the recommendation of the committee against carriers soliciting business for any person, firm, or corporation takes away from the carrier his "right" to determine for whom he shall

solicit business or for what newspaper he shall solicit subscriptions and for whom he will not solicit trade and what newspapers he will boycott.

The gentleman speaks truly. It does deny the carrier such privilege. Does the gentleman believe that a rural carrier should be left free to take away the rights of the newspapers and of the merchants in the town from which he travels? Would he make the carrier the practical dictator of the newspapers that the people of the country shall read and of the merchants in the small towns with whom the people of the country shall trade? Would he have officers of the Government, traveling on Government business, turned into drummers for one merchant to the exclusion of others?

I for one, Mr. Chairman, stand for no official of this Government; I stand for no organization of employees of this Government; I stand for the people who pay these carriers and who have the right to say from whom they shall order their goods and what newspapers they shall subscribe for. They have the right to have such papers as they wish delivered to them by the carriers, just as they desire them delivered, and to buy goods from whatever concerns with which they wish to trade unhampered by the drumming proclivities of rural carriers.

Mr. WILLIAMS of Mississippi. If the gentleman from Georgia will permit an interruption, there is nothing in the report of the committee that prevents carriers from carrying newspapers at all. They come in the mails like letters. The only thing is to prevent them from becoming the paid agents of particular newspapers.

Mr. GRIGGS. Certainly not. I have already stated everything the bill proposes on that particular question.

Mr. WILLIAMS of Mississippi. Now, does not the gentleman from Georgia think, if they should be permitted the privilege of being the agents of any newspapers at all, that they should be compelled by law to be the agents of all newspapers, and at the same commission, if they were allowed to be subscribing agents at all?

Mr. GRIGGS. Certainly. If they are permitted to represent newspapers or to represent firms or corporations engaged in other lines of business, the law should require these carriers to accept orders from everybody equally and impartially—orders to everybody from everybody. But I do not believe Government agents should be private soliciting agents for anybody.

This bill does not prohibit carriers from delivering the papers, as the gentleman from Indiana [Mr. CROMER] appears to understand. It simply proposes to require of carriers that they shall not solicit business or receive orders of any kind for any person, firm, or corporation, and shall not during their hours of employment carry any merchandise for hire, with a proviso; and I want to call the attention of the House to this proviso particularly, because this question seems to trouble some gentlemen very much indeed:

*Provided*, That said carriers may carry merchandise for hire for and upon the request of patrons residing upon their respective routes whenever the same shall not interfere with the proper discharge of their duties, and under such regulations as the Postmaster-General may prescribe.

If you are standing for the rights of the carrier, is not that sufficient privilege? It goes further and accommodates the patrons of the route, the very people for whom the route is established.

Mr. BARTLETT. Will the gentleman allow me?

The CHAIRMAN. Does the gentleman from Georgia yield to his colleague?

Mr. GRIGGS. Why, certainly.

Mr. BARTLETT. That simply means that the citizen along the line can have the carrier comply with his order, but that the carrier can not become the agent of the merchants or the newspapers.

Mr. GRIGGS. That is exactly it. The farmer residing along the route, the man for whose convenience rural free delivery was established, may have the benefit of sending orders by the carrier for such articles of merchandise as he may desire him to bring, and the carrier shall have the right to carry such articles and to receive pay for carrying them. That is all there is in that.

Mr. Chairman, in the second session of the Fifty-sixth Congress I made a speech against the organization of Government employees to promote legislation, and a great many gentlemen professed great astonishment at my temerity in making many statements contained therein, although the vast majority of the Members of this House who spoke to me upon the question privately, and a great many of them did so, agreed with me fully in what I then said. I think it is proper to read a paragraph or two from it in connection with my remarks to-day:

But what of the Government official, Mr. Chairman? Against whom does he organize? Is he organized against capital? He is organized against supposed oppression or wrong somewhere. He is necessarily organized against the Government of the United States. The Government is merely the agent of the people. He is not only himself one of the agents of the people, but he *is* one of the people. Whenever such organized effort is made by Government employees to bring pressure on Congress for the purpose of changing their relations to the Government, they are engaged in an effort to coerce not only Congress, but the people of the United States. That which would be denounced as treason and conspiracy on the part of soldiers is commended as a patriotic effort to redress wrongs on the part of civil employees.

I said further:

We are seeking to extend the benefits of rural mail delivery over the United States. The extension of this service has been to me a labor of love since I have had the honor to sit in this House. It is due to some of my friends in the House and to the creator of the latest Republican platform that I should disclaim any pretension to the fatherhood of this service. I am content with playing the benevolent stepfather. But, Mr. Chairman, when I look forward to the time when in every county in every Congressional district of this country there will be from 10 to 100 mail carriers organized into a vast body 150,000 strong, ostensibly for the purpose of increasing the efficiency of the service, but really working day and night to increase the salaries of themselves and to fight the Representative who will not bow to their behests, I see danger to American institutions.

I said further:

Let me give you a practical picture. Consider the fact as stated by me before in these remarks—and I defy contradiction—that every one of these employees bettered his financial condition when he entered the Government service and that every one would resign to-day and become a private citizen if by so doing he could better his present condition. If this be true, instead of commiserating with this "poor unfortunate class," we ought to congratulate them upon their great good fortune in having had the opportunity of entering the service of the Government. "Grown gray" in the service, have they? I see men all around me who have grown gray in the public service and who have fought for their lives every second year since entering political life. For their defeat and retirement to private life not a tear will fall from friend or foe. I see men around me in this House who in a few days will retire to private life unwept and unsung, but not, I hope, unhonored. And when it comes time for me, as it must come in the life of every man in public life, to drink of the bitter cup of defeat I must not only drink it amid the jeers and cheers of my opponents, but must take it with apparent relish.

Grown gray feeding at the public crib, the Government officials who are appointed to office must be protected from the people, who support them, their salaries fixed to suit them on demand, and at last pensioned by Congress. Ah, Mr. Chairman, rather than commiserate with the dancers, let us commiserate with the people who must pay the fiddlers. If a kind Providence and a beneficent Government have permitted them to "grow gray in the Government service," with salaries far greater than are paid for the same services in private life, they should thank God for the opportunity to lay up something for the evening of life, and be ready to stand aside with a competency for themselves, saved without compulsion, when, by reason of age, they have become incompetent.

[Applause.]

I said that about four years ago. It has come true to-day. I have never claimed to be a political prophet, but I may be pardoned for calling your attention to the fact that my prophecy made then that the rural carriers would soon organize for the purpose of controlling legislation in the House of Representatives has been verified. The letter inserted in the RECORD yesterday by the gentleman from Indiana [Mr. CRUMPACKER] is absolute proof of the fact that the carriers have organized for the purpose of intimidating Congress into acceding to their demands.

Mr. WILLIAMS of Mississippi. They did intimidate Mr. Loud, and defeated him for reelection.

Mr. GRIGGS. They defeated but did not intimidate him.

Mr. BURLESON. I desire to read to the gentleman from Georgia an Executive order which was issued on the 31st of January, 1902:

Executive order.

All officers and employees of the United States, of every description, serving in or under any of the Executive Departments, and whether so serving in or out of Washington, are hereby forbidden, either directly or indirectly, individually or through associations, to solicit an increase of pay or to influence or attempt to influence in their own interest any other legislation whatever, either before Congress or its committees, or in any way save through the heads of the Departments in or under which they serve, on penalty of dismissal from the Government service.

THEODORE ROOSEVELT.

WHITE HOUSE, *January 31, 1902.*

I should like to ask the gentleman from Georgia what has become of this Executive order? Is it still in force? If so, how is it that the gentleman at the head of the Post-Office Department has assured the president of the Rural Letter Carriers National Association that no harm shall come to him because of efforts and influence that he may direct against Congressmen to obtain an increase in pay? Is this Executive order a jest?

Mr. GRIGGS. I have always so understood [laughter]; and I will say, further, to my friend that if I was representing the present occupant of the White House as his attorney in this particular case I would enter a plea of guilty right now and stop further trouble. [Applause and laughter.]

This letter, inserted in the RECORD by the gentleman from Indiana [Mr. CRUMPACKER] the other day, and which I shall print, explains fully and answers fully the question of my friend from Texas [Mr. BURLESON].

Perhaps I had better read that letter to the House:

WASHINGTON, D. C., *March 7, 1904.*

*To the rural letter carriers of the United States:*

I believe we have got things coming our way and will succeed if you do your part. I understand the situation, and the Department will take no notice of any work you do in regard to pushing our bill.

The general appropriation bill under which our relief will come will be brought before the House for consideration to-day. It will likely be under consideration all this week, and the vote may not be taken before the first of next week, but do not delay your telegrams. Send them as soon as possible after receiving this communication.

The carriers from each county should send a telegram something like the following:

"Hon. ——— ———, M. C., *Washington, D. C.:*

"Rural carriers of ——— County unanimously favor graded scale, fifteen days' vacation. Let privileges alone; earnestly support amendment.

"Yours, respectfully."

Then let every carrier get at least one influential patron or politician and, if possible, some one who is personally acquainted with your Member of Congress to sign a telegram something like the following:

"Hon. ——— ———, M. C., *Washington, D. C.:*

"Rural patrons unanimously favor graded scale, fifteen days' vacation. Let privileges alone; earnestly support amendment. Vitally interested.

"Yours, respectfully."

These telegrams will not cost more than 40 or 50 cents, so as quick as you can get them signed fire them in. There will be thousands of telegrams, and it means over $20 a month increase in our salary. So see to it that your link in the chain does not fail, and if any carrier can send three or four of these kind of telegrams it will greatly assist us.

I have now got the assistance of quite a number of prominent men from different parts of the country who have millions behind them. They are interested and are here personally to help with the fight. We are thoroughly organized, and they are bringing powerful influence to bear upon the Members of Congress.

Where you were once in despair you now have hope. We must have these telegrams. Do your duty, and do it quick.

State officers, do not lose one moment in forwarding these communications to your county associates and carriers throughout your State.

County officers, do not lose one moment in getting these instructions to every carrier in your county, and have him do his duty.

Yours, very respectfully,

F. H. CUNNINGHAM,
*National President.*

Mr. Chairman, I do not know under what sort of orders these carriers have their president in Washington demanding legislation from Congress. I do not know who has given them permission to send their representative here to lobby for increased pay. I do know now why it has happened that within the last few days, since this bill came up for consideration, Members of this House have been flooded with telegrams from their districts, all in exactly the same language, showing conclusively that they were sent out first from one common center. The letter from Cunningham explains that. I do know that these things have happened and that they are happening, and I may be excused for saying further, Mr. Chairman, that my opinion is that a body of gentlemen who are able to maintain a lobby in the city of Washington to look after their interests are certainly getting along pretty well and that the increase of $120 a year—20 per cent—in their salary is the greatest liberality on the part of this House.

Now, gentlemen say they do not understand why it is that the Post-Office Department recommended that the express-package business on the part of carriers be stopped. I will tell you what the Department said to us about it. They said that in a great many districts throughout the country the people have been complaining that the delivery of the mails was delayed on account of it; that carriers go out loaded [laughter]—I mean that they go out with their vehicles loaded to the gunwales with packages of all descriptions, shapes, and sizes—and that the carrying of the mail has come to be a secondary object with them.

That is what came to this committee from the Post-Office Department as the reason for this recommendation. I do not mind saying that this particular provision is the result, as almost all legislation is, of a compromise among all the members of our committee. We all had our ideas about it; we were all, like most politicians, ready to express our ideas within the sacred and secret precincts of the committee room, and we expressed them; but when we finally reached a conclusion—when we finally reached that mental harmony that is necessary among seventeen Members to recommend any sort of legislation, this paragraph was the "baby." This is what we present to the House as, in the opinion of the members of the Committee on the Post-Office and Post-Roads, the very best legislation that can be made on this subject.

Now, I was going to add—but my friend from Texas and myself, I believe, covered that ground in his question to me and in my answer to him; but I will add here that as I understand it no other association of Government employees is permitted to lobby with the Members of Congress. That was stopped several years ago, whether as the result of complaints made by Members of Congress to the Executive I can not say; but I may be pardoned for saying that it was after the delivery of the speech from which I have just quoted that lobbying on the part of organizations of Government employees throughout the United States was stopped by this Executive order, and that so far as I know there is no other organization now plying Members of this House with requests for legislation in their behalf. If in my humble capacity I have succeeded in turning the faces of Republican officials toward the sunlight I am glad. I do not understand why this organization of rural carriers should be permitted privileges not permitted to others, unless it be that every day except Sunday all through the year they travel up and down every public road in the United States and have opportunities of conversing with the people all over the country that other employees do not have.

If that is the reason for it, it is not a good one; if there is any other, I will thank some gentleman to get upon the floor of this House and give it now.

Mr. CRUMPACKER. Will the gentleman permit me to interrupt him?

Mr. GRIGGS. Certainly.

Mr. CRUMPACKER. The gentleman stated that the Rural Delivery Carriers' Association was the only organization that is "permitted" to lobby Congress for legislation.

Mr. GRIGGS. So far as I know.

Mr. CRUMPACKER. The gentleman used the word "permitted." Will the gentleman please explain the evidence that he has that the Administration had any knowledge of the practice of this association before yesterday and that the Administration is permitting it—the Postmaster-General or any other official with authority has given any permission to this organization to violate the civil-service order just read a minute ago by the gentleman from Texas [Mr. BURLESON]?

Mr. GRIGGS. You mean before the information you gave in that letter?

Mr. BURLESON. Will the gentleman permit me to answer the gentleman from Indiana out of the letter that he put in the RECORD?

Mr. GRIGGS. I shall be glad to. I will allow my friend to answer.

Mr. BURLESON. I will read it from the letter the gentleman caused to be printed in the RECORD. This letter commences:

I believe we have got things coming our way and will succeed if you do your part. I understand the situation, and the Department will take no notice of any work you do in regard to pushing our bill.

It meant "the understanding" had with the Department by F. H. Cunningham, the national president; what the gentleman from Indiana is now inquiring about.

Mr. CRUMPACKER. Why does the gentleman say——

Mr. GRIGGS. Now, Mr. Chairman, I would like for my friends to fight their duels in their own time. [Laughter.]

Mr. CRUMPACKER. I beg your pardon.

Mr. GRIGGS. If the gentleman from Indiana will address his remarks to me I will listen. [Laughter.]

Mr. CRUMPACKER. I desire to state to the gentleman from Texas——

Mr. GRIGGS. I do not mean any disrespect to my friend from Texas, but the gentleman from Indiana must address himself to me.

Mr. CRUMPACKER (continuing). It seemed to me it was hardly justifiable to make the statement that the Administration was "permitting" a violation of this peremptory order upon the information contained in that letter. I do not think it a sufficient basis to support that charge.

Mr. GRIGGS. In reply to the distinguished gentleman from Indiana I make that statement, or make use of the word "permitted," on the testimony brought before the House by my friend Judge CRUMPACKER, from Indiana, in whom I have every confidence on every question except one, and he knows what that is. [Laughter and applause.] It is upon the authority of the gentleman from Indiana [Mr. CRUMPACKER] himself. I say the Department has permitted this organization to lobby with Congress and has refused the same privilege to all other organizations of Government employees.

As my friend Judge ADAMSON suggests, it is entirely wrong in itself, but it is doubly wrong when the Post-Office Department investigates Congress whenever Members attempt to lobby with the Post-Office Department for their constituents. [Laughter.]

Mr. BURLESON. I want to call the attention of the gentleman from Georgia to the fact——

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Texas?

Mr. GRIGGS. Yes, sir.

Mr. BURLESON (continuing). That in this letter it is stated that Cunningham has an understanding that the Department will take no action against them for the work that they do in that matter.

Mr. GRIGGS. I presumed that all the Members of the House had read the remarks of my friend from Indiana this morning, and that all Members were probably acquainted with this letter, or that if they were not already acquainted with the facts therein contained that, like some of my friends I now see on the other side, they have all gotten the RECORD and perused this letter which seems to have excited so much attention in the House to-day and none when it was read yesterday upon the other side of the House. [Laughter.] Now, Mr. Chairman, the rural carriers in my district are all very clever gentlemen. I know most of them, and before they were covered into the civil service I named a majority of the carriers in my district. I know most of them well, and I gladly testify that in the main they are clever gentlemen

and faithful officials. A number of them have written me, saying, "Exercise your own judgment about this matter, and do what is best for us and for the people."

With very few exceptions they have made no organized demands on me, and if they were to do so I would simply refer them to the speech I made in this House three years ago on this question of the organization of Government employees to promote legislation, and from which I have just quoted. We propose to give them, as the House will understand, a salary of $720 a year, an increase of 20 per cent. Now, what is their complaint? Their chief complaint seems to be that their city brethren get more than they do. That is one complaint they make, that they are entitled to the same pay that their city brethren in the carriers' association are entitled to. That may be true. I will not deny that proposition here to-day, but I will say, gentlemen, that an increase of $120 on $600 in one year is sufficient for any organization to demand and for any man to receive. I recognize the expense necessary for their equipment, but I may be permitted to suggest that a return of $720 per annum on an investment of $100 is a very fair return indeed. Now, I want to say a word on a paragraph in this bill which we refer to down in the committee when we discuss it as the "per diem paragraph." Some members of the committee call it "per de-em" and some of us "per diem," and when we get sometimes real cordially polite we "per diem" fellows change our pronunciation to "per de-em" and our "per de-em" friends change to "per diem;" nevertheless it is a question that has troubled our committee and is worrying some of the members of it to-day.

You will note, gentlemen, in the paragraph on rural agents, for seventy-five rural agents in the field, when actually traveling on business of the Post-Office Department, at a rate not to exceed $3 per day; for seventy-four rural agents when actually traveling on business of the Department, etc., $4 per day. Now, then, this $4 per day which is paid to seventy-four rural agents is paid exclusively to the higher-salaried men in the service. The men who get the highest salary are paid $4 per diem. The men who get the lowest salaries are paid $3 per diem. Is that right? The service is exactly the same. Gentlemen may talk all they please about the work of certain rural agents requiring them to spend $4 per day, while others doing the same work are required to spend $3 per diem. Why, there is hardly a man in the service who has not been in there from three to four years, and they have all had plenty of experience and they all perform exactly the same labor.

Mr. FOSTER of Vermont. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Vermont?

Mr. GRIGGS. With pleasure.

Mr. FOSTER of Vermont. This per diem is intended to pay the necessary traveling expenses?

Mr. GRIGGS. Yes, sir.

Mr. FOSTER of Vermont. The hotel expenses, etc. Does the Post-Office Committee, which reported this provision, claim that it costs more to feed these higher-priced men——

Mr. GRIGGS. I do not understand the gentleman's question.

Mr. FOSTER of Vermont. Does the Post-Office Committee, which reported this provision, claim that it costs more to feed a certain class of these route agents than another class?

Mr. GRIGGS. The member of the committee now speaking does not.

Mr. FOSTER of Vermont. Then I would like to know on just what grounds this committee bases it?

Mr. GRIGGS. The only ground on which the committee inserted this provision is that Mr. Bristow said in his testimony before the committee that it was not all used for actual traveling expenses, but that it was calculated on a basis of about 300 days' work in a year, and it was for compensation rather than for expenses.

Mr. FOSTER of Vermont. But this is all given in addition to the regular salary?

Mr. GRIGGS. In addition to the regular salary. If this House determines that $4 a day is the amount necessary for the actual necessary traveling expenses of these people, then all of these people ought to have that per diem. But if the House determines that $3 a day is sufficient, then $3 per day ought to be granted as a per diem for all of them. They all ought to be in one class so far as per diem is concerned. One grade is not entitled to eat more than the other; one grade is not entitled to sleep in a better bed or a higher-priced room than the other; one grade is not to be sent to the Waldorf and the other to a soup house. [Applause.]

Mr. FOSTER of Vermont. Will the gentleman allow me an interruption?

Mr. GRIGGS. With pleasure.

Mr. FOSTER of Vermont. As I understand, the officials when traveling on the railroad pay no fare. That is a part of the contract of the railroads with the Government, that these men shall travel without paying fare. This question of actual expenses is merely a question of paying the hotel bills.

Mr. GRIGGS. If my friend from Vermont will permit me—he and I seem to agree—the rural agents are paid salaries running from $1,000 up to, I think, sixteen hundred dollars a year. Now, they all perform exactly the same service. They ride under contract between the Government and the railroads on transportation furnished by the railroad free. It doesn't cost the agent anything. They make a return of their bills to the Post-Office Department for livery hire, and that is paid by the Government. The only expense they have is for their actual necessary living. I do not think the question was asked in the hearings, but I believe the Department also construes it to mean Pullman-car fare if they have to travel at night. I think the Government pays that also.

Now, I say there is no reason, there is no justice, in this provision making this difference between these two classes. I think myself $3 a day is enough. I am sure it is sufficient in the South to pay the traveling expenses of these rural agents, and I am sure that gentlemen in the West and the great Northwest think it is sufficient there. I have not discussed it with any friends from the East, but I believe it would apply with equal force to the East.

Mr. JOHNSON. May I interrupt the gentleman?

Mr. GRIGGS. Certainly.

Mr. JOHNSON. Is it not a fact that whenever an agent goes out into the country to lay out a rural route there are always a great many people who are ready, willing, and anxious to haul him through the country? In my district they do not have any buggy or horse hire to pay. The inhabitants are ready and anxious to carry them free.

Mr. GRIGGS. I presume that is a fact. I am not charging that the agents ever return any bills for livery hire that are not correct. What I mean to say is that the Government pays for it whenever necessary, and that it does not come out of their per diem.

Mr. ADAMSON. May I interrupt the gentleman?

Mr. GRIGGS. Yes.

Mr. ADAMSON. I do not wish to break in on the continuity of the gentleman's speech——

Mr. GRIGGS. Oh, the gentleman need not worry about that. It is a disjointed speech.

Mr. ADAMSON. Before the gentleman leaves the discussion of carriers I wish, as a matter of information, for him to explain the proposition of a graded scale of salaries for carriers. We have all received telegrams about it and I have heard gentlemen indorse it. Now, the gentleman has had a great deal of information before the committee, and I want to know whether the carriers want it graded now, to start it off, for fear Congress will not increase their salaries later.

Mr. GRIGGS. The graded scale, as I understand it, is that the carrier when first appointed to the service shall receive $600 a year, the next year $720, and the next year $850.

Mr. ADAMSON. That is, in lieu of allowing Congress to increase it two or three times, they want to relieve Congress of the necessity of acting three times and permit them to act once.

Mr. GRIGGS. Yes.

Mr. ADAMSON. Under that proposition of a graded scale, if a carrier receiving $850 should resign and be succeeded by a new one, would he have to go back and begin at the $600 rate?

Mr. GRIGGS. I understand that he would.

Mr. ADAMSON. Is there any other arm of the civil service in which that graded scale exists?

Mr. GRIGGS. If my friend from Georgia keeps on, I am afraid he will put me in the attitude of defending this proposition. [Laughter.] I will say in answer to the gentleman's question that there is—the city letter carriers.

Mr. ADAMSON. Then they want to extend the abuse to the country.

Mr. GRIGGS. They do, and I do not want them to do it.

Mr. FOSTER of Vermont. Does the question you are discussing involve any new legislation this year?

Mr. GRIGGS. This is all practically new legislation. This entire paragraph is new legislation.

Mr. GAINES of Tennessee. I am informed that one of the reasons why we have a large deficit, an increasing deficit, is because of things like this having been done: That instead of sending our cannon and heavy ordnance by freight from the East to San Francisco to be sent to the Philippines they are sent by the postal service registered, on postal cars, instead of being sent as freight on freight cars, as other freight is sent. Does the gentleman know anything about that?

Mr. GRIGGS. I do not.

Mr. GAINES of Tennessee. I am told that such is the fact, and that that is one reason for the big deficit in our postal service.

Mr. GRIGGS. I have never heard of the matter suggested by

my friend from Tennessee, but I am not on particularly intimate terms with the Department. [Laughter.]

Mr. GAINES of Tennessee. I have asked my question, and my friend has answered it in his usual jolly way. I hope the facts are not as I have suggested, though here I have been told it is a fact that we have been sending our heavy ordnance, including cannon, by the postal service instead of by freight. [Laughter.]

Mr. GRIGGS. I have heard somewhere that in some war it occurred to an officer that it would be a good idea to hitch a cannon on the back of a mule—one of these self-acting guns that shoot all day without reloading—and to drive the mule to the front and turn him loose on the enemy. It was never tried but once. To the great consternation and dismay of all the soldiers, I am informed, the mule turned wrong end foremost and by continuous gyrations cleaned up both armies. [Laughter.] I have heard that. I do not know whether that gun was sent there by mail or by mule, or whether it was mule mail or mail mule. [Laughter.]

Mr. GAINES of Tennessee. I asked the gentleman the question because I knew he was an expert on mail service. [Laughter.]

Mr. CHARLES B. LANDIS. The gentleman will allow me to ask whether it has not been the experience of the Democratic party that the mule is not to be trusted on all occasions. [Laughter.]

Mr. GRIGGS. That is true, especially when the mule gets mixed up with Republicans. [Laughter.] What does my friend from Indiana think of the bronco?

Mr. CHARLES B. LANDIS. The bronco always carries his burden and lands it at the right point.

Mr. GRIGGS. Mr. Chairman, I want to say a word about the famous Bristow report. Owing to my illness and subsequent absence from the city on public business at the time of the consideration of the Hay resolution I was not present with the committee when it took final action. However, I was present during many meetings of the subcommittee of the Committee on the Post-Office and Post-Roads when these matters were discussed informally, and so far as I am concerned I can see no reason for criticism of the committee's action. In fact, I can not understand how the Post-Office Committee could have done otherwise than they did. Here was a resolution referred to that committee——

Mr. COOPER of Wisconsin. I understand the gentleman to say he does not see how the Post-Office Committee could have done otherwise than they did.

Mr. GRIGGS. Yes, sir.

Mr. COOPER of Wisconsin. Was there anything that absolutely compelled the Post-Office Committee to print the data which they got from the Post-Office Department under the general heading of "Charges concerning Members of Congress?"

Mr. GRIGGS. Well, I can not indorse the publication under that general head.

Mr. COOPER of Wisconsin. Then there is something else they might have done.

Mr. GRIGGS. That was not in the report that came under my observation.

Mr. COOPER of Wisconsin. That was the report which was filed here by the chairman of the Committee on the Post-Office and Post-Roads.

Mr. GRIGGS. I think that was unfortunate, but I will say——

Mr. OVERSTREET. Will the gentleman from Georgia [Mr. GRIGGS] yield to me a moment?

Mr. GRIGGS. Certainly.

Mr. OVERSTREET. I made my explanation of that matter at the time it was up in the House; I am quite willing to repeat it.

Mr. GRIGGS. For whose benefit is my friend going to repeat it—for mine?

Mr. OVERSTREET. No; to explain the statement made by the gentleman from Wisconsin [Mr. COOPER].

Mr. GRIGGS. Very well.

Mr. OVERSTREET. The manuscript of the report was sent to the Public Printer, and in the very nature of things it was too voluminous to have the proof read by a member of the committee. We trusted to the reading of the proof by the proof reader at the Government Printing Office. The first copies of the report which were sent to this House did contain the language suggested by the gentleman from Wisconsin [Mr. COOPER], and improperly so, I admit, and as soon as I saw the first copy containing that language I directed the committee clerk to notify the Government Printing Office that that was not a proper part of the report, that it was not justified by the original manuscript, and should not be printed on the report.

Mr. COOPER of Wisconsin. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Georgia yield?

Mr. GRIGGS. Mr. Chairman, I yielded to the gentleman from Wisconsin [Mr. COOPER] to ask a question. I yielded to my friend from Indiana [Mr. OVERSTREET] to explain. The gentleman from Wisconsin will have plenty of time to talk later. I will see that he gets some time from this committee, if he wishes it, after I conclude.

Mr. COOPER of Wisconsin. I wish to ask one question.

Mr. GRIGGS. Go ahead. I am about as liberal with time as a man can be, I think, if I do say it myself.

Mr. COOPER of Wisconsin. Mr. Chairman, the question I desire to ask is this: I never have known the Government Printing Office to print anything that was not on the manuscript. Who wrote on the manuscript the words "Charges concerning Members of Congress?"

Mr. BARTLETT. We will find out in a few days, I think.

Mr. GRIGGS. I understand, Mr. Chairman, that it was written in the Post-Office Department. I understood so from my friend from Georgia [Mr. BARTLETT] just a moment ago.

Mr. BARTLETT. I did not mean to convey that impression, if my colleague will permit me. I think the House will find out in a few days who is responsible for it, and will find out fully.

Mr. GRIGGS. It is a matter of absolute indifference to me who is responsible for it.

Mr. GROSVENOR. I should like to ask the gentleman to let me interrupt him just a moment.

Mr. GRIGGS. Certainly.

Mr. GROSVENOR. I want to suggest to the gentleman, and indirectly to other members of the committee, whether it would not be wise to wait until we do know a little more about some of these things before we entirely commit ourselves on this question?

Mr. WILLIAMS of Mississippi. Why did you not obey your own precept?

Mr. GROSVENOR. I did; and if gentlemen will turn to my speech they will find that no man's name was mentioned in any remark I made.

Mr. GRIGGS. If you had listened to mine, you would have understood that no man has been named in my remarks.

Mr. GROSVENOR. I have listened.

Mr. GRIGGS. And that I have not committed myself on this question.

Mr. GROSVENOR. I have listened with great interest, and that is the reason why I thought I might join the gentleman.

Mr. GRIGGS. I thank my friend from Ohio for indorsing what I have said [laughter] and joining with me, because it is not often he indorses what a good Democrat says. [Applause.]

Mr. GROSVENOR. I do not exactly indorse what you have said, but I indorse the manner in which you have said it. [Laughter.]

Mr. GRIGGS. I thank you very much for that. When certificates of character seem to be necessary around the House, I am glad to add as many as I can to my bouquet. [Laughter.]

Mr. COOPER of Wisconsin. I understood the gentleman from Georgia to say that he had not mentioned any names. He has distinctly twice called this the Bristow report.

Mr. GRIGGS. Oh, well, that is the name of it.

Mr. COOPER of Wisconsin. No, it is not.

Mr. GRIGGS. It came to us over his name, the first Bristow report.

Mr. COOPER of Wisconsin. No, it is not the Bristow report at all—the last report, the one the gentleman is talking about.

Mr. WILLIAMS of Mississippi. He is talking about the first one.

Mr. GRIGGS. Mr. Chairman, I say right here and now I have no quarrel with Mr. Bristow or with any other official in the Post-Office Department, and if I called this "the Bristow report"—and I presume I did—I called it so because that is the name by which it is generally known. I merely identified it.

Let me read, however, the name of this volume:

Letter from the Postmaster-General, transmitting so much of the report of the Fourth Assistant Postmaster-General on the investigation of the said Department as may be made public without harm to the public interest.

Mr. Bristow is the Fourth Assistant Postmaster-General.

That is the heading printed on the cover of the first Bristow report.

Mr. BARTLETT. Document No. 383.

Mr. GRIGGS. I do not know what the number of the document is. The second report came to the committee through the examination of Mr. Bristow by members of the committee. He was asked if he could not furnish to the committee what was omitted in that first report of his. It came about in that way. Afterwards a letter was sent from the chairman of the committee to make it formal, but it was first begun under the questioning of members of subcommittee No. 1 of the Post-Office Committee, which had in charge the consideration of this appropriation bill. The second edition of that report was not obtained for the purpose of investigating Members of Congress. It was not during the consideration of the Hay resolution. The facts set forth there were obtained for the purpose of giving to that subcommittee full and complete information on all subjects connected with the Post-

Office Department in order that it might aid us in making up this bill now before the House. That is how it came; and if I called it "the Bristow report" I spoke correctly. I do not think my friend from Wisconsin [Mr. COOPER] ought to complain after this statement of the facts, which will be substantiated and corroborated by every one of the six other members of that subcommittee. I am not attacking Mr. Bristow. I am merely stating facts as I see them.

Now, we got these facts before the Post-Office Committee. We did not know whether anybody else except ourselves knew they were there or not. That was a question that we were unable to fathom; but, Mr. Chairman and gentlemen of the House of Representatives, leaks began somewhere, I do not know where; but it began to leak out that the Post-Office Committee was in possession of information that would condemn Members of this House. You all saw statements in various newspapers to this effect. If there were to be leaks in the barrel, I for one said, and I repeat it to-day, that it was the duty of that committee to pull out the bung, to let all the facts go at once, and let the country see them all together at one time. [Applause.] Leaks might ruin the reputation of any Member of this House, according to the character of the man to whom it leaked or from whom it leaked and whether he liked or disliked that Member of the House; and instead of letting it leak out to the public the Post-Office Committee determined, and I say determined wisely and in the interest of every man whose name is in this report and in the interest of right and of justice, to let all the facts come out into the sunlight at once. That is all there is in that.

I want to say another thing right here, and several gentlemen sitting before me will remember this, too. I insisted last December that every line and every syllable of the Bristow report should be published. Now, listen to the title of this volume:

So much of the report of the Fourth Assistant Postmaster-General on the investigation of the said Department as may be made public without harm to the public interest.

Now, that was confessedly an edited report, and while I shall not violate any committee secrets, I have the right to say for myself that I insisted then on behalf of the committee itself that every word and every line and every jot and every tittle of that report should be given to the public then. In discussing that question with my friends on the other side of this Chamber, both inside and outside the committee, I said that it was due to the committee itself that if it were proposed to publish a report under its sanction, it should be edited, if edited at all, by the committee by whose authority it was to be published; but I insisted then that the whole report ought to be printed, and I believe that to-day.

Gentlemen say that this is as much as may be made public "without harm to the public interest." When I inquire what that means, they say that men are under indictment and that the publication of that entire report might interfere with the wheels of justice. If the publication of the entire Bristow report would acquit every man under indictment he is entitled to have it printed, and the people of the United States are too great, too strong, too powerful, and too generous to convict any man, high or low, by the suppression of any facts. [Applause.] For one I do not believe that inspectors are sent out to convict. They are sent after facts. [Applause.]

I said then, and I say now, that if the publication of these things would convict men not under indictment, be the man of high or low degree, it ought to be printed, and let it stand for whatever it is worth before the whole people of this country. [Loud applause.] I said to my Republican friends, "This report will return to plague you;" and the great hysteria I observed in the House of Representatives when I entered this Hall last Thursday is ample proof of the correctness of my position on that occasion. It stands as self-evident now that not only what we did print at first should have been printed, but that all should have been made public. It is as true to-day as it was then. The Post-Office Department opposes publishing the reports of inspectors. They say that reports of these officials ought not to be given to the public gaze, for what reason I know not. They seem to fear daylight for some reason. If there are men in the inspectors' service who are afraid for their reports to bask in the sunlight, then, gentlemen, such men ought to be got rid of and men put there who are not afraid. [Applause.] There are too many confidential matters in the Post-Office Department. A great public institution full of confidential affairs is an anomaly.

It is not within my knowledge how gentlemen were moved to publish a part of this report at the time. There is some of it not concerning Members of this House, so far as I know, but there are yet other things in the Bristow report on this business that ought to be made public.

Mr. BARTLETT. Permit me to say that there is Exhibit Q, referred to in that report, that was used to base the charges as they claim against Members in that report, and yet that has not yet been published.

Mr. GRIGGS. That is what I was trying to say. [Laughter.] I am glad to have the corroboration of my colleague, because he is a man usually accurate with facts, and not afraid to express his opinion on those facts when he gets possession of them.

Now, then, the minority of the Committee on Post-Offices has made a report on this bill. At least it ought to be called a report, but I am informed that under the rules of the House, about which I know little and care less [laughter]—because of my observations of the workings of these rules ever since I have been here—that under the rules of the House the minority is not allowed to make a report.

The minority is only permitted to file "views." I always did despise a man with "views." I like a man with opinions; but a man with "views" is always and eternally in the way and is of no service to anybody or anything. And yet the minority is forced, under these rules, if it wishes to do anything at all to show disagreement with the majority, to submit "views." Well, we have submitted some "views" to the House, and while we know you can not vote on them—that you will not be permitted by the bosses to vote upon them—these views are here and for the country to read. I commend them to your prayerful consideration.

Did you ever think what a ridiculous aspect this House made of itself the other day? You Republicans were as mad as hornets. I was not here at the beginning of the row, but from what I could see in the papers and from what I saw after I did get here, you were as mad as any hornet ever was. Somewhere in the great Book of Books it is said, "Let not the sun go down on your wrath;" but the leaders on your side of the House were wise enough to let the sun go down on your wrath, and it did go down on your wrath, and the next day you literally overturned the injunction of Paul, "Be ye steadfast in the faith." [General laughter and applause.]

The CHAIRMAN. The gentleman has consumed an hour.

Mr. GRIGGS. Mr. Chairman, I have as much time as I may desire to consume.

The CHAIRMAN. The Chair simply states that an hour has been consumed. The gentleman from Georgia is recognized to conclude his remarks.

Mr. GRIGGS. This is the first time I have ever had the honor to begin a speech to empty chairs and draw a full house before concluding. [Laughter.]

But, Mr. Chairman, did you gentlemen ever think of the ridiculous position this House placed itself in a few days ago? The minority of the committee started out on this principle: That if the Post-Office Department could afford to be investigated, you of the majority could not afford to refuse a general investigation; that if it could not afford an investigation, you could and would probably refuse to give it. You did refuse to investigate.

We set out here to investigate the Post-Office Department, and our Republican friends turned out like hornets when their nest is disturbed, and you insisted that the whole thing from top to bottom must be investigated. It was all in the air here when I came back, among Republicans as well as Democrats. You said, "We will tear the roof off the whole thing and go from the dome to the cellar." I thought then that we were going right through the Department, but it wasn't long before many of the most vociferous among the advance guard were down in the cellar anxiously inquiring, "Has the cyclone passed yet?" My friend from Massachusetts said, "Let us wash our own linen first" [laughter], and you boys answered, "All right," and you turned tail and went to washing your own linen with all possible vigor and haste, and, so far as I can see, you are going to leave the Post-Office Department absolutely free from investigation by Congress. You started to investigate the post-office and wound up with the Post-Office Department investigating you. [Laughter and applause.] You are going to spend the summer investigating and washing yourselves.

That was a great coup on the part of the Department; that was a stroke of state——

Mr. CLAYTON. A sort of loop the loop.

Mr. GRIGGS. Worthy of——

Mr. HAMLIN. Talleyrand.

Mr. GRIGGS. My friend says Talleyrand. I presume that is all right; I suppose he knows whom he is talking about. A gentleman told me a story yesterday, and I believe I will tell it to you in strict confidence. Now, understand, I am not making any comparisons or applications. I am telling you this simply for your entertainment. This gentleman said to me to-day that he once had the best trained lot of setter dogs he ever saw. There were three or four of them, and one day the dogs all came rushing in the house pellmell, helter-skelter, fighting over a bone, each one determined to take it for himself. In the rowthey ran under the bed, and one of the boys tried to get them out.

They paid absolutely no attention to his repeated calls, but

growled and barked and snapped as if to say each for himself, "I am not coming; I am going to 'chaw' this bone or another dog right now." [Applause.] Pretty soon the right man—the master—came. He ordered them out. Immediately the dogs recognized the voice of command. Dropping the bone, they walked out perfectly subdued and quiet, and looking as if they were really ashamed of the racket they had been making. One day you were going through the Post-Office Department like a cyclone. The next day you defeated our resolution to investigate the Department and adopted a miserable resolution investigating yourselves. [Great applause on Democratic side.] Now, gentlemen, I want to congratulate the leaders on that side of the House on having the finest organization in the world. There is no great war captain from Julius Cæsar to Theodore Roosevelt [laughter]—no conquering hero ever marched before a better drilled host than does the gentleman from New York [Mr. PAYNE], the leader on your side. [Applause.] And I may say a few complimentary words about the gentleman from Pennsylvania [Mr. DALZELL]. He is a first-class lieutenant, and, gentlemen, I do not care what anybody may say, these——

A MEMBER. Do not forget General GROSVENOR.

Mr. GRIGGS. Oh, everybody knows that the gentleman from Ohio is one of the great leaders, and that he has a hand in doing everything that is done in this House that is right. Of course he is one of the leaders.

Mr. CLAYTON. He is a major.

Mr. GRIGGS. Yes, these gentlemen may congratulate themselves upon the leadership of this House. They have it in their hands. I am proud of them as fellow-citizens, although I do not like their political affiliations. Now, Mr. Chairman, I want to say a word, not in condemnation of the Post-Office Department, but in criticism of abuses that have grown up there during many years, and probably under both political parties. While the Post-Office Department may not be corrupt, or, rather, may not be more corrupt than is shown by the Bristow report, I do not know whether it is or not, I shall not make charges which I can not substantiate, and I could not sustain a charge like that without an investigation, but I do say that the system is entirely wrong. I repeat that it is a bad system that makes it necessary for a Member of Congress to go to any Department of the Government in order to obtain that to which his constituents are justly entitled.

Now, take a great Department like the Post-Office Department, with its rules relating to allowances made to post-offices kept absolutely secret. I mean the basis on which allowances are calculated and granted. I do not know, you do not know, no postmaster knows what allowances his office is entitled to, and if many are obtained the Member of Congress must go and ask for them and he must make his request in the dark; yet he is charged by somebody with having been guilty of at least improprieties for going and requesting that which his constituents even did not know they were entitled to, and which he himself can not ascertain except by preferring his request for an allowance which he can not know is proper or improper. Now, that is the system. Gentlemen, here is a great Department of the Government run like a little cotton farm in the South. We have a system of croppers down there. The farmer furnishes the land and the stock, and the cropper furnishes the labor.

The expenses of operating the farm are paid out of the proceeds of the crop, and the remainder, if any, is equally divided between the landlord and the cropper. The farmer must supply his cropper during the year, because, as everybody knows, the majority of the people who work the cotton farms in the South are negroes, careless and improvident, and spend all they can lay their hands on during the year. The landlord must spend his time the entire year pulling back against the demands of his croppers in order that they may not owe him more than their share of the crop will sell for in the fall.

Now, that is the method of cotton farming in much of the South. It has to be done that way, for if the landlord acceded to all the demands of his croppers in any one year it would require the interposition of Providence to save him from bankruptcy.

The great Post-Office Department has rules and regulations which are kept secret from Members of Congress, which are kept secret from the postmasters and the other employees of the Department, who may be entitled to allowances for different things, and the Members of Congress must work, year in and year out, in the dark as to what allowances their post-offices and postmasters may be entitled for the betterment of the postal facilities of their constituents.

The system is wrong, gentlemen. Is there a remedy?

I have thought sometimes during all this excitement that it would probably be well for Congress to set apart one day in every month for Members to look after matters in the Post-Office Department. Monday would be the best day. We might then request special prayers for the Department and Members in all the churches the Sunday preceding. Then, after fasting through Sunday, the Member might be required to get up early Monday and before being allowed to eat his breakfast read through the criminal statutes, repeat the Ten Commandments both forward and backward at least thirty times, the number of days in a month, then hanging about his neck a placard as large as may be, according to his avoirdupois, containing the Eighth Commandment in red letters, as a shining testimonial to his honesty. Thus armed and equipped I believe he would be comparativaly safe, at least. If this House wants to get rid of me the adoption of this rule would carry balm to a few aching hearts far away. [Laughter and applause.]

Seriously, I do not know the best remedy for it without further thought, but an editorial in the Washington Post challenged my attention yesterday. The Post is a great newspaper. It is usually fair and always ably edited. The editorial I refer to is entitled "Publicity the only cure." I believe it would be a good thing to do. Let every Department, as suggested here, publish every day a bulletin of what has been done in that Department, and at whose request. It would be worth far more than the CONGRESSIONAL RECORD, talking into which wastes much valuable time here. I believe that this would help the system, as bad as it is. I am glad that the suggestion was made. I hope at some time in the near future Congress in its wisdom will see fit to at least test this idea.

Why not, in addition to this, require the Department to make its rules as to allowances public? If they will do that, then no Member will be in danger of being misconstrued at any time; he will know what he is doing and the public will also know what he is doing.

Mr. WILLIAMS of Mississippi. If the gentleman will pardon me, there will be no danger of any postmaster being swindled by the Government when he is entitled under secret regulation to an advance in pay which is not given to him except upon the personal solicitation of a Member of Congress. If he is entitled to it, and it is retained, he is being swindled by a great Government.

Mr. GRIGGS. There is no question in my mind of that, and I am glad my friend from Mississippi has made it so much clearer than I could possibly have made it. If these post-offices are entitled to these allowances, they ought to know it and ought to have them. If they are not entitled to them, we ought to know it and they ought to know it, and there would be no request for it. I stand for the very best possible mail facilities all over this country, and I intend to see to it, as far as I am able, that my district is not neglected. [Great applause.]

I thank you, gentlemen, for your attention.

[Editorial from Washington Post, March 14, 1904.]

PUBLICITY THE ONLY CURE.

Excitement in Congress over the presentation and consideration of the now famous "Bristow" report on the relations of Congressmen with the Post-Office Department has not yet subsided. The indignation of many Members whose requests for increased allowances for their constituents, made in good faith and from honest motives, have been pronounced "irregular" and "improper" is but natural and justifiable. The unfortunate feature of the case is that they should be compelled to have their names coupled with those of ex-postal officials now under sentence or indictment for Department rascalities. The situation forces the Congressmen involved to enter upon a campaign of explanation, and explanations, be it remembered, are not likely to prove popular with the voters.

The outburst of feeling in Congress will not be in vain if it results in devising a system for the management of departmental affairs that will remove the excuse for conditions warranting a recurrence of such exposures. How can such scandals be avoided in the future? Obviously the greatest safeguard is publicity as now employed and more liberally proposed in the case of trusts. The method of securing this publicity is important, and the Post begs to offer a suggestion. Why should not the Government publish a daily official gazette, under whatever title may be decided upon, giving all appointments, promotions, removals, increases in salaries, increased allowances, award of contracts, and all actions of the Government affecting or involving the expenditure of public money? Such a publication would furnish the means, which the newspapers of the nation would promptly and eagerly welcome, of printing in every Congressional district in the country from day to day every official action of the Congressman affecting the officeholders in his district, and thus subject this action to the test of scrutiny and local criticism.

There would be an end to the scandals over the leasing of public buildings, the increase of allowances for postmasters, and the award of contracts. Bidders would receive notification of pending contracts and favoritism would be made impossible. Publicity invites confidence; secrecy breeds suspicion. Almost every Member of the Congress who has spoken in response to implications made against him in the "Bristow" report has asserted—and the Post believes truthfully—that he has nothing to conceal in the matters under discussion and has done nothing in such connection in a surreptitious manner. Such being the case, the Congressman should welcome the proposed publicity of all departmental affairs affecting matters in his district.

While Department changes are made by the thousand during the year, the daily list could be easily printed in much less space than is now occupied in the production of the CONGRESSIONAL RECORD. The expense of the publication can not be considered, in view of the saving in public money that would undoubtedly be accomplished by the proposed publicity. To make such a publication effective there should be an explicit and positive requirement, either by legislation or Executive order, that Department heads should furnish full and complete information daily upon the matters to be included

in the gazette. The present situation is critical for many Members of the Congress, and we are convinced that they can not protect themselves more effectually than by a law compelling publicity in all such matters.

Mr. WILLIAM W. KITCHIN. Before the gentleman takes his seat I would like to say that I have listened with a great deal of interest to his remarks and have derived much information from them. I want to ask him whether he had any information, or whether any intimation was made to the committee, that the Department in transmitting that report in regard to rentings had suppressed important documents containing the main facts on which the rentings were made?

Mr. GRIGGS. Not so far as I know. But I had very little information about it. I became ill on the day before that particular evidence came to the committee, and have been in the committee but one or two days since then. I was afterwards absent on public business until last Thursday.

Mr. WILLIAM W. KITCHIN. I have stated in reference to one particular case, touching the rentings in Oxford, N. C., that all the important documents were omitted from the report. I wanted to know whether the committee had any information on that matter.

Mr. GRIGGS. The committee had no information on that line which has ever come to my notice.

Mr. MADDOX. Now, if the gentleman from Georgia will pardon me, I noticed in the report in a number of cases, after going through their method, whatever it is, that in a number of instances they say, for instance, a post-office is entitled to $160 and only $100 is allowed. I want to ask the gentleman if he can explain why it is that if they were entitled to $160 the Department should withhold the other $60?

Mr. GRIGGS. No, sir; I can not explain it. There are a number of cases like that. I am, like my colleague, unable to understand them, and from the great number of easily apparent errors on this line I am forced to the conclusion that the man who made the regulations is in as profound a state of ignorance as anyone. I thank the House again for the great compliment of its earnest attention during my talk. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CRUMPACKER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to bills of the following titles:

S. 3274. An act granting an increase of pension to Jane I. Long; and

S. 1543. An act granting an increase of pension to William W. Jackson.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 10669) to regulate the issue of licenses for Turkish, Russian, or medicated baths in the District of Columbia, disagreed to by the House of Representatives, had agreed to the conference asked by the House to the disagreeing votes of the two Houses thereon, and had appointed Mr. GALLINGER, Mr. HANSBROUGH, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 885) granting a pension to Sarah A. Gillham.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution No. 55.

*Resolved by the Senate (the House of Representatives concurring)*, That the President be requested to return to the Senate S. 2323, relating to ceded lands on the Fort Hall Indian Reservation, that a clerical error appearing therein may be corrected.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 11443. An act to extend the exemption from head tax to citizens of Newfoundland entering the United States;

H. R. 11928. An act for the relief of James T. Kilbreth, George R. Bidwell, and Nevada N. Stanahan, as collectors of customs for the district and port of New York; and

H. R. 5511. An act to authorize registers and receivers of the United States land offices to furnish transcripts of their records to individuals.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House was requested.

S. 577. An act to confirm and legalize prior admissions to citizenship of the United States where the judge or clerk of the court administering the oath to the applicant or his witnesses has failed to sign or send the record, oath, or the judgment of admission, and to establish a proper record of such citizenship.

POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. OVERSTREET. Mr. Chairman, I now yield five minutes to the gentleman from Pennsylvania [Mr. BATES].

Mr. BATES. Mr. Chairman, the existence, growth, and development of free rural delivery are the best evidences in recent years that this is a government of the people and for the people. This service has been called a "luxury." It is more than that; and so eagerly has it been sought after in all portions of this country and so thoroughly appreciated wherever its benefits have been bestowed that it has come to be regarded as a necessity by the millions of people who enjoy it.

As late as June 30, 1902, there were only some 8,000 rural routes established, and on the 1st day of April, 1904, there will be 21,962 rural routes in operation in this country, apportioned among the several States and Territories of the Union largely in proportion to the number of petitions received.

It is my belief that the $21,000,000 appropriated in this behalf brings more direct benefit to the inhabitants of this Republic whom it affects than almost any other appropriation made by the General Government.

Forty years ago everyone went or sent to the post-office for his mail, and the farmer in the busy season, when his horses and teams were working in the fields, could sometimes only receive mail for himself and family possibly once a week—on Saturday afternoon. Now it is not only delivered several times daily at the homes and places of business of the inhabitants of more than a thousand cities, but for the last six months of the fiscal year (January 1 to June 30, 1903) there were delivered by the carriers of this service some 310,000,000 pieces of mail on rural routes throughout the United States to farmers and inhabitants of sparsely settled regions.

Increased facilities always bring increased use and enjoyment—more letters are written and received; more newspapers and magazines are subscribed for. While it is not true in every part of the country, yet the official report shows that quite a number of rural routes already pay for themselves by the additional revenues they occasion.

INCREASED VALUE TO FARM LANDS OF THE COUNTRY.

The testimony adduced from all over the country proves that by reason of rural free delivery the actual value of our farm lands has been increased. Many farmers state that they would not dispense with the service for $50 or even $100 per annum. It has been estimated that the value of farm lands has risen by this means as high as $5 per acre in several States. A moderate benefit to the farm lands of the whole country would be from $1 to $3 per acre.

BETTER PRICES FOR FARM PRODUCTS.

The producers, being brought into daily touch with the state of the markets and in better communication with those who buy their products, are able to obtain better prices for all that the farm produces. More definite knowledge of trade conditions is always of great advantage.

GOOD ROADS ENCOURAGED.

Good roads have been built and induced as an incentive for rural free-delivery establishment and to better encourage their maintenance. The Department wisely states that as a prerequisite to the granting of the benefits of rural free delivery there must be good passable roads at all seasons of the year. In many localities the farmers have taken the matter of good roads into their own hands, and through their pathmasters and supervisors have lowered grades, built bridges, turned waterways, and aided in this way the general communication between different points.

The number of routes established can not, in the very nature of things, be exactly in proportion to the population of each State. The demand for the service, the use made of it after it is established, and the condition of the highways and topographical fitness of the country all govern in the consideration of the petition of citizens.

FREE DELIVERY OPPOSED BY LAST DEMOCRATIC ADMINISTRATION.

During the last Administration of President Cleveland the system of rural free delivery was condemned and rejected by the House Committee on Post-Offices and Post-Roads, and under the same Administration, in 1894, Postmaster-General Bissell refused to make use of the appropriation of $10,000 offered him to inaugurate the service, stating that the project was impracticable and unwise. The entire service has been practically established and built up within the last seven years, until it has become one of the most beneficent, wise, and useful items of legislation provided by the Federal Congress. The alacrity and unanimity with which it has been asked for and used by the people at large is conclusive proof of its benefit and wisdom.

OTHER FACILITIES OF RURAL FREE DELIVERY.

Every one of the nearly 22,000 rural carriers is a traveling post-office, making daily calls at the homes of our citizens. They receive mail for registration and furnish a proper receipt therefor. They may accept money for money orders, sell postage stamps, postal cards, and stamped envelopes. They may deliver registered matter, special-delivery letters and packages, and when a pension letter is in their hands it must be delivered to the pensioner in person at the door of patron's house, if within 1 mile of the route.

I congratulate not only the Post-Office Committee but the entire country on the very efficient manner in which the rural free-delivery service has been inaugurated and established all over this land and on the great benefits daily accruing from its use among the people. [Loud applause.]

Mr. OVERSTREET. I yield fifteen minutes to the gentleman from Michigan [Mr. TOWNSEND].

Mr. TOWNSEND. Mr. Chairman, I have asked permission to occupy a few minutes of the committee's time to give notice that I propose to offer two amendments to the bill under consideration, and to state briefly my reasons for the same.

Of all the institutions connected with the Federal Government none touches the people so closely and brings them so much benefit and satisfaction as the Post-Office Department. No other aids so much in educating and improving the people. Through it flows the streams of information which fertilize every community, and the products of the printing press are carried to the people to comfort, enlighten, and instruct.

The development of the postal facilities has been the development of the people in wisdom and greatness. When those facilities reached but a few and at wide intervals, it was a blessing; the tardy letter carried by canal and horses from the East to the western frontier at great expense was a blessing, and when steam was harnessed to the mails and delivered its precious freight at the larger cities and towns to which the people went for miles around to get a weekly paper the benefits were still greater, and larger yet did they become when business men in large cities could receive their mail several times a day, even at their desks, by city carriers.

But not until very recent years was it discovered that the people whose money pays the majority of all taxes levied for Government purposes; who constitute the majority of the people; from whose ranks are recruited armies and navies in time of war; in whom the hope of the nation rests for that stability and wisdom which is unmoved by new and untried schemes, and in whom is cast a safe anchor when storms of corruption and squalls of political delusions beat against the ship of state; not until recent years have any of these people from the country received the benefits of free delivery, and not nearly all of those do now; and yet, judged by policy or right, is any class more entitled to the benefits of free delivery? Where municipalities are being crowded and congested by people drawn from the country and from foreign lands it is the part of wisdom to encourage life in the country; and with electric roads, telephones, and rural delivery the benefits of city life have been extended to the limits of these facilities, municipal boundaries have been removed, and the benefits of the country have invaded the city.

Gentlemen have talked as though they had made concessions to the country by making provisions for the extension of rural service, when in reality they have simply allowed the rural districts a portion of their own.

We are told that there is liable to be a deficit. Possibly that is true, but in the end I am sure that rural delivery will be more than self-supporting. The total receipts of the Post-Office Department have been largely increased since rural delivery was established, and every route report which I have examined, and I have investigated many, shows a steady increase in pieces of mail handled and in stamps sold and canceled; yet this cancellation and sale of stamps does not measure the whole effect of rural delivery; its benefits reach every other department, and much of the general increase can be traced to rural delivery.

But is it necessary that the system shall be self-supporting to entitle it to the support of Congress? Do we maintain schools, found and support colleges because they are self-supporting, or do we provide for general education because that people is greatest and most prosperous which is best educated, and that state most enduring which rests on the foundation of intelligence? And yet I know of no educational influence more far-reaching in its effects, more practical in its results, than that of rural delivery. Have we appropriated a hundred million for the increase and support of our Navy, whose benefits are at least doubtful to the minds of millions of our people, and for the avowed purpose of overawing European nations into respect for the United States—have we done this with the idea that we shall get financial returns to pay for the investment? Have we appropriated millions more on the District of Columbia as an investment upon which we hope to receive dividends? Or have we spent much for the convenience of the people of the District and to satisfy our national pride?

Having done this, shall we now say that our money is gone and we can not appropriate so much as the cost of one battle ship, without which we have thus far for a hundred years maintained our dignity and rights upon sea and land? Shall we, I repeat, say that we can not spend so much as the cost of one battle ship to extend the benefits of rural delivery and pay its carriers living wages, when such extension would do more to keep the nation protected against foreign foes by increasing the intelligence, and therefore the efficiency, of the people, who must finally man those ships, than all the navies built by all our millions?

Shall we be more lavish with the peoples' money in providing for the comfort and convenience of the few who are anxious to live in Washington than we are to give to the people that which is their own, and which they demand?

We have had deficiencies in the Post-Office Department before, and yet it has finally changed the balance, and it will do so again, but whether it does or not we can better curtail appropriations in other directions and extend and improve rural delivery. I say the people demand this, and it is not safe to say that the thousands of petitioners who have asked Congress to extend and improve this service are not sincere and have been induced to ask for what they did not want. I want this service extended until every citizen living on a good road in a well-settled community, shall have free delivery of his mail. A fair provision seems to be made in the bill for extension of the service. At the proper time I shall offer an amendment to the pending bill asking that rural carriers be paid $850 per annum and be allowed fifteen days' vacation per year with pay. I shall do this because I believe it is right, and because I believe the people demand that it shall be done.

I know of no class of Government employees who bring so much satisfaction to the people, who work as hard, everything considered, and who receive so little pay as the rural carriers. Six days out of every seven during the last long winter in Michigan—and I refer to Michigan, because I know conditions there better—the carriers have through snow and ice and intensely cold weather carried the mail their average route of 24 miles for $50 a month. Much of the time they have broken their roads, and many and many a day they have been ten and twelve hours on the trip. They have kept two and three horses each; have been obliged to furnish two carriages, a wagon, and a sleigh, or else have a pair of runners to attach to their wagon body; and for their year's work they will have less money than the man who has worked on the farm during the same period, as proof of which I desire to make a short comparison, which I will state briefly and insert in the RECORD in full for your careful consideration.

The carrier has received from the Government $600 for his year's work.

| | |
|---|---|
| He has expended for 2 horses, at $100 | $200.00 |
| 1 wagon | 60.00 |
| 1 pair runners for snow | 6.00 |
| 1 harness | 20.00 |
| 2 blankets, at $3 each | 6.00 |
| 1 stove and fuel | 8.00 |
| 200 bushels of oats, at 30 cents | 60.00 |
| 8 tons of hay, at $8 | 64.00 |
| 4 tons of straw, at $4 | 16.00 |
| 12 months' horseshoeing, at $1.60 per month | 19.20 |
| Repairs on wagon and harness | 5.00 |
| Total expenses | 464.20 |

Amount of salary over expenses, $136.80.

For the second year his account would be about as follows:

| | |
|---|---|
| Received from the Government | $600.00 |
| EXPENSES. | |
| 200 bushels of oats, at 30 cents | $60.00 |
| 8 tons of hay, at $8 per ton | 64.00 |
| 4 tons of straw, at $4 | 16.00 |
| 12 months' shoeing, at $1.60 per month | 19.20 |
| 1 blanket | 3.00 |
| Fuel for stove | 6.00 |
| Repairs | 10.00 |
| Interest on original outfit | 27.24 |
| Total expenses second year | 205.44 |

Amount of salary over expenses, $394.56.

The third year his account would be about the same, only his repairs would be greater, and at the beginning of the fourth year he would require a new outfit. The salary he has received for the three years' work would be $136.80 plus $394.56 plus $394.56, or $925.92, or an average of $308.64 per year for himself and two horses, and he has had but two days' vacation.

Now, let us see what the farm laborer has received during the same time.

He has worked one hundred and eighty-two days from April 1

to November 1, at $1.25 per day, and received $227.50; one hundred and thirty days from November 1 to April 1, at $1 per day, $130, and for three hundred and twelve days he has received $357.50, as against $308.64 for our carrier and team, or $48.86 more.

Now, that is an advantage in favor of the farm laborer of $48.86.

Mr. COWHERD. Will the gentleman allow me?

The CHAIRMAN. Does the gentleman from Michigan yield to the gentleman from Missouri?

Mr. TOWNSEND. I do.

Mr. COWHERD. The gentleman, I take it, is arguing that even this amount fixed by the committee, $720 a year, is too small.

Mr. TOWNSEND. Yes.

Mr. COWHERD. Does the gentleman know that to-day we are having identically the same service done on the star routes, over routes 25 miles long, where the mail is delivered to every patron and collected from every patron, at an annual cost of $450 a year?

Mr. TOWNSEND. I do not know that, and neither do I care. If that is being done, it is being done for too little money, and that is no argument against a reasonable salary to rural carriers.

Mr. COWHERD. Does it not show what it costs where you let out the work to competitive bidding?

Mr. TOWNSEND. Well, we are not doing that kind of business now. We are employing rural carriers.

Mr. COWHERD. Is not that a fair illustration? Ought not the Government to get the work done as cheaply as it can, where it can get it done properly? And I say that on star routes 25 miles in length, where the mail is delivered every day to every patron and collected every day from every patron, it now costs $450 a year.

Mr. TOWNSEND. I understand that the Government is trying for some reason or other to change the star-route system and supply the mail on those routes by rural delivery. I also believe that it is the duty of this Government to pay those men what their services are worth. If the gentleman believes this Government ought to let all these contracts to the lowest bidder for doing all the work of the Government, he would find himself in utter confusion if that were done, because the fact is that much of the salaried work that is done in this country, and all of the government offices that are held by gentlemen in this country, could be done and held for much less than is being paid at the present time.

Mr. COWHERD. I will say that for myself I believe so strongly that the mail ought to be delivered by the contract service that I was one of the committee that brought such a bill before the House; one that we said would prevent not only this great political machine, but would save untold millions of dollars a year to the people of this country.

Mr. TOWNSEND. I do not know how it is in other parts of the country, but up in the State of Michigan—and I suppose it is the same everywhere—we have intelligent men doing this work, men whose time is worth more than $720 a year, and they are leaving the service because they are insufficiently paid. I maintain that it can not be done and done well under the present system for $720 a year. I will say that, as my colleague from Michigan [Mr. BISHOP] has suggested to me, the star-route carriers also carry passengers and freight to increase their compensation.

Mr. COWHERD. The rural carrier also is permitted to carry passengers.

Mr. TOWNSEND. The bill proposes to cut that out.

Mr. COWHERD. He is permitted to carry them now.

Mr. TOWNSEND. He does not carry passengers for pay.

Mr. COWHERD. He is permitted to carry them, and in some places he does carry them.

Mr. TOWNSEND. Very few, if any. The fact of the matter is, as I said a moment ago, I do not believe that any gentleman who knows all the circumstances and all the expenses to which these carriers are subjected will contend before this committee that the rural carriers are getting what they ought to have for the work which they do.

Eight hundred and fifty dollars is too small a sum, and I have asked and hoped that rural carriers might receive the same salary as our efficient city carriers. But I offer the amendment as a compromise, believing that the carriers can make that sum do until Congress shall be in a more magnanimous mood and grant them what they deserve. The present salary has compelled many of our best carriers to resign in order that they might engage in more remunerative work, and every such resignation is a detriment to the service. And it is no argument at all to say that hundreds stand ready to take their places, for I answer, as I did the gentleman from Indiana the other day, and say that every office under the Government could be readily filled if the salary were cut in two, and patriots could be found in plenty to occupy the present office buildings in Washington without alterations or improvements. These carriers should be allowed fifteen days' vacation with pay the same as other Government employees, and their substitutes should be allowed to do their work.

The people will approve of such action, the service will be improved, and justice will be more nearly done. [Loud applause.]

Mr. OVERSTREET. I yield the floor to the gentleman from Tennessee.

Mr. MOON of Tennessee. I yield to the gentleman from Georgia [Mr. HARDWICK].

Mr. HARDWICK. Mr. Chairman, I do not rise for the purpose of making a speech, but merely to make a statement in justice to a very distinguished constituent of mine who was wronged, unintentionally, I hope, yesterday on this floor.

We have all, Mr. Chairman, arrived at the point where we fully recognize and universally concede the great benefits that have come to the people of this country from rural free delivery. Consequently, Mr. Chairman, a number of gentlemen have sprung up who are not quite so frank as was my colleague from Georgia [Mr. GRIGGS], who addressed the committee before me this afternoon, and who claim more that he did, namely, that he is the "stepfather" of this great system.

Now, Mr. Chairman, it is a matter of record—I have the proof in my hand and will put it in the RECORD in connection with my remarks, again repeating it, so that the gentlemen who are disposed to forget it will have no further excuse for doing so—that the first law ever passed by this body authorizing rural free delivery was introduced and urged on this floor by my distinguished constituent, Hon. Thomas E. Watson, of Georgia, who then represented the district in Congress I now represent. During the second session of the Fifty-second Congress, while the post-office appropriation bill was before the House, on February 17, 1893, Mr. Watson offered the following amendment:

Amend the paragraph so as to read, as follows:

"For free-delivery service, including existing experimental free-delivery offices, $11,254,900, of which the sum of $10,000 shall be applied, under the direction of the Postmaster-General, to experimental free delivery in rural communities other than towns and villages."

Mr. Watson offered this amendment, and it was conceded on this floor by the chairman of the committee, Mr. Henderson, of North Carolina, and by Mr. Holman, of Indiana, that there was then no existing law for this appropriation, and the point of order was reserved against it. In fact it is undoubtedly true that the distinguished gentleman from Georgia, Mr. Watson, is unquestionably the author of the first law authorizing rural free delivery in this country. I therefore make these remarks, Mr. Chairman, as a mere matter of justice to a distinguished citizen of my own State, who is justly entitled to this credit, about which there seems to be some confusion.

Mr. WILLIAMS of Mississippi. That amendment got on the bill.

Mr. HARDWICK. Yes; it was adopted. The point of order that it was new legislation was first reserved against it, was conceded to be good, and finally was not insisted upon.

Now, Mr. Chairman, in conclusion, I ask permission of the House to extend these remarks so that I can put these facts into the RECORD, with my remarks, so that gentlemen now may be reminded of the historical truth of this matter and Mr. Watson may be given the credit for beginning this great work so useful and important to the people, a credit to which he is entitled by every rule of justice and fair play.

The CHAIRMAN. The gentleman asks permission to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. HARDWICK. The record is as follows:

The Clerk read as follows:

"For free-delivery service, including existing experimental free-delivery offices, $11,254,943."

Mr. WATSON. I have an amendment which I send to the desk.

The Clerk read as follows:

"Amend the paragraph so as to read as follows:

"'For free-delivery service, including existing experimental free-delivery offices, $11,254,900, of which the sum of $10,000 shall be applied, under the direction of the Postmaster-General, to experimental free delivery in rural communities other than towns and villages.'"

Mr. HOLMAN. I reserve a point of order on that.

Mr. WATSON. This reduces the expenditure provided for in the bill.

Mr. HENDERSON of North Carolina. I desire to reserve a point of order.

The CHAIRMAN. A point of order has already been reserved.

Mr. WATSON. Mr. Chairman, the paragraph under consideration provides for the expenditure of $11,254,943 for free-delivery service. My amendment reduces the amount of that expenditure and simply directs that the Postmaster-General shall apply $10,000 of the appropriation to experimental free delivery in rural communities.

Mr. LOUD. That is already provided for; the gentleman will accomplish nothing by his amendment.

Mr. WATSON. It is not provided for in rural districts other than towns and villages.

Mr. BUCHANAN of New Jersey. The experiment is going on now.

Mr. LOUD. And has been for two years. Nothing can be gained by the gentleman's amendment.

Mr. WATSON. There is no experimental service in rural communities other than villages and towns.

Mr. BUCHANAN of New Jersey. You mean "truly rural."

Mr. WATSON. Yes, sir; the real country.

Mr. HOLMAN. I hope the amendment will again be read. It was not understood.

The amendment was again read.

Mr. HOLMAN. I think there is some misapprehension as to the law on this subject. I would like to ask the gentleman from North Carolina in charge of this bill what the existing law is?

Mr. HENDERSON of North Carolina. There is no law on the subject providing for rural free delivery or experiments in that direction. There is a law which provides for experiments in small towns and villages, and forty-eight of these now have free delivery. That condition is preserved in this bill. But no provision is made for rural free delivery.

Mr. WATSON. I understand, Mr. Chairman, that the point of order will not be insisted upon.

The CHAIRMAN. No point of order was submitted; it was only reserved.

Mr. WATSON. It was made under a misapprehension of the law.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Georgia.

Mr. HENDERSON of North Carolina. So far as I am individually concerned, Mr. Chairman, I would have no objection to such an experiment. But I thought it proper to reserve the point of order, not knowing what other gentlemen might think of it.

Mr. LOUD. Are you satisfied in your own mind that this is not substantially the present law?

Mr. HENDERSON of North Carolina. I am not entirely satisfied.

Mr. CALDWELL. There is no provision for rural districts.

Mr. HENDERSON of North Carolina. Oh, I am perfectly satisfied that there is no law in regard to experimental delivery in rural districts.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Georgia.

The question was taken; and on a division there were—ayes 49, noes 50.

Mr. WATSON. No quorum.

The Chair appointed as tellers Mr. Watson and Mr. Henderson of North Carolina.

Mr. WATSON. I would like to have a few moments, with unanimous consent, to make a statement in reference to this matter.

Several MEMBERS. Go on.

The CHAIRMAN. Unless by unanimous consent, pending a division no debate is in order.

Mr. WATSON. I have asked unanimous consent.

The CHAIRMAN. Is there objection to the gentleman proceeding briefly in explanation of this proposition?

There was no objection.

Mr. WATSON. Mr. Chairman——

Mr. LOUD. Does the gentleman withdraw the point of no quorum?

The CHAIRMAN. The Chair does not so understand.

Mr. LOUD. Then I shall object.

Several MEMBERS. Too late.

Mr. CALDWELL. I make the point of order that the gentleman is too late. Unanimous consent has been given.

The CHAIRMAN. The Chair thinks the gentleman is too late.

Mr. WATSON. Mr. Chairman, the present law provides for an experimental free delivery in rural communities; but as I understand it—and the chairman of the committee, the gentleman from North Carolina [Mr. Henderson], makes the same statement to the House—the law has been construed to mean cities, towns, and villages, and there are now in operation experimental free deliveries in certain towns and villages.

The law expressly provides for rural communities, and it seems to me where the general laws make such provision there is no hardship in taking a small amount from this appropriation, only $10,000, and appropriating it for experimental free delivery in absolutely rural communities, that is to say, in the country pure and simple, amongst the farmers, in those neighborhoods where they do not get their mail more than once in every two weeks, and where these deserving people have settled in communities one hundred years old, and do not receive a newspaper that is not two weeks behind the times.

The amendment proposes not to increase the appropriation; it actually diminishes it by a nominal amount, but takes $10,000 of it to be provided for experimental free delivery in absolutely rural communities, instead of towns and villages, which the authorities construe to mean rural communities. In other words, I think that a part of the money ought to be spent in the country, where the law provides it shall be spent, and having made this statement, if we can have another division, and the committee is against my amendment, I will yield to its will.

Mr. HENDERSON of North Carolina. Mr. Chairman, the only law on the subject at all is in the very language used in this appropriation bill:

"For free-delivery service, including existing experimental free-delivery offices."

That is all the law now on the statute books in regard to this question.

I did not want the statement of the gentleman from Georgia in regard to there being a law on the statutes as to rural free delivery to go without correction.

Mr. WATSON. Mr. Chairman, this delivery in the small towns and villages is called rural free delivery.

Mr. HENDERSON of North Carolina. But as a matter of fact there is no law except what is stated here in this appropriation bill.

Mr. HOLMAN. Mr. Chairman, I would life to say a word about this matter. The district which I have the honor to represent is situated in the midst of a great intelligent body of farmers, and so far as I am informed the sentiment is generally that this would be an unnecessary expense. It has been discussed somewhat in the public prints.

This amendment means an increased appropriation of $10,000. Upon its face it simply diverts $10,000 from the proper fund, but it has of course got to be made up. I am very confident that the people of this country do not care to have the taxes imposed upon them increased by what they deem to be an unnecessary expense.

A MEMBER. Do I understand the gentleman from Indiana to say there is no circulation of mail among the farmers of his district? [Laughter.]

The CHAIRMAN. The committee is dividing. Debate is not in order. Does the gentleman from Georgia [Mr. WATSON] insist upon his point of no quorum?

Mr. WATSON. I stated that if we could have a rising vote, I would submit to the decision of the committee.

The CHAIRMAN. Without objection, the Chair will again put the amendment to the committee.

The committee again divided, and there were—ayes 79, noes 41.

Accordingly the amendment was agreed to.

## MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and the Speaker having resumed the chair, sundry messages in writing from the President of the United States were communicated to the House of Representatives by Mr. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On March 11, 1904:

H. R. 5749. An act granting a pension to James B. Combs;
H. R. 9835. An act granting a pension to Maggie Fitzpatrick;
H. R. 5580. An act granting a pension to Celia C. Owen;
H. R. 8648. An act granting a pension to Shadrach D. Bardin;
H. R. 9127. An act granting a pension to Moses Schuman;
H. R. 7712. An act granting a pension to Emma Crosier;
H. R. 8185. An act granting a pension to Herman Lemmerman;
H. R. 8343. An act granting a pension to Annie P. Erving;
H. R. 9921. An act granting a pension to Virginia Boyd;
H. R. 9683. An act granting a pension to Henry Austin;
H. R. 4392. An act granting an increase of pension to Abbie E. Webster;
H. R. 880. An act granting a pension to Caroline S. Winn;
H. R. 4750. An act granting a pension to William J. Jackson;
H. R. 4540. An act granting a pension to Amanda Skinner;
H. R. 10968. An act granting a pension to Marceline P. Hamilton;
H. R. 4624. An act granting a pension to Isabella Phelps;
H. R. 7368. An act granting a pension to Annie G. Norwood;
H. R. 5342. An act granting a pension to Jane E. Sutfin;
H. R. 7063. An act granting a pension to Ellen F. Lynch;
H. R. 5030. An act granting an increase of pension to William H. Mount;
H. R. 8922. An act granting a pension to Martha E. Nolan;
H. R. 8924. An act granting a pension to Georgia A. Whitehead;
H. R. 5610. An act granting a pension to Annie Dorfner;
H. R. 7248. An act granting a pension to Robert H. Cooke;
H. R. 7382. An act granting a pension to Ellen A. Harmon;
H. R. 9739. An act granting a pension to Lizzie M. Worster;
H. R. 10741. An act granting a pension to Mary Tate;
H. R. 11345. An act granting a pension to Joseph H. Huie;
H. R. 7559. An act granting a pension to Caroline Hurley;
H. R. 8771. An act granting an increase of pension to Walter F. Horner; and
H. R. 9061. An act granting a pension to Nettie A. Buell.

On March 12, 1904:

H. R. 11287. An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1905.

On March 14, 1904:

H. R. 10136. An act authorizing bail in criminal cases upon appeal in the courts of Indian Territory;

H. R. 5761. An act to authorize the Charleroi and Monessen Bridge Company to construct a bridge over the Monongahela River;

H. R. 3578. An act to authorize the Mercantile Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of North Charleroi, Washington County, to a point in Rostraver Township, Westmoreland County; and

H. J. Res. 106. Joint resolution amending public resolution No. 8, Fifty-sixth Congress, second session, approved February 23, 1901, "providing for the printing annually of the report on field operations of the Division of Soils, Department of Agriculture."

## POST-OFFICE APPROPRIATION BILL.

The committee resumed its session.

Mr. MOON of Tennessee. I yield five minutes to the gentleman from Ohio [Mr. BADGER].

Mr. BADGER. Mr. Chairman, I do not know that I shall occupy five minutes in what I desire to say. I do not desire to inflict upon the House any set speech upon this subject. But it has occurred to my mind, Mr. Chairman, that some of our Members do not seem to fully appreciate the responsibilities, and the necessities, I might say, of our system of carriers, both our rural free-delivery and our city carriers.

As to their salaries, I do not think they are paid enough; and, Mr. Chairman, if it would not jeopardize the provision for the increase of the salaries for the rural free-delivery carriers, I think it would be proper for some Member—I would like to take the responsibility myself—to introduce an amendment to this bill increasing as well the salaries of our city carriers and the clerks in our Post-Office Department. There are none of them paid enough.

The responsibilities of the city carriers are very great, and the good that results from a practical service can not be measured in a few dollars and cents, and I hope to see this bill amended accordingly, but that will come later on, when I hope to have something to say and hope to offer something in the line suggested by the gentleman from Michigan [Mr. TOWNSEND], who has just spoken on this subject. There is one thing I do not desire should go unchallenged here this afternoon. My friend from Georgia

[Mr. GRIGGS] and my friend from Indiana [Mr. CRUMPACKER] seem to have overlooked something when they jumped on the carriers and the national organizations of carriers and say that they have no right to petition, no right to say anything in regard to their matters, and had introduced an Executive order here purporting to prohibit any carrier or organization of carriers or their officers of this Department from bringing before this body or any other Department its grievances except through the head of a Department. This is an astounding proposition to me.

Since I was 21 years old I have devoted myself to the study and practice of the law and the administration of the law, and I have yet to be convinced that any American citizen or any class of American citizens have not the right of free speech and the right of petition for any of their rights, and even the right to remonstrate against any injustice. That order, if it is put in the light as contended for by these gentlemen, violates the very spirit of our American institutions. Why, it certainly was not intended in that light. I hope it will never be interpreted in that light. I hope no such order will ever be used to infringe on and curtail the rights of American citizenship. Now, then, as to one other branch of this subject:

A rural carrier in our portion of the State is not only the servant of the Government by reason of his position, but also a servant of the patrons to whom he delivers the mail, and he is largely the servant of our merchants, our wholesale people and our manufacturers, publishers, and the great mercantile world generally who have connection with our rural districts, and in my own district I will almost guarantee that the manufacturers and wholesale and mercantile houses have, before this rural system was in vogue, expended almost as much in sending their advertisements and placing their goods before the people as is now paid for the whole carrier system in my district, and they are willing and anxious that these carriers should be paid fair compensation for their services. This great expense formerly incurred by the business world is now obviated or greatly reduced by reason of the carrier service.

It is not the carriers who are asking it alone, but it is the patrons of the offices, the men in the country, the merchants in our city, and the manufacturers—the great business world and all who are engaged in any considerable line of business who desire to promote the efficiency of the service—and they desire to pay what it is worth and at the same time advance our general interests. The rural carrier is not getting now what he deserves; he is not getting what his position demands; and I hope, my friends, that no point of order will ever prevail against this provision in the bill granting an increase to at least the amount, $720, named in this bill and as much more as Members may vote, and whatever that may be it will not be any too much for the men who perform this duty and help along in this branch of our Government.

One word more on this line. Why should we be penurious in this? Why, this is part of one of the great branches of the Government that pays the Government something from a business standpoint. Our Army and Navy, of both of which we are proud—and whenever anything comes up for their benefit in the way of an appropriation bill we vote for it, and justly do so. I vote for all of them in reason and will do so over and over again as long as I have the opportunity. But why should we be penurious with the carriers and clerks in our Post-Office Department? Our Post-Office Department brings into the Treasury of the Government almost as much revenue as it takes to sustain that Department. Take, for instance, my own city. It pays clear to the Government nearly $400,000 every year more than the local expenses of running the city department. It is well managed and more than self-sustaining. The whole system is almost a self-sustaining one, and why curtail its usefulness or in any way cramp its progress? Why be penurious in this? There is no economy in being penurious, and there is nothing patriotic in it, my friends.

Let us look out in broad lines of progressive American citizenship and American patriotism. Let our rural carriers continue to be the agents for our newspapers, the great vehicles of civilization and progress. Let them help circulate the newspapers, and what financial remuneration they receive for that may go to pay some of the expenses that they must necessarily incur in discharging their duties. The way this bill now contemplates curtailing their privileges and field of usefulness there would not be perquisites enough in a rural carrier's job to give him the finances to pay for the axle grease he wears out on the axles of his wagon.

I believe the carriers should have full scope to act as agents for the newspapers and help both the publisher and his patrons in that regard, so long as it does not interfere with or impede the prompt delivery of the mail. Increase their salaries; keep step to step with the lines we started in when this branch was founded.

Take as an example how efficient our city carrier service has grown from a small beginning. Increase the pay of the boys who do the work, and make both carrier systems even better for the carriers, the patrons, and the General Government. We have a splendid service in our cities and a growing service in the rural free delivery, but we should ever remember the boys who do the work and let their pay increase as their efficiency has already increased, and we will have both carrier branches in that progressive condition that we may regard them as the greatest and most practical branches of our civil government. I now regard them as among the greatest and most practical branches of our Government. [Applause.]

Mr. MOON of Tennessee. I now yield twenty minutes to the gentleman from Missouri [Mr. COCHRAN].

[Mr. COCHRAN of Missouri addressed the committee. See Appendix.]

Mr. MOON of Tennessee. I yield five minutes to the gentleman from South Carolina [Mr. JOHNSON].

[Mr. JOHNSON addressed the committee. See Appendix.]

Mr. MOON of Tennessee. Mr. Chairman, I yield five minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES of New Jersey. Mr. Chairman, I desire to say a few words on the pending measure and speak on the subject of rural free delivery and letter carriers in general. I noted with surprise when I came to look at the bill before us that the annual allowance for a rural free-delivery carrier is to be but $720 for the ensuing year. I have not the slightest doubt but that legislation in the way of amendment should and will be attached to this bill granting a much more liberal allowance for this branch of the service. I have been surprised to learn from the statements that have been made throughout the debate on this bill that there are Members who seem inclined to think that $720 per year is plenty, and some of them did not hesitate to say that it is entirely too much. There are gentlemen here who have intimated that in their district it is comparatively easy to get men, any quantity of men, to perform this service for the people for much less money.

I have to say, gentlemen, that if this feature of the mail service is to become a permanent one in the district which I represent and all that country it adjoins, the wages for this service for this rural free delivery of mail will have to be materially increased. It is true that we have been successful so far in getting men to go on with this service, but they have done it because they did not believe that the United States of America would continue to offer such a miserable pittance to an American citizen engaged in such responsible and arduous employment.

I say that with full knowledge of the facts, despite the Executive order which has been issued to prevent a rural free-delivery carrier or his representative from approaching a Congressman.

I know how they feel on that subject, and I am saying this in warning to the people who are charged with the responsibility of this legislation. These men can get better and far more remunerative employment where I reside than the Government offers them. However it is going to affect other districts, I can speak for mine. The city carriers, too, have claims upon this committee, and the city carriers' compensation should have been increased in this bill. I do not see how any man on this floor can stand up and give a reason why the pay of the postal carriers of the United States in the cities have not been increased this year. Has it come about that Members on the other side of the Chamber, who are responsible to these men for the increased cost of living and who with lavish hands spend the money of the Government, must begin curtailing and economizing on the noblest body in the public service—the men who have the confidence of the people they serve, the men who all through this scandal which touched so many branches of the service were passed over and left unsullied?

Are we to commence economizing on them? "Executive orders," they say. There is no Executive order, it seems, to prevent a Congressman going to the head of a Department and having an allowance made for a post-office or for clerk hire, which is in plain violation of the law. I don't say that there should not be an Executive order preventing a mail carrier from approaching a Congressman; I do not doubt its wisdom; but there is more need of an order to prevent a Representative from going to the head of a Department and warping the judgment of men who are supposed to make the allowances according to the laws and regulations and without regard to the wishes or opinions of Members of Congress.

Executive orders! There is no Executive order which prevents a railroad company from going before the postal committee or coming by its representative on the floor of this House and showing Congress that it is necessary to appropriate $100,000 for special facilities which nobody seems to see the necessity of and nobody knows anything about. Special facilities for what? Does anybody mean to state these trains would cease to run or slack their speed if we knocked that appropriation out of the present bill? Let us try it. Make your Executive order to the railroad and to the lobbyist. Extend your Executive order, if you please, so that it will prevent the mail carrier from asking me as a Congressman

to get up in my place and demand upon this floor fair treatment for him, but extend it to the lobbyist, the railroad, and to the Congressmen themselves. [Applause.]

We have heard it stated here to-day that under the contract system this business could be handled much more cheaply than it is at present, and no doubt this is true. But the same argument applies to nearly every work carried on by the Government, and there are people who do not hesitate to say that it even applies to Members of this House and that there can be found men who would be glad to take the places of Members of this body for considerably less than the salary now paid to them and thereby save a considerable sum of money to the Government; but there are other considerations which enter into the selection of officers of our Government than those of economy.

But that question is entirely out of place in this discussion. The rural free delivery is not a contract system. The Government is employing these men directly and itself fixes the wages of the rural and the city carriers. Does anyone expect that either branch of the service will attract men to it who have the intelligence, the education, and the integrity which they now possess in such a high degree unless they are paid a compensation sufficient to enable them to pay their way, educate their children, and live as we are taught to believe American citizens should live?

We have now a force of postal employees that we can justly be proud of. The skill which they bring to bear upon their duties are the proud boast of American citizens the world over. Why should they not be paid commensurately with the services they render? There are many Departments of the Government which will bear watching, but, believe me, the American people, who come in daily contact with these men and who have grown to depend on them, will not look with favor upon a cheese-paring policy so far as they are concerned.

A 20 per cent increase in the pay of letter carriers would hardly leave them where they were before. The cost of living has increased more than that and it has been brought about by legislation admittedly framed for the purpose of permitting higher prices, in the belief that wages would necessarily go up in accordance therewith. Why don't you put up the wages of these men whom you forbid taking any step to help themselves?

I have not seen a single representative of theirs, nor have I been asked to take any action in their behalf; but I know many of them personally. Among them I am proud to number some of my closest friends, and I say to you, gentlemen, that you are not treating them fairly. They may not even ask for what any man in this land may demand and follow up its refusal by a strike.

They are between the upper and nether millstones, and between high prices and low wages are being oppressed to such a degree that they must soon lose that pride and dignity which is the possession of him only who knows that his energy, integrity, and ability are properly appraised and appreciated—dignity without which no man can do the best that is in him, either in the Government service or out of it.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. MOON of Tennessee. I now yield five minutes to the gentleman from Mississippi.

Mr. WILLIAMS of Mississippi. Mr. Chairman, I see by the clock that it is nearly half past 5. I wanted to read and comment upon an article, which I hold in my hand, from the Brooklyn Eagle, but instead of doing so I shall ask unanimous consent to insert the article in the RECORD. It is from the Brooklyn Eagle of March 13, signed by Frederick Boyd Stevenson, upon the subject of "The approaching deficit and its causes."

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to insert in the RECORD the article which he has alluded to. Is there objection? [After a pause.] The Chair hears none.

The article referred to above is as follows:

[The Brooklyn Daily Eagle, New York, Sunday, March 13, 1904.]

FADS, FRAUDS, AND FOLLIES CRIPPLE NATION'S FINANCES—DEFICIT OF $42,000,000 IN THE COMING FISCAL YEAR SHOWN BY EVEN THE MOST SUPERFICIAL EXAMINATION TO BE DUE TO RECKLESS WASTEFULNESS IN THE GOVERNMENT'S EXPENDITURES.

WHERE THE MILLIONS LEAK OUT.

The following figures show where some of the big leaks occur in expending the millions that are required to conduct the affairs of the Government:

| | |
|---|---|
| Increase in salaries (1903) | $204,952 |
| Expended on airships, estimated | 200,000 |
| Forty-five customs ports where expenditures exceed receipts | 101,788 |
| French novels for Department libraries | 200,000 |
| Loss to the Government on account of inefficient clerks | 130,000 |
| Free horses and carriages for Cabinet and other officers | 40,000 |
| Unnecessary expenditure out of $77,411,011 army bill | 7,000,000 |
| Unnecessary expenditure out of $82,426,030 navy bill | 3,000,000 |
| Unnecessary expenditure out of $23,362,656 navy machinery | 2,000,000 |
| Unnecessary expenditure out of $15,004,420 fortifications | 5,000,000 |
| Unnecessary expenditure out of $3,534,973 (1903) armor navy | 500,000 |
| Unnecessary expenditure out of $10,000,000 (1903) armor navy | 2,500,000 |
| Unnecessary expenditure out of $3,312,035 contingent fund | 1,250,000 |
| Appropriation St. Louis Exposition (recent) | 4,600,000 |
| Unnecessary expenditure out of $6,485,137, printing | $2,300,000 |
| Transportation of Army, $15,500,000 (one-third bonus to roads) | 5,000,000 |
| Unnecessary expenditure out of $1,874,004, House salaries | 500,000 |
| Unnecessary expenditure out of $532,443, Senate salaries | 250,000 |
| "Restoring" and refurnishing the White House | 475,445 |
| Refurnishing U. S. S. *Mayflower* for use as President's private yacht | 100,000 |
| Cost of refitting and repairing *Mayflower* in 1902 and 1903 for President's personal use | 65,000 |
| Cost of repairs to *Mayflower*, 1904 | 30,000 |
| Cost of keeping *Mayflower* and *Sylph* at disposition of President in 1902 and 1903 | 60,000 |
| Cost of keeping the two vessels in readiness for a call from President this year | 25,000 |
| New White House stable asked for by the President | 90,000 |
| Total | 35,622,185 |

Congress is called upon to deal with a deficit of $42,000,000 as the direct result of a long reign of riotous recklessness. The situation marks the climax of an Administration that has broken all records in the wasteful expenditure of public money. The billion-dollar Congress of notorious memory, at its most expensive session, spent $232,000,000 less than this present session of Congress aims to appropriate.

Millions have been poured into Government rat holes like water.

The insatiable maw of the Army has acquired $77,000,000 to appease it, and the itching palms of the railroads and the steamship owners are again reaching for their bit out of $15,500,000 for transporting troops and supplies in a time of slumbrous peace.

The Navy Department, with a lump sum of $15,000,000 for "machinery," to say nothing of the $82,000,000 required to keep its wheels greased and its whistles wet in 1904, now asks for $102,000,000 for 1905. And in the meantime the steel trust is figuring on million-dollar chances in the bills asking for $28,000,000 for "fortifications, armor, and armaments."

The city of St. Louis has just secured a gratuitous contribution of $4,600,000 to add to the more than generous appropriations already granted by the Government.

From $50,000 to $200,000—the exact sum is concealed under the euphonious title of "engines of war"—have been cheerfully given and as cheerfully spent on flying machines that fail to fly, and recently a proposition was made in all seriousness before Congress that the Government appropriate $25,000 for the purchase of a collection of butterflies industriously captured in the flower-topped fields of Pennsylvania by a grand old Grand Army man, who was an all-around good fellow and hard-working ward worker, now defunct, whose widow needed the money.

From such attempts as this to reach the hearts of the statesmen and the deposit vaults in the Treasury it is but a step to the placing in the departmental libraries of a complete line of French novels for the delectation of Government clerks who suffer with ennui during their six or seven hours of waiting for the time ball to drop.

Customs ports are maintained where it costs hundreds of dollars to collect $1. From the higher officers down to the cheapest clerk demands have been made for increases in salaries.

Extra pay has been voted to men for extra work performed during the hours when they were supposed to be doing labor for which they are paid good salaries by the Government. Expensive horses and carriages and smart-looking coachmen have been maintained for private use at public expense by the heads of Departments and Cabinet officers, and in some instances Government funds have paid the private butlers of high officials.

Thus on every hand—from those in the seats of authority to the humblest sweeper on the Capitol steps—there seems to be but one aim in life: "Get all you can out of Uncle Sam!" It is this state of affairs that has caused the great deficit.

Since 1875 the expenses of the country have shot upward almost in a straight line. The story is forcibly told in the figures of the last year of Cleveland's Administration—1896—when it cost $457,088,344 to run the Government, and those of to-day which show the estimates for 1904 to be $747,317,922.

What is the cause of it?

Representative HEMENWAY, the bright young Republican from Indiana, who succeeds "Uncle Joe" CANNON as chairman of the House Committee on Appropriations, says it is reckless expenditure.

Representative ROBINSON, also from Indiana, says it is flying machines, frivolities, and foolish fads.

"The big leaks are in the Army and Navy," says Representative HITCHCOCK, of Nebraska.

But Commissioner West, of the District of Columbia, insists that the deficit is due to a plague of national spendthrifts whom the profane call "grafters," who have become so used to big figures in appropriation bills that they can not appreciate the meaning of a million when they hear it.

As for the common herd which pays the freight, perhaps it may be interested in a calm, dispassionate investigation of some of the things for which the country pays so dearly.

THE SERIOUS DILEMMA THAT FACES THE NATION.

One man who thoroughly realizes the reckless manner in which the public money is being expended is Representative JAMES A. HEMENWAY, of Indiana, chairman of the House Committee on Appropriations. He sees that the present way of conducting the financial affairs of the nation will lead to dangerous difficulties. Since the opening of this session of Congress he has striven in every possible way to induce the Departments to cut down their estimates and reduce expenses. On nearly every side he has been met with stubborn resistance. Wherever he has seen a leak he has tried to stop it, but at each attempt at retrenchment there has gone forth a mighty wail from the army of spenders that threatens to carry him and his committee from the high moral ground they have attempted to maintain.

"The proposition is just here," said Mr. HEMENWAY, "we must find some way to reduce the estimated expense of conducting this Government by at least $42,000,000. The estimated expenses for the ensuing fiscal year are $747,317,922. The total revenues for the fiscal year beginning July 1 next are $704,472,060. Now, it doesn't require much of a mathematician to figure out that we have a deficit of $42,845,862. The big problem that is now before us becomes all the more serious when we know that at the last session Congress appropriated, exclusive of deficiencies, within less than $10,000,000 all that was submitted in the estimates, and that at the first session of the last Congress, which corresponds to this session, the appropriations, exclusive of deficiencies and the large sum of $50,130,000 for the isthmian canal, approached the estimates within a little less than $24,000,000.

"There is no comfort for us in the fact that the total estimates, excluding the sinking fund submitted in the last Congress, were at the first session $19,672,311 less than the estimated revenues, and at the last session $44,310,887 less than the estimated revenues. It only argues this point: That we now have no latitude to appropriate beyond the lines laid down in the regular estimates, and that those lines must be greatly contracted.

"Three of our great Government supply bills—the pension, legislative executive, and judicial, and the army—carry an aggregate of $242,000,000

nearly one-third of the entire annual estimates, as presented to us by the executive, but in their sum total they show a reduction of only $4,116,623. Now, if that ratio of reduction is not materially increased, the expenses for the next fiscal year can be met only by making heavy inroads on the surplus in the Treasury. The available cash balance in the Treasury is at present $229,000,000, and it is likely to be materially diminished before long on account of these payments: The isthmian canal, $50,000,000; unexpended balance of appropriations for increase of the Navy, $27,000,000; rivers and harbors, $37,000,000; public buildings, $17,000,000. You will see, therefore, that if our outstanding obligations, fixed by appropriations already made, were liquidated, the net cash in the Treasury would be reduced to the dangerously low mark of $98,000,000. That would be a sum less than it has reached at any period since the era of depression just before Mr. McKinle's first Administrationy.

"We must not forget, moreover, that we have to provide at this session for $60,804,821 on contract obligations appropriated by the last Congress on account of public works. This means that we must begin to draw the line somewhere. Our receipts ought to be equal to our expenditures. That is simply a matter of plain, common-sense business. We have been running to woeful extravagances, and it is high time to call a halt. For the first time since the war we have passed the legislative, the judicial, and the executive bills without raising the salaries of employees. This was not because the raises were not asked for. From every Department, from the head sometimes, down, came demands for more pay. The higher officials unblushingly ask that they receive more remuneration for their services. Why, the request for more pay for clerks and other employees came even from the Executive Department. In all there were 796 demands for increases in salaries, but in no instance was an increase granted by this committee. Instead of increasing the pay, we found it absolutely necessary to reduce it in as many cases as we could. The result is that we have cut off from the appropriation bill in reduced salaries $1,452,000. But the increase in salaries is only one of the little leaks. There are many more, and many of them run into millions."

"For instance, there is——?"

"Well, some of the insignificant customs ports are a useless expense to the Government. There is no reason whatever for maintaining them. Why, it costs nearly $600 to collect a fee of $1 at Galena, Ill., and there are forty-five of these ports where the expenses greatly exceed the receipts."

"But where does the leak of millions occur?"

"It is a pretty difficult matter to put your finger on the expenditure of millions and say that it ought not to be made. Of course it costs a great deal of money to run a country like the United States. And we can't afford to be niggardly. Now, as chairman of this committee, I am not in the cheese-paring business. Any legitimate expense that is for the good of the Government I am heartily in favor of. There is a great tendency to conceal the real purport of an appropriation under a general title. This must stop. An appropriation bill must come out in its true colors. The people want to know what the money is spent for. Of late years there has been a great tendency to crowd a lot of useless expenditures into the contingency bill. The contingency bill covers a multitude of foolishness and fads. Thousands of dollars of useless expenditures are covered up by it. Another practice has been for a Department to make a job lot of an appropriation. I am trying to insist that every appropriation must be made in detail.

"I am of the opinion that the Government is much too willing to spend money for matters that do not come within its scope. We have gone too readily into scientific research, and have paid for theories, when we ought to pay only for practical results. Take the theoretical work at the Naval Observatory and the scientific research and experiments at some of our other institutions. I should say, in round numbers, that it is costing us fully $100,000 a year more than it should for legitimate work. Then the Government is always buying something it does not need or putting up a public building that is not necessary. It is a very easy matter to spend millions in this way. But it is in the constant little leaks—in the things that are about us every day; things we don't notice—that the expenses roll up into the high figures."

Recently, on the floor of the House, Mr. HEMENWAY asserted that French novels and other books of fiction were to be found on the shelves of the libraries of the various Departments, the volumes of which were supposed to be devoted to purely technical subjects. After some discussion an amendment was passed that only professional books and periodicals should be purchased with Government funds for the departmental libraries.

"These books were procured at considerable extra expense, were they not?" I asked.

"I should say," replied Mr. HEMENWAY, "that the maintenance of the departmental libraries, including interest on the money invested in them, amounts to fully $200,000 a year. For my part I can not see why the great libraries of Washington do not answer all the purposes. The Congressional Library, the public library, and the libraries in the numerous institutions are the finest in the world, and I am sure one may find all he requires in them. I can not understand why it is necessary for every Department to maintain its own library. It certainly is not necessary for them to contain French novels.

"But this is not a popular job," added Mr. HEMENWAY. "The man who can deal out patronage and let the bills go through is the good fellow—not the man who is cutting down expenses."

### HOW THE NATION'S EXPENSES HAVE BEEN EXPANDING.

Within the last few years the increase in the cost of conducting the affairs of the United States has been sensational. Making due allowances for the increase in population and natural expansion, the figures have been out of all proportion to what they should have been. The total appropriations for the Forty-third Congress, 1875-76, was $653,794,991, less by $93,000,000 than it is proposed to spend at one session of the present Congress. This, too, it must be borne in mind, is at a time when we have no war tax and no extraordinary public expenditures. The population of the country in 1875 was 50,000,000. According to the census of 1900 it was 75,000,000. In ratio to the increased population the appropriation bills for both sessions of the Fifty-eighth Congress should have been in the neighborhood of $980,000,000. Instead they are $1,500,000,000, fully $500,000,000 more than the natural increase would warrant.

During the years 1877 and 1878 the appropriations were reduced to $535,597,832, which included a special appropriation of $1,634,700 to increase the cavalry force to aid in suppressing Indian hostilities. In the next two years the appropriation ran up to $704,527,405. This increase was due mainly to a $5,500,000 fishery award, to $26,867,200 voted by special act for pension arrears, and to $2,000,000 for expenses of the United States courts omitted from the sundry civil act for 1880. In the next Congress the expenses climbed still higher, amounting to $727,537,684. These were the first years in which separate appropriations were made for the Agricultural Department, up to this time it having been provided for in the legislative acts. Then came the jump to $777,435,948—an increase of $50,000,000 in the Forty-seventh Congress.

In 1824 a great political-reform wave swept over the country and in 1885 Grover Cleveland was seated in the White House. The ends of a spendthrift Congress that had just passed out were quickly gathered together and the next appropriation bill was reduced to $655,269,402, showing an immediate cut of more than $122,000,000 in the running expenses of the Government during one Congress. When Harrison went in in 1889 the appropriations at once mounted to $794,146,424. Then followed the scandalous one-billion-dollar Congress and a cry went up from all parts of the country. But there was another break when Cleveland went back in 1893, and expenses were once more reduced, as well as they could be with the waste that was left in the track of the reckless Fifty-first Congress. The Republicans again got control. Then came the war with Spain and in the Fifty-fifth Congress even Reed's record was broken and we had a billion-and-a-half Congress. From that time forward the figures have not fallen far below the billion-and-a-half mark, and the indications are that the present Congress will not lower any high-water record of the past.

The fluctuations that appear on the diagram here presented do not redound to the thrift of a nation. They show, rather, a free and easy spending, as if with both hands.

*Table showing increase of national expenditures.*

| | |
|---|---|
| Fifty-seventh Congress | $1,568,212,637 |
| Fifty-sixth Congress | 1,553,683,002 |
| Fifty-fifth Congress | 1,440,489,437 |
| Fifty-fourth Congress | 1,023,792,365 |
| Fifty-third Congress | 954,496,055 |
| Fifty-second Congress | 943,617,052 |
| Fifty-first Congress | 917,013,523 |
| Fiftieth Congress | 794,146,424 |
| Forty-ninth Congress | 777,435,948 |
| Forty-eighth Congress | 746,342,495 |
| Forty-seventh Congress | 727,537,684 |
| Forty-sixth Congress | 704,527,405 |
| Forty-fifth Congress | 655,269,402 |
| Forty-fourth Congress | 653,794,991 |
| Forty-third Congress | 595,597,832 |

Where have these billions gone?

Great sums of money are required to conduct the business of the Government. There is an honest outlay of millions of dollars each year. But other millions have been expended on foolish fads and ridiculous propositions that no shrewd business man would consider for a moment. Lax methods have prevailed that would wreck the strongest mercantile establishment in the world. It is impossible to go into all these leaks, some of which have been adroitly concealed, but enough of them may be exposed to indicate the reckless manner in which the affairs of the country are being conducted.

### SINKING FORTUNES IN AIR SHIPS THAT CAN'T FLY.

Perhaps some day there may be air ships that really will sail in the air. The fever-heated imaginations of romancers have already pictured fierce aerial battle ships, darting like great birds of prey hither and yon through the ether, shooting forth fire and destruction in a war of the worlds. It must have been some such picture as this that spurred the supposedly sober and sedate War Department into the formation of a partnership with a modern Darius Green. As far back as 1895 Prof. S. P. Langley, of the Smithsonian Institution, claimed to have actually perfected a flying ship. Not long ago it was announced with great eclat that he was about to perform an experiment with a new model that would surely soar heavenward.

But the air ship did not circle around the steeples. Something broke, and it turned a double flip-flap and came down on its back in the mud, with its hind legs kicking in the air.

Somebody has been footing the bills. Uncle Sam went into his wallet for part of the expenses.

"We have received only $50,000 from the Government for experiments in air ships," said Prof. C. M. Manly, Professor Langley's assistant, in conversation with me the other day.

"It has cost the United States Government $200,000 to find out that Langley's flying machine can't fly," said Representative JAMES M. ROBINSON, of Indiana.

"You tell Langley for me," said Representative GILBERT M. HITCHCOCK, of Nebraska, "that the only thing he ever made fly was Government money."

Like many other expenditures of public money, those for the Langley air ship are said to be concealed in the ambiguous wording of the appropriation bill. In an act approved last March an appropriation was made for "fortifications and other works of defense." The expense of the Langley air ship experiments was provided for in this section:

"Board of Ordnance and Fortification: To enable the Board to make all needful and proper purchases, experiments, and tests, to ascertain with a view to their utilization by the Government, the most effective guns, small arms, cartridges, projectiles, fuses, explosives, torpedoes, armor plates, and other implements and engines of war, and to purchase or cause to be manufactured, under authority of the Secretary of War, such guns, carriages, armor plates, and other war material as may, in the judgment of the Board, be necessary in the proper discharge of the duty devolved upon it by the act approved September 22, 1888 * * * for the payment of the necessary expenses of the Board * * * and for the test of experimental guns, carriages, and other devices procured in accordance with the recommendation of the Board of Ordnance and Fortifications, $100,000, the expenditure of which shall be made by the several bureaus of the War Department heretofore having jurisdiction of the same, or by the Board itself, as the Secretary of War may direct." * * *

Under the terms "other implements and engines of war" and "other devices" it would be as easy to buy a flying machine as a 13-inch gun, and with a few appropriations like the one just quoted it would not be a difficult matter to drop in a few hundred thousand dollars without attracting particular attention. But an almost unlimited opportunity to purchase "queer things" has been afforded in the estimates for 1904-5 in the item of "fortification," which provides for expenditures of $15,004,420. There is a chance for a navy of air ships.

If one should call on Professor Langley, who is the Secretary of the Smithsonian Institution, the probabilities are one would not see him. One would be informed that Professor Langley is a very busy man. And doubtless that is so. Beside being at the head of the Smithsonian to all intents and purposes, the Blue Book shows that Professor Langley is keeper ex officio of the National Museum, director of the Astrophysical Observatory at Washington, member of the National Monument Association, director of the National Zoological Park, and director of the Bureau of American Ethnology.

But, busy as he is, Professor Langley has found time to write several dissertations on flying machines, which have been published at the Government Printing Office. One of the aerial stories is entitled "The Greatest Flying Creature." Within its fascinating pages, which are profusely illustrated, is described the *Pterodactyl ornithostoma* (the hero of the weird tale), after which Professor Langley has modeled his air ship.

"In former epochs of our planet's history there were larger flying creatures than now," begins Professor Langley, "notably the Pterodactyl, a brother to dragons, a reptile rather than a bird, but a reptile with enormously large wings."

Then the professor proceeds to give facts and figures to prove that there is no reason on earth why, if the *Pterodactyl ornithostoma* can fly, man shouldn't. Didn't Darius Green reason in the same line when he queried:

The birds can fly,
An' why can't I?

Among the other books of aerial adventure by Professor Langley, published at the Government Printing Office, are Story of Experiments in Mechanical Flight and The Langley Aerodrome, which contain elaborate plans and diagrams and descriptions of air ships in flight.

It was such stories as these, doubtless, that resulted in an investment of public funds in flying machines. Just how much has been put into them is a question. Recently an inquiry in Congress brought out a report from the Board of Ordnance and Fortification to the effect that tests of Doctor Langley's aerodrome were still in progress.

This report was made January 27, 1904, and the most exciting thing about it was the fact that Langley had cost the Government $50,000. The allotment was made in 1898, but Professor Langley is still making his test. It is admitted that the Smithsonian Institution had expended in addition to the amount named by the Board $23,000 on the Langley air ship. How much may be concealed in other appropriations and contingent funds no one seems to be able to find out.

OFFICIALS WHO RIDE IN GOVERNMENT COACHES.

Flying machines, however, are not the only means of transportation in Washington. There are coaches for officials which are paid for out of the public funds. Even Cabinet officers are not above riding in carriages bought with Uncle Sam's money, drawn by horses paid for out of the funds of the United States Treasury, and equipped with coachmen who are maintained at Government expense on falsified pay rolls as "laborers" and "messengers." Those who were caught at this petty business were the Secretary of the Treasury, the Postmaster-General, the Secretary of War, the Secretary of the Navy, the Secretary of Commerce and Labor, and the Department of Justice.

One of the first acts of Grover Cleveland's Administration in 1885, when the Democratic party came into power, was to reform the official carriage abuse. One Cabinet officer after another ordered his horses and carriages sold, and the men who were acting as drivers and coachmen were put back at Government work. Upon the return of the Republicans there has been a steady increase in the number of official carriages, the majority of which are used for private and social purposes.

The man who first forcibly brought the attention of Congress to this abuse was Representative GILBERT M. HITCHCOCK, of Nebraska. Before that an amendment had been introduced by Representative C. B. LANDIS, of Indiana, eliminating horses and carriages to be used for private purposes from the appropriation bill. Mr. LANDIS, who, by the way, is a Republican, made the statement that the private carriages of public officials, maintained at Government expense, would reach from the White House to the Capitol. Representative HEMENWAY, the Republican chairman of the House Committee on Appropriations, admitted on the floor that he had been unable to ascertain by inquiry among the heads of the different Departments how many horses and carriages were maintained at public expense. Then it was that Representative HITCHCOCK introduced a series of resolutions addressed to each Cabinet officer requesting him to furnish to the House a statement "showing the number of horses, carriages, and automobiles maintained at Government expense for the officials of his Department, together with data showing the cost of said horses, carriages, automobiles, and harness, and the amount of wages paid to the men acting as coachmen, footmen, and chauffeurs, whether carried on the rolls as such or in some other classification."

The result of Mr. HITCHCOCK'S resolutions was reports on the number of horses and carriages in use. In no instance was an automobile maintained at public expense. A summary of the reports shows:

| Department. | Horses. | Cost. | Carriages. | Cost. | Coachmen. | Pay. |
|---|---|---|---|---|---|---|
| Commerce and Labor | 8 | $1,785 | 10 | $4,250 | 4 | $2,820 |
| War | 6 | 1,625 | 5 | 2,655 | 3 | 2,220 |
| Post-Office | 4 | 1,090 | 3 | 1,495 | 2 | 1,380 |
| Justice | 3 | 690 | 4 | 2,249 | 2 | 1,440 |
| Navy | 4 | 1,102 | 5 | 3,275 | 2 | 1,380 |
| Treasury | 7 | 1,900 | 6 | 3,660 | 7 | 4,620 |
| Total | 32 | 8,192 | 33 | 17,584 | 20 | 13,860 |

This is but a partial list of private horses and carriages maintained at the cost of the public, but it shows a total cost of $39,636, and a spirit of smallness that is far from becoming in a Cabinet officer of the United States. The average salary paid to the coachman is more than $50 a month. Good coachmen may be hired in Washington for $35 a month. But the most shameful part of the whole proceedings was the attempt to conceal the real nature of the coachmen's and the drivers' duties under false entries on the pay rolls. In not one instance in the reports received could it be shown that the men who were employed as coachmen and drivers for these private carriages were entered fairly and honestly on the public pay rolls in that capacity. Secretary of the Treasury L. M. Shaw was obliged to state in his report:

"There are assigned for driving and caring for the horses and carriages described seven men, who are borne on the rolls as laborers and receive compensation at the rate of $660 per annum each."

Postmaster-General H. C. Payne, in his signed report, says:

"The driver is carried on the rolls of the Department as a watchman, at a salary of $720 per annum, and his assistant is carried on the rolls as a laborer, at a salary of $660 per annum."

Secretary of the Navy William H. Moody says:

"One employee, carried on the rolls as an assistant messenger, at a compensation of $720 per annum, acts as driver for the Secretary. One employee, carried on the rolls as laborer, at $660 per annum, is used as driver for the Assistant Secretary."

Secretary George B. Cortelyou, of the Department of Commerce and Labor, says:

"Laborer, detailed to drive surrey and coupé, $660; assistant messenger, who acts as driver, $720; messenger, who acts as driver, $600; foreman of stables and driver to Secretary, $840."

A rather peculiar feature has been brought to light in connection with the horse and carriage service in Secretary Cortelyou's Department. Representative HITCHCOCK'S resolution was adopted January 18. On January 20 Secretary Cortelyou's Department was using twelve horses and fifteen carriages. Then came the word of the resolution, and on February 1, when the report was returned to Congress, four horses and five carriages had been disposed of. In the figures given the cost of the harnesses had not been taken into account. In some instances they are quite expensive, running as high as $300 or more, and swelling the sum total by several thousand dollars.

But it isn't just coachmen and drivers alone that serve the high officials privately and receive their pay at the public crib. According to an old employee in one of the Departments, it is a common thing for Cabinet officers to take men who are maintained on the Government pay rolls to serve in their homes as butlers during public receptions. One man in particular, who is employed as a messenger, it was said, has served repeatedly in the capacity of butler for a certain Cabinet officer.

FRENCH NOVELS, CUSTOMS PORTS, AND OTHER LEAKS.

In a line with the apparently universal policy at Washington of getting the Government to pay for everything, the luxuriant literary tastes of the Department clerks, which have developed a penchant for French novels, has resulted in a surprisingly choice collection of that class of reading in the libraries devoted to their exclusive use, and for the maintenance of which appropriation bills are turned into Congress regularly each session.

The capital has probably some of the finest libraries in the world. But the Congressional Library, with its thousands of volumes; the great Public Library of the District of Columbia, the magnificent scientific library of the Smithsonian Institution, and the half dozen others, all of which are available, seemingly are not enough. Each Department of the Government has its own private library. Recently the suspicion has been growing that the technical books these private libraries were supposed to be devoted to exclusively were being supplemented by racy novels—French and otherwise. An investigation of this suspicion led to a proposition by Chairman HEMENWAY, of the House Committee on Appropriations, that in the future all purchases be limited to the exact needs of the libraries in question.

The War Department has the largest of the exclusive libraries. It contains 50,000 volumes and is estimated to be worth $75,000. When the edict by Mr. HEMENWAY went forth, the order came quickly from the head of the Department to take the works of fiction from the shelves, and within the last few days the librarian, James W. Cheney, has sent away 900 novels. The same thing has been done in the other departmental libraries. Altogether there are something like fifteen of these departmental libraries, which are probably worth in the neighborhood of $300,000. It has been estimated that the total number of novels contained in them would reach 7,000 or 8,000, to say nothing of thousands of books that are not on technical lines and have no place in such libraries, which are simply supposed to be working adjuncts to the Departments.

Mention has been made of custom ports whose expenses exceed their receipts by many hundreds of dollars. The list is as follows:

| Name of port. | Receipts. | Expenses. | Number employed. | Cost of collecting $1. |
|---|---|---|---|---|
| Albemarle, N. J | $87.00 | $1,770.67 | 2 | $20.35 |
| Apalachicola, Fla | 1,913.61 | 3,513.63 | 4 | 1.83 |
| Barnstable, Mass | 761.43 | 4,107.16 | 7 | 5.63 |
| Beaufort, N. C | 13.01 | 1,775.12 | 2 | 136.44 |
| Beaufort, S. C | 761.41 | 3,585.32 | 4 | 4.70 |
| Belfast, Me | 2,738.80 | 2,985.45 | 6 | 1.09 |
| Brazos, Tex | 4,732.77 | 31,991.11 | 26 | 6.75 |
| Bridgeton, N. J | 292.60 | 1,437.38 | 5 | 4.91 |
| Bristol, R. I | 103.61 | 254.15 | 2 | 2.45 |
| Burlington, Iowa | 52.67 | 441.80 | 1 | 8.38 |
| Burlington, N. J | 4.80 | 162.00 | 2 | 33.75 |
| Castine, Me | 1,808.35 | 4,542.55 | 6 | 2.51 |
| Chattanooga, Tenn | 27.73 | 388.70 | 2 | 14.01 |
| Cherrystone, Va | 30.00 | 956.80 | 3 | 31.89 |
| Crisfield, Md | 737.00 | 2,824.20 | 2 | 381.64 |
| Edgartown, Mass | 534.64 | 2,538.18 | 4 | 4.74 |
| Frenchmans Bay, Me | 982.37 | 3,827.49 | 5 | 3.89 |
| Galena, Ill | .70 | 378.05 | 1 | 540.07 |
| Georgetown, S. C | 32.27 | 485.42 | 2 | 15.04 |
| Gloucester, Mass | 7,611.24 | 18,489.65 | 14 | 2.42 |
| Great Egg Harbor, N. J | 1,890.84 | 2,045.19 | 3 | 1.08 |
| Humboldt, Cal | 1,491.64 | 2,874.18 | 1 | 1.92 |
| Kennebunk, Me | 6.47 | 114.32 | 2 | 17.66 |
| La Crosse, Wis | 13.80 | 362.00 | 2 | 26.23 |
| Machias, Me | 1,212.44 | 4,290.43 | 5 | 3.53 |
| Grand Haven, Mich | 5,132.42 | 8,886.69 | 14 | 1.73 |
| Nantucket, Mass | 15.70 | 366.20 | 1 | 23.32 |
| New London, Conn | 1,278.83 | 4,911.44 | 5 | 3.84 |
| Pamlico, N. C | 1,324.50 | 5,891.50 | 5 | 4.44 |
| Pearl River, Miss | 7,914.93 | 9,177.84 | 6 | 1.16 |
| Plymouth, Mass | 786.06 | 1,455.10 | 2 | 1.85 |
| Rock Island, Ill | 22.08 | 775.14 | 2 | 35.10 |
| Saco, Me | 87.35 | 482.26 | 2 | 5.52 |
| St. Marks, Fla | 300.05 | 1,523.59 | 2 | 5.07 |
| St. Marys, Ga | 2.44 | 581.90 | 1 | 238.48 |
| Salem, Mass | 5,308.96 | 6,117.19 | 6 | 1.15 |
| Sandusky, Ohio | 2,359.28 | 4,377.55 | 9 | 1.85 |
| South Oregon, Oreg | 10.00 | 1,308.92 | 2 | 130.89 |
| Teche, La | 109.21 | 3,036.43 | 3 | 27.80 |
| Vicksburg, Miss | 26.20 | 547.55 | 1 | 20.89 |
| Waldoboro, Me | 4,026.75 | 7,459.87 | 7 | 1.85 |
| Wheeling, W. Va | 880.55 | 1,529.90 | 2 | 1.73 |
| Wilmington, N. C | 4,760.43 | 6,720.12 | 5 | 1.41 |
| Wiscasset Me | 966.94 | 3,388.96 | 3 | 3.50 |
| York, Me | 5.19 | 236.87 | 1 | 45.44 |
| Total | 63,127.07 | 164,915.97 | 192 | ..... |

One of the biggest leaks is in the salaries of the clerks and other employees of the House and Senate. If one should go to the head doorkeeper of either legislative branch and ask him how many men he had in his employ, the answer would be evasive. As a matter of fact, it would be a difficult thing for anyone to obtain definite information on that subject. If you look through the appropriations you will find a jumble of oddly constructed sentences indicating that special and assistant messengers and clerks and doorkeepers had been employed, and always winding up for the demand for extra money. For instance, in the last appropriation bill we find a jumble of sentences indicating that many men have been employed, for which $97,450 is demanded. Then we see that the under superintendent of the Capitol building and his men want $31,776. After that comes a request for $92,684 for clerks and messengers to committees. Then there is a demand for $16,146 for more clerks, and then the Sergeant-at-Arms and his assistants want $18,810, and right along in the same breath come the Doorkeeper and his assistants with a request for $161,042, followed by more special messengers and extra clerks until the total salaries of the House are swelled to $515,204; and just as one is drawing a sigh of relief he sees the item $458,800 for clerk hire for Members and Delegates, which amount they certify they have paid or agree to pay for necessary work, which is allowed under the resolution approved March 3, 1893. This raises the total to $1,074,004.

In the Senate it is about the same, in proportion to the number, for the total amount of salaries is $532,443. It has been estimated that both House and Senate could get along as well with one-half the number of employees as they now have. The messengers and clerks are literally running over one another. In view of this state of affairs, it is said that a saving of at least $500,000 a year could be made in the two branches of the Government. Ac-

cording to a good authority, fully 15 per cent of the present force of clerks are inefficient, causing a sheer loss to the Government in this respect of $130,000 annually.

Despite the fact, however, that the clerks have barely enough to do to keep them awake during the sessions, which seldom last more than four or five hours, bills are usually passed toward the close of Congress allowing them extra pay for "extra" work done during the regular hours of business. In addition to this, we find that in the appropriation bill of 1903 salaries in all departments were raised to the extent of $204,952.

In the appropriations for the Printing Office there are chances for many leaks. Last year the general appropriation for printing was $3,485,137, but this did not include it all. Within the last few years some most remarkable books have been turned out by the Public Printer. Originally intended to print public documents, the shop has gradually been turned into a general publishing concern. There has been a great demand by the gifted authors who have contributed regularly to the CONGRESSIONAL RECORD and such books as the Agricultural Department and the Weather Bureau issue to see their productions illustrated. This grew to be a craze, until at the last Congress official directories were printed with half-tone photographs of Senators and Representatives neatly inserted at the proper pages. But this was too much for even a billion and a half dollar Congress, and the entire edition was ordered in, and the edict issued that in the future Congressional directories would be printed unembellished.

But back of all the efforts to get money out of the Government are the contingent bills. They include in gross lumps all the expenses that accrue during a session of Congress and offer a wide field for "bunching" bills that could not get through under ordinary circumstances. Last year the contingent bills footed up to more than $3,000,000. A fair example of the way in which they are put in may be shown in the contingent expenses of the land offices. One of them reads:

"For clerk hire, rent, and other incidental expenses of the district land offices, $200,000." No other explanation is deemed necessary. Some of the other big contingent bills were: From the Treasury Department, $164,000; foreign missions, $202,000; Marine Corps, $160,000; Senate, $206,800; House, $189,275; Post-Office, $147,000, and consular service, $346,977.

When the Departments have gone the limit even with an indulgent Congress, they turn to their old friend, the contingent bill.

MILLIONS SIFTED THROUGH ARMY AND NAVY BILLS.

"Millions of dollars go into our Army and Navy every year," said Representative GILBERT M. HITCHCOCK, of Nebraska. "There are chances for great leaks in the appropriation bills for both. We have about 59,000 men in our Army, and this year the appropriation for it is $77,000,000. The appropriation for the German army is less than $150,000,000 with 600,000 men—ten times the number that we have and only twice the appropriation. The appropriation for the French army is less than $150,000,000 and numbers 561,000 men.

"The big item, I find, is transportation. Here is a big leak. The appropriation bill for 1903 shows that it amounted to $15,500,000. More than one-third of this goes to the railroads, which clearly indicates why all the railroad officials favor great armies. The estimates for the Army for 1905 are $77,000,000, practically the same that they were for this year, but the navy appropriation has been increased from $82,000,000 to $102,000,000. Out of $23,000,000 for construction and machinery and $13,000,000 for armor and armament, the steel trust will get the lion's share. A cut of $23,000,000 has been made in battle ships, which will have to go on the bill next year.

"The expense of running the United States Government for 1904 will be $775,000,000, while the expenses of Great Britain, which is paying war debts, are $920,000,000; Germany, $500,000,000, and France, $719,000,000. In this connection it must be considered that the other nations are burdened with heavy interest on their debts. England pays an interest of $115,000,000 and France $300,000,000, while the United States has an interest of less than $28,000,000. But there seems to be a desire to increase expenses on every side. The Naval Board asked the House Committee on Naval Affairs for a naval station in the Philippines to cost $32,000,000, but Admiral Dewey opposed the plan and said what was needed there was docks. That is only an instance of what they are all doing. The expenses of conducting the business of the country have doubled since Cleveland's Administration. Then it was costing us $1,000,000 a day. Now it is costing us $2,000,000 a day. And this is in a time of absolute peace. This vast revenue taken from the people should be regarded as a trust fund, and the chairman of the Committee on Appropriations owes it to the people to see that all these ridiculous fads and foibles, these experiments and wastes of public money, are stopped."

Representative JAMES M. ROBINSON, of Indiana, in speaking on the expenses of the Government, said:

"Mr. HEMENWAY, chairman of the House Committee on Appropriations, sounded the note of discontent when he warned his Republican colleagues the other day that there must be retrenchment and reform, and that a deficiency of $42,000,000 this year is upon us. Farsighted Republican Members of Congress have for years foreseen this menace, but have been too few in number to stay it.

"A new expenditure must be reckoned with in this Congress. A vast amount of money will be needed for ferreting out and prosecuting the post-office grafters and in covering a vastly greater number of cases against malefactors in localities not yet investigated. But the post-office cases will be dwarfed in comparison with the land thefts. When judge, ex-judge, official, and ex-official in every station connected with the service are charged by the Secretary of the Interior with wholesale violations of law, and the work not yet begun, the enormity of the situation and the expense is made apparent. Then come the Indian-land frauds and the frauds in the Indian Territory, and more money must be furnished to send the guilty ones to prison. Canal and waterway improvements of merit must stop till we check up the books and see whether the deficit is to be $42,000,000 or more."

"It is simply an age of riotous extravagance," said Henry L. West, Commissioner of the District of Columbia, who is a close student of the nation's finances. "In Jackson's time there was a fight for the spoils of office, but to-day the entire patronage of that period would not amount to the patronage in the State of New York alone. The President has taken $80,000,000 in personal patronage out of the Treasury. In every Department there is evidence of the grossest laxity. It takes more men in the auditing department of the money-order division of the Post-Office than it does to run the New York Central, the Pennsylvania, the Erie, and the Chicago, Burlington and Quincy railroads combined. In all Departments there is an army of inefficient clerks, but they are never discharged. There are 2,300 clerks in the Pension Office, and the ages of some of them vary from 65 to 95 years, yet not a man is dropped. When Congress adjourns, every clerk in the Capitol building will leave and his work will stop till next session, but his salary will go on just the same. And every year we pass resolutions to give extra salaries to these clerks, when they don't earn those they have already received. Congressmen are allowed $1,200 a year for a secretary. The money is not paid on separate vouchers, but is given directly to the Congressmen. Many appoint their wives or sons or daughters to the position and are that much ahead.

"It has cost $750,000 to remodel the White House. In 1904 the amount asked for the rural free delivery was $12,500,000, and for 1905 it is $15,000,000. The system in the last few years has grown to alarming proportions. It was all right when it started, but now every little bunch of four or five farmers living within a radius of ten miles of one another have their postman. Congressmen have found out that it helps them in their campaigns to get through a rural free delivery for every farmer in their districts. The appropriation began with $100,000 and now it is $15,000,000. But, you see, the advantage of it comes in right here: Every one of those rural mail carriers is a Republican and carries Republican literature to the farmers and makes them Republican speeches."

In the meantime the Committee on Appropriations is striving to keep down the bills and prevent the deficit from reaching beyond the $42,000,000 limit.

FREDERICK BOYD STEVENSON.

Mr. GRIGGS. Mr. Chairman, I ask unanimous consent that I may have leave to insert some statements in the RECORD entirely disconnected from my speech.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to insert some statements in the RECORD. Is there objection?

There was no objection.

Mr. OVERSTREET. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOUTELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the post-office appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 9480. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1905, and for other purposes; and

H. R. 891. An act granting certain lots in Gnadenhutten, Ohio, to Gnadenhutten special school district.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 2661. An act granting an increase of pension to John H. Klingler;

S. 2690. An act granting an increase of pension to James Garry;

S. 2857. An act granting an increase of pension to Orine H. Rapka;

S. 2863. An act granting an increase of pension to David C. Coleman;

S. 2871. An act granting an increase of pension to Justen M. Cooper;

S. 2872. An act granting an increase of pension to Albert Schermerhorn;

S. 2894. An act granting a pension to Clara G. Garretson;

S. 2937. An act granting an increase of pension to Julius Bodenstab;

S. 2938. An act granting an increase of pension to James L. Ackley;

S. 2946. An act granting an increase of pension to Joshua Day;

S. 2952. An act granting an increase of pension to William J. P. Buck;

S. 2959. An act granting an increase of pension to Ada Johnson;

S. 2960. An act granting an increase of pension to Jacob Harning;

S. 2971. An act granting a pension to Amelia Walsh;

S. 3201. An act granting an increase of pension to James I. Shafer;

S. 3377. An act granting an increase of pension to John M. Tyree;

S. 3394. An act granting an increase of pension to Joseph B. Crawford;

S. 3417. An act granting a pension to Garrett V. Chamberlin;

S. 3457. An act granting an increase of pension to Marcellus M. Parker;

S. 3491. An act granting an increase of pension to Andrew J. Howe;

S. 3499. An act granting an increase of pension to Samuel E. Lookingbill;

S. 3500. An act granting an increase of pension to Orrin L. Mann;

S. 3519. An act granting a pension to Ruby A. Stirdivant;

S. 3523. An act granting an increase of pension to Joseph W. Butz;

S. 3535. An act granting an increase of pension to John Walton;

S. 3544. An act granting an increase of pension to George W. Phillips;

S. 3573. An act granting an increase of pension to Calvin E. Myers;

S. 3860. An act granting a pension to James Henry Martineau;

S. 3651. An act granting an increase of pension to Mildred S. Ogden;

S. 3654. An act granting a pension to Hannah Hall;
S. 3690. An act granting an increase of pension to George W. Gregory;
S. 3727. An act granting an increase of pension to Eli Headley;
S. 3771. An act granting an increase of pension to Virginia C. Spencer;
S. 3827. An act granting an increase of pension to Norman B. Davenport;
S. 3833. An act granting an increase of pension to George F. Edwards;
S. 2655. An act granting an increase of pension to Isaac Zellers;
S. 64. An act to correct the military record of William B. Thompson;
S. 200. An act granting an increase of pension to Austin Almy;
S. 140. An act granting an increase of pension to Daniel B. Bailey;
S. 106. An act granting an increase of pension to Carrie Wages;
S. 201. An act to establish a port of delivery at Salt Lake City, Utah;
S. 236. An act granting an increase of pension to Andrew Jackson Power;
S. 305. An act granting an increase of pension to John R. Evans;
S. 336. An act granting an increase of pension to William Lechleidner;
S. 358. An act granting an increase of pension to Phebe A. Ford;
S. 360. An act granting an increase of pension to Mary Lucetta Arnold;
S. 447. An act granting an increase of pension to David H. George;
S. 450. An act granting an increase of pension to George H. Sutherland;
S. 454. An act granting an increase of pension to Renaldo M. Greswald;
S. 569. An act granting an increase of pension to Jesse B. Nurse;
S. 783. An act granting an increase of pension to William McGee;
S. 827. An act granting an increase of pension to Elias S. Gibson;
S. 1388. An act granting an increase of pension to Orsen H. Sawtelle;
S. 1394. An act granting an increase of pension to Lewis M. Webster;
S. 1423. An act granting an increase of pension to Samuel F. Murry;
S. 1436. An act granting an increase of pension to Thomas P. Wentworth;
S. 1661. An act granting an increase of pension to Mary E. Riley;
S. 1667. An act granting an increase of pension to Stalnaker Marteney;
S. 1760. An act granting an increase of pension to Ann A. Devore;
S. 1764. An act granting an increase of pension to John Shehan;
S. 1959. An act granting a pension to Mary Remington;
S. 1899. An act granting an increase of pension to Thompson Warren;
S. 2029. An act granting an increase of pension to Peter P. Dabozy;
S. 2058. An act granting an increase of pension to Jacob A. Roof;
S. 2320. An act granting an increase of pension to Samuel H. Legrow; and
S. 2348. An act granting an increase of pension to Hamilton S. Gillespie.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 3622. An act for the relief of Lincoln W. Tibbetts—to the Committee on War Claims.

S. 577. An act to confirm and legalize prior admissions to citizenship of the United States where the judge or clerk of the court administering the oath to the applicant or his witnesses has failed to sign or seal the record, oath, or the judgment of admission, and to establish a proper record of such citizenship—to the Committee on the Judiciary.

MEMORIAL OF MISSISSIPPI CHOCTAW INDIANS.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to have printed as a House document a memorial from the Mississippi Choctaw Indians, praying for an extension of time within which their right to remove to the Choctaw country may be permitted.

The SPEAKER. The gentleman from Texas asks unanimous consent to have printed as a House document a memorial from the Choctaw Indians.

Mr. PAYNE. Mr. Speaker, as this is a document that comes from an Indian tribe, I will not object to it; otherwise I should.

The SPEAKER. The Chair hears no objection.

The following is the document referred to:

Memorial of Mississippi Choctaws, praying for an extension of time within which their right to remove to the Choctaw country may be permitted and the passage of bill H. R. 13560.

*The honorable the Senate and House of Representatives:*

Your memorialists, full-blood Mississippi Choctaws, residents of Mississippi and of Indian Territory, most humbly pray that those who shall have been identified by the United States Commission to the Five Civilized Tribes may be permitted at any time prior to the completion of allotments to file their applications to said Commission for allotments, and that they be not required to conform to any other rules relative to their enrollment or allotment than other citizens of the Choctaw Nation by blood.

Your memorialists respectfully submit that by the act of Congress approved July 1, 1902, entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," it was provided by article 41 that Mississippi Choctaws should, within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and furnish proof of such settlement within one year after the date of their said identification as Mississippi Choctaws, under penalty of being barred from their rights as Choctaws.

Many of your petitioners do not understand the English language.

At the request of the Choctaw Nation, through its delegate, Congress has heretofore provided that no contracts made by Mississippi Choctaw srelative to the lands to be allotted them in the Choctaw-Chickasaw Nation should be valid. This cuts off from the Mississippi Choctaws the opportunity of employing attorneys willing to incur the expense of attending to the various requirements imposed by the statutes.

These requirements were inserted in the act of Congress upon the insistence of the delegates and attorneys of the Choctaw-Chickasaw Nation with a view to depriving your petitioners of their rights, knowing that your petitioners were very misinformed, and entirely without means, and that many of them did not understand the English language.

Your memorialists are further required, after having resided upon the lands of the Choctaw-Chickasaw Nation for a period of three years and before the expiration of four years, to furnish proof of the fact of the three years' residence as a further condition of enjoying the right of Choctaw citizenship. Your memorialists humbly pray for an amendment of the present law, as follows, to wit:

"Mississippi Choctaws, identified by the United States Commission to the Five Civilized Tribes as full-blood Choctaws, shall have the right at any time, prior to the closing of the allotment office of the Choctaw-Chickasaw country, to make application and have allotted to them and to their children born of them prior to the closing of the Choctaw rolls lands the same as other Choctaws by blood, without being required to comply with any other conditions than imposed upon other Choctaws, and any conditions making a distinction against the said Mississippi Choctaws are hereby repealed."

Your memorialists respectfully submit that ingenious conditions have been inserted in the law at the request of the attorneys of the Choctaw-Chickasaw Nation, by virtue of which many Mississippi Choctaws would be barred. Said attorneys have a contract with the Choctaw Nation by which said attorneys receive a fee from the Choctaw Nation for each applicant for citizenship defeated by said attorneys, as your memorialists are informed and believe; for example, your memorialists were required within six months after the date of identification to make bona fide settlement within the Choctaw-Chickasaw country, when it was well known that your memorialists were exceedingly poor; when it was well known that your memorialists, under the Mississippi statutes, could not leave their landlords during the crop season; when under that statute it was a misdemeanor for anyone to invite a Mississippi Choctaw to leave his landlord, when under contract with or in debt to his landlord; that such removal could only be accomplished by a compromise with the landlord and the payment of the indebtedness of the Mississippi Choctaw before he could be allowed to remove; when by the skillful contrivance of the attorneys of the Choctaw Nation the Mississippi Choctaws were cut off from financial support, by being refused the right to contract with regard to the right of their prospective inheritance in the Choctaw country; that under these artful conditions many of your memorialists were prevented within the six months from making bona fide settlement in the Choctaw country; that these attorneys, having a pecuniary interest as aforesaid, have invoked the courts against your memorialists, as will appear by Exhibit "A."

The attorneys for the Choctaw Nation have further ingeniously contrived and invented various other pitfalls for the Mississippi Choctaws who by incompetency or ignorance or poverty may neglect to make due proof of three years' bona fide residence and prior to the termination of a fixed four-year term.

Your memorialists respectfully insist that these conditions are imposed for the artful purpose of making fees for the attorneys of the Choctaw Nation, to the great harm of your memorialists and without serving any good cause either to the Choctaw Nation or to the United States.

Your memorialists have heretofore set up their rights in the premises to the Congress of the United States by various petitions, as will appear from the following:

Memorials of December, 1896, and January, 1897, and September, 1897.
House Report No. 3080, Fifty-fourth Congress, second session.
House bill No. 10372.
Senate Document No. 129, Fifty-fourth Congress, second session.
House Document No. 274, Fifty-fifth Congress, second session.
Public 162, approved June 28, 1898, Curtis Act.
Emma Nabors *v.* Choctaw Nation, Supreme Court United States, October term, 1898, brief of appellants.
House Document No. 426, Fifty-sixth Congress, first session.
Senate Document No. 263, Fifty-sixth Congress, first session.
Indian appropriation act approved May 31, 1900. By this act (Public 131, p. 18) it was provided as follows:

"*Provided*, That any Mississippi Choctaw, duly identified as such by the United States Commission to the Five Civilized Tribes, shall have the right, at any time prior to the approval of the final rolls of the Choctaws and Chickasaws by the Secretary of the Interior, to make settlement within the Choctaw-Chickasaw country, and on proof of the fact of bona fide settlement may be enrolled by the said United States Commission and by the Secretary of the Interior as Choctaws entitled to allotments: *Provided further*, That all contracts or agreements looking to the sale or incumbrance in any way of the land to be allotted to said Mississippi Choctaws shall be null and void."

These particulars we pray shall be reenacted as above prayed for. Your memorialists call attention to the fact that this language prevented us from receiving proper and necessary pecuniary assistance, and the provisions of

the Curtis Act, Public 162, section 19, page 8, prohibits us pledging any money which might ultimately be due us per capita, the law saying: "The same shall not be liable to the payment of any previously contracted obligations."

Your memorialists were thus cut off from pecuniary assistance when it was well known to the Choctaws that we were too poor to remove ourselves, as they themselves so memorialized Congress of the United States, and made that representation through the Choctaw general council, declaring that we were too poor to emigrate ourselves into the Choctaw Nation. (P. 3, H. R. Rept. No. 3080, 54th Cong., 2d sess.)

Your memorialists call attention to the various endeavors to deny them the right conceded to them by Congress. The rights of your memorialists are further set up in House Report No. 2523, Fifty-sixth Congress, second session; House Document No. 490, Fifty-sixth Congress, second session, and Senate Document No. 319, Fifty-seventh Congress, first session, and by the Choctaw-Chickasaw agreement (Public, 228), approved July 1, 1902, in sections 41, 42, 43, and 44.

Your memorialists humbly submit that putting the Mississippi Choctaws, who have been identified, upon the same basis as other Choctaws will serve an important part in disentangling a portion of the complicated conditions brought about in allotting the lands of Indian Territory, and will serve to prevent delay in final allotment.

THE MISSISSIPPI CHOCTAWS,
By CHARLES F. WINTON.
R. L. QWEN, *Counsel.*

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*To Tams Bixby, Thomas B. Needles, Clifton R. Breckinridge, and W. E. Stanley, as the Commission to the Five Civilized Tribes:*

You are hereby notified that the Choctaw and Chickasaw nations or tribes of Indians will, on the 18th day of January, 1904, at 2 o'clock p. m., or at such time as may be fixed by the court, apply to the Hon. Charles W. Raymond, judge of the United States court for the western district of the Indian Territory, to grant a temporary restraining order against you, as the Commission to the Five Civilized Tribes, as prayed for in the bill in equity, a copy of which is hereto attached and marked "Exhibit A."

CHOCTAW AND CHICKASAW NATIONS OR TRIBES OF INDIANS,
By MANSFIELD, MCMURRAY & CORNISH, *Attorneys.*

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In the United States court for the western district of the Indian Territory, sitting at Muscogee. The Choctaw and Chickasaw nations or tribes of Indians, plaintiffs, *v.* Tams Bixby, Thomas B. Needles, Clifton R. Breckinridge, and W. E. Stanley, as the Commission to the Five Civilized Tribes, defendants. Bill in equity.

The plaintiffs, the Choctaw and Chickasaw nations or tribes of Indians, for cause of action against the defendants, state:

That under the laws of the United States and the treaties between said nations and the United States they are the owners of all the lands embraced within the area known as the Choctaw and Chickasaw nations; that the individual members of said tribes own said lands in fee simple, the character of their holding being fixed by the following provision of article 1 of the treaty of 1853, between the United States and the Choctaw and Chickasaw nations or tribes of Indians:

"And pursuant to an act of Congress approved May 28, 1830, the United States do hereby secure and guarantee the lands embraced within the said limits, to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common; so that each and every member of either tribe shall have an equal undivided interest in the whole: *Provided*, No part thereof shall ever be sold without the consent of both tribes; and that said lands shall revert to the United States if said Indians and their heirs become extinct or abandon the same."

That under the provisions of the treaty entered into between the United States and said nation or tribes of Indians, on April 23, 1898, commonly known as the Atoka agreement, and the agreement supplementary thereto, entered into on the 21st day of March, 1902, and approved by act of Congress of July 1, 1902, the Commission to the Five Civilized Tribes is authorized and empowered, in strict conformity with said treaties, to allot said lands in severalty among the members of said tribes, as therein provided.

That among other things said supplementary treaty contains the following provision in regard to Mississippi Choctaws:

"SEC. 41. All persons duly identified by the Commission to the Five Civilized Tribes, under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement in the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior. The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians, whether of full or mixed blood, who received a patent to land under the said fourteenth article of the said treaty of 1830, who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June 28, 1898, shall be deemed to be Mississippi Choctaws entitled to benefits under article 14 of the said treaty of September 27, 1830, and to identification as such by said Commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation. All of said Mississippi Choctaws so enrolled by said Commission shall be upon a separate roll.

"SEC. 42. When any such Mississippi Choctaw shall have, in good faith, continuously resided upon the lands of the Choctaw and Chickasaw nations for a period of three years, including his residence thereon before and after such enrollment, he shall, upon due proof of such continuous, bona fide residence, made in such manner and before such officer as may be designated by the Secretary of the Interior, receive a patent for his allotment, as provided in the Atoka agreement, and he shall hold the lands allotted to him, as provided in this agreement for citizens of the Choctaw and Chickasaw nations.

"SEC. 43. Applications for enrollment as Mississippi Choctaws, and applications to have land set apart to them as such, must be made personally before the Commission to the Five Civilized Tribes. Fathers may apply for their minor children, and if the father be dead, the mother may apply. Husbands may apply for wives. Applications for orphans, insane persons, and persons of unsound minds may be made by duly appointed guardians or curator, and for aged and infirm persons and prisoners by agents duly authorized thereunto by power of attorney, in the discretion of said Commission.

"SEC. 44. If within four years after such enrollment any such Mississippi Choctaw, or his heirs or representatives, if he be dead, fails to make proof of such continuous bona fide residence for the period so prescribed, or up to the time of the death of such Mississippi Choctaw, in case of his death after enrollment, he and his heirs and representatives, if he be dead, shall be deemed to have acquired no interest in the lands set apart to him, and the same shall be sold at public auction for case, under rules and regulations prescribed by the Secretary of the Interior, and the proceeds paid into the Treasury of the United States to the credit of the Choctaw and Chickasaw tribes, and distributed per capita with other funds of the tribes. Such lands shall not be sold for less than their appraised value. Upon payment of the full purchase price patent shall issue to the purchaser."

That the defendants, as the Commission to the Five Civilized Tribes, have no power and authority to receive proof of the settlement of any person identified as a Mississippi Choctaw, entitled to allotment as provided in said treaty, after the expiration of six months from the identification of said person as a Mississippi Choctaw, entitled to benefits under the provisions of said supplementary agreement; nor has the Commissioner any power, after proof of such settlement, to enroll such person and allot to him a share of the lands of said tribes, as provided in said agreement.

The plaintiffs further state that on the 14th day of February, 1903, the defendants, as the Commission to the Five Civilized Tribes, identified under the provisions of said agreement, all the persons so applying for identification as Mississippi Choctaws in the case of King Brandy et al., pending before said Commission, viz, King Brandy, Jee Baptieste, William Cole, Mary Baptieste and her two minor children, Sam and Louisa Baptieste, and Celestine Brandy.

That the six months within which said persons so identified as Mississipp-Choctaws could, under the provisions of said treaty, make bona fide settlement within the Choctaw and Chickasaw country expired on the 14th day of August, 1903, and that up to and including that date none of said persons removed to and made bona fide settlement within the Choctaw-Chickasaw country.

That notwithstanding this failure to comply with the law, and notwithstanding said defendants, as the Commission to the Five Civilized Tribes, have no lawful power and authority to do so, the defendants are threatening and will, unless restrained, permit said persons to remove to and make settlement in the Choctaw-Chickasaw country and take possession of the lands belonging to these plaintiffs to the exclusion of bona fide members of said tribes, and are threatening and unless restrained will permit said parties to make proof of such settlement to said Commission and will, unless restrained, enroll said persons as Mississippi Choctaws and make to them an allotment of lands as provided in said supplementary agreement.

That the plaintiffs, the members of the Choctaw and Chickasaw Nation, will thus be deprived of their common property of the approximate value of $40,000 to the great damage of these plaintiffs and in violation of their legal and treaty rights.

Plaintiffs further state that said threatened action by the defendants is unlawful, to the great damage of plaintiffs, and constitutes an injury to them for which they have no adequate legal remedy.

Wherefore, the premises considered, the plaintiffs pray that the defendants be enjoined from taking such threatened action, and that upon final hearing that a decree be entered perpetually enjoining them from taking such action in regard to all of such persons or in regard to any persons similarly situated.

CHOCTAW AND CHICKASAW NATIONS OR TRIBES OF INDIANS,
By MANSFIELD, MCMURRAY & CORNISH, *Attorneys.*

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I, R. P. Harrison, clerk of the United States court of the western district of the Indian Territory, do hereby certify that the attached is a true and correct copy of an order of court made on the 18th day of January, 1904, as the same appears from the original on file in my office.

Witness my hand and the seal of said court at Muscogee, in said Territory, this 19th day of January, A. D. 1904.

[SEAL.]

R. P. HARRISON, *Clerk.*
R. A. BAYNE,
*Deputy Clerk.*

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In the United States court in the Indian Territory, western district, sitting at Muscogee. The Choctaw and Chickasaw nations or tribes of Indians, plaintiffs, *v.* Tams Bixby, Thomas B. Needles, Clifton R. Breckinridge, W. E. Stanley as the Commission to the Five Civilized Tribes, defendants.

Now, on this 18th day of January, 1904, come the above-named plaintiffs and defendants, by their respective attorneys, and the application for an injunction, filed in the above-entitled cause, having been presented to, seen, and considered by the court, and the court having heard the evidence introduced in support thereof and the argument of the counsel, and being fully advised in the premises, doth order that the temporary restraining order prayed for in said bill should issue.

Wherefore it is by the court ordered and adjudged that Tams Bixby, Thomas B. Needles, Clifton R. Breckinridge, and W. E. Stanley, individually and as the Commission to the Five Civilized Tribes, be, and they are hereby, restrained until the further order of this court from enrolling King Brandy, Jow Baptieste, William Cole, Mary Baptieste and her two minor children, Sam and Louisa Baptieste, and Celestine Brandy as Mississippi Choctaws, and from making to them an allotment of land as provided in said supplemental agreement, and that the restraining order be in full force and effect from and after the filing with the clerk of this court a bond in the sum of $2,000, to be conditioned as by law required, the sureties on said bond to be approved by the clerk of the court.

This January 18, 1904, at Muscogee, Ind. T.

C. W. RAYMOND, *Judge.*

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[Form No. 191.]

SUMMONS.

UNITED STATES OF AMERICA,
*Indian Territory, Western District, ss.*

*The President of the United States of America to the United States Marshal for the Indian Territory, Western District:*

You are commanded to summons Tams Bixby, Thomas B. Needles, Clifton R. Breckinridge, and W. E. Stanley, as the Commission to the Five Civilized Tribes, to answer on the first day of the next October term of the United States court in the Indian Territory, western district, at Muscogee, being the 3d day of October, A. D. 1904, a complaint filed against them in said court by the Choctaw and Chickasaw nations or tribes of Indians, and warn them that upon their failure to answer the complaint will be taken for confessed and you will make due return of the summons on the first day of next October term of said court.

Witness the Hon. C. W. Raymond, judge of said court, and the seal thereof, at Muscogee, Ind. T., this 19th day of January, A. D. 1904.
[SEAL.] E. P. HARRISON, *Clerk.*
By R. A. BAYNE, *Deputy.*

(Indorsed on back as follows:) 278—1110. No. 5208. Summons. The Choctaw and Chickasaw Nations *v.* Tams Bixby et al. Summons issued the 19th day of January, 1904; returnable October term, 1904. Mansfield, McMurray & Cornish, attorneys for plaintiff.

LOUISIANA PURCHASE EXPOSITION.

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, with the accompanying documents, referred to the Committee on Industrial Arts and Expositions, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith a report from the Secretary of State covering a statement showing the receipts and disbursements of the Louisiana Purchase Exposition Company for the month of January, 1904, furnished by the Louisiana Purchase Exposition Commission in pursuance of section 11 of the "act to provide for celebrating the one hundredth anniversary of the purchase of the Louisiana territory," etc., approved March 3, 1901.

THEODORE ROOSEVELT.

WHITE HOUSE, *March 15, 1904.*

PAN-AMERICAN RAILWAY.

The SPEAKER also laid before the House the following message from the President of the United States; which was read, and, with the accompanying documents, referred to the Committee on Foreign Affairs, and ordered to be printed:

*To the Senate and House of Representatives:*

I transmit herewith, for the information of Congress, a letter from the Secretary of State submitting a copy of the report of the commissioner appointed to carry out the resolution with respect to the Pan-American Railway, adopted by the second international conference of American States, held in the City of Mexico during the winter of 1901-2.

THEODORE ROOSEVELT.

WHITE HOUSE, *Washington, March 15, 1904.*

ABRAM CLAYPOOL.

The SPEAKER also laid before the House the following message from the President of the United States; which was read, and laid on the table:

*To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 12th instant (the Senate concurring), I return herewith House bill No. 9791, entitled "An act granting a pension to Abram Claypool."

THEODORE ROOSEVELT.

WHITE HOUSE, *March 15, 1904.*

CEDED LANDS ON FORT HALL INDIAN RESERVATION.

The SPEAKER also laid before the House the following concurrent resolution of the Senate; which was read, and, by unanimous consent, considered and concurred in:

*Resolved by the Senate (the House of Representatives concurring),* That the President be requested to return to the Senate the bill of the Senate (S. 2323) "relating to ceded lands on the Fort Hall Indian Reservation," that a clerical error appearing therein may be corrected.

WITHDRAWAL OF PAPERS.

Mr. GARDNER of New Jersey, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of B. F. Hundforth (Fifty-fourth Congress), no adverse report having been made thereon.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Naval Affairs was discharged from the further consideration of the bill (S. 2114) to fix the rank of certain officers in the Army, and the same was referred to the Committee on Military Affairs.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET. Mr. Speaker, after conference with the gentleman in charge of the time on the part of the minority on the post-office appropriation bill, I have reached the conclusion that we can agree now upon a limitation of the general debate. I therefore ask unanimous consent that general debate on the post-office appropriation bill be limited to five hours. That would mean five hours from the time we go into Committee of the Whole to-morrow.

The SPEAKER. Is there objection to the request of the gentleman from Indiana [Mr. OVERSTREET]? The Chair hears none, and it is ordered accordingly.

ADJOURNMENT.

And then, on motion of Mr. OVERSTREET (at 5.30 p. m.), the House adjourned.

## EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of Commerce and Labor submitting an estimate of appropriation for compilation, etc., of documented merchant vessels of the United States before July 1, 1820—to the Committee on Appropriations, and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. RICHARDSON of Alabama, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 2465) to revive and amend an act entitled "An act to authorize the Montgomery and Autauga Bridge Company to construct a bridge across the Alabama River near the city of Montgomery, Ala.," reported the same without amendment, accompanied by a report (No. 1591); which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 11449) to authorize the counties of Sherburne and Wright, Minn., to construct a bridge across the Mississippi River, reported the same with amendment, accompanied by a report (No. 1592); which said bill and report were referred to the House Calendar.

Mr. ROBINSON of Indiana, from the Committee on the Territories, to which was referred the bill of the House (H. R. 7266) to ratify, approve, and confirm an act duly enacted by the legislature of the Territory of Hawaii to authorize and provide for the manufacture, distribution, and supply of electric light and power on the island of Oahu, Territory of Hawaii, reported the same with amendment, accompanied by a report (No. 1593); which said bill and report were referred to the House Calendar.

Mr. BEALL of Texas, from the Committee on Claims, to which was referred the bill of the House (H. R. 11) to refund to the State of Texas the sum of $50,875.53, the same being the amount due the State of Texas in the adjustment of claims relating to the transfer of Greer County, Oklahoma Territory, from the State of Texas to the United States, reported the same without amendment, accompanied by a report (No. 1595); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GRAFF, from the Committee on Claims, to which was referred the bill of the House (H. R. 2004) for the relief of Capt. Herman C. Schumm, reported the same without amendment, accompanied by a report (No. 1587); which said bill and report were referred to the Private Calendar.

## ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. DENNY, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 7532) to remove the charge of desertion from the record of Henry D. Cutting, alias Henry C. Stratton, reported the same adversely, accompanied by a report (No. 1588); which said bill and report were ordered laid on the table.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 9919) to amend the military record of Henry Keeler, reported the same adversely, accompanied by a report (No. 1589); which said bill and report were ordered laid on the table.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 9401) for the relief of Daniel Craven, reported the same adversely, accompanied by a report (No. 1590); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the joint resolution (S. R. 54) to permit Maj. Thomas W. Symons, Corps of Engineers, to assist the State of New York by acting as a member of an advisory board of consulting engineers in connection with the improvement and enlargement of the navigable canals of the State of New York, reported the same adversely, accompanied by a report (No. 1594); which said joint resolution and report were ordered laid on the table.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. TAYLOR: A bill (H. R. 13983) to authorize the appoint-

ment of official stenographic reporters for the several circuit and district courts of the United States, to provide compensation therefor, and to define the duties thereof, and for other purposes—to the Committee on the Judiciary.

By Mr. DE ARMOND: A bill (H. R. 13984) to establish a laboratory for the study of the criminal, pauper, and defective classes—to the Committee on the Judiciary.

By Mr. PEARRE: A bill (H. R. 13985) for the relief of policemen employed at the railroad crossings in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GROSVENOR: A bill (H. R. 13986) to amend section 24 of the act approved December 21, 1898, entitled "An act to amend the laws relating to American seamen, for the protection of such seamen, and to promote commerce"—to the Committee on the Merchant Marine and Fisheries.

By Mr. SMITH of Pennsylvania (by request): A bill (H. R. 13987) relating to the issuance of transfers by the street railways of the city of Washington, D. C.—to the Committee on the District of Columbia.

By Mr. BIRDSALL: A bill (H. R. 13988) to provide for the allowance of clerk hire in third-class post-offices—to the Committee on the Post-Office and Post-Roads.

Also, a bill (H. R. 13989) to amend section 3859 of chapter 1, Title XLVI, of the Revised Statutes, relating to compensation of postmasters—to the Committee on the Post-Office and Post-Roads.

By Mr. RICHARDSON of Alabama: A bill (H. R. 13990) to provide for the government of the canal zone at Panama, and for other purposes—to the Committee on Interstate and Foreign Commerce.

By Mr. GLASS: A bill (H. R. 13991) to provide for enlarging the public building at Roanoke, Va., in order to accommodate the United States courts—to the Committee on Public Buildings and Grounds.

By Mr. CURTIS: A bill (H. R. 13992) permitting the Missouri, Kansas and Oklahoma Railroad Company to sell its railroads and properties to the Missouri, Kansas and Texas Railway Company—to the Committee on Indian Affairs.

By Mr. EMERICH: A bill (H. R. 13993) to provide for employees of the United States engaged in the postal service who are incapacitated by injuries sustained in the performance of their duties or who become superannuated after twenty successive years of service, and for other purposes—to the Committee on Reform in the Civil Service.

By Mr. LOUDENSLAGER: A bill (H. R. 13994) to provide for surveys of rivers and harbors at the expense of State or municipal authorities—to the Committee on Rivers and Harbors.

By Mr. FLOOD: A bill (H. R. 13995) to create the Shenandoah Valley Park Commission, and for other purposes—to the Committee on Military Affairs.

By Mr. MUDD: A bill (H. R. 13996) to purchase and equip a rifle range in Prince George County, Md., and for other purposes—to the Committee on Military Affairs.

By Mr. GREGG: A bill (H. R. 13997) to incorporate the Great Council of the United States of the Improved Order of Red Men—to the Committee on the Judiciary.

By Mr. HULL: A bill (H. R. 13998) to increase the efficiency of the Medical Department of the United States Army—to the Committee on Military Affairs.

## PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 13999) granting a pension to Charles S. Abney—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: A bill (H. R. 14000) granting an increase of pension to Bradford A. Gehr—to the Committee on Invalid Pensions.

By Mr. CALDWELL: A bill (H. R. 14001) granting an increase of pension to Leslie C. Armour—to the Committee on Pensions.

By Mr. COWHERD: A bill (H. R. 14002) for the relief of F. X. Mulhaupt and Caroline Mulhaupt, of Jackson County, Mo.—to the Committee on War Claims.

By Mr. CURTIS: A bill (H. R. 14003) for the relief of Theophilus Fisk Mills—to the Committee on the Library.

By Mr. DICK: A bill (H. R. 14004) granting an increase of pension to Sidney H. Cook—to the Committee on Pensions.

Also, a bill (H. R. 14005) granting an increase of pension to George W. Jacques—to the Committee on Invalid Pensions.

By Mr. GILLETT of California: A bill (H. R. 14006) granting an increase of pension to John Wood—to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 14007) granting a pension to James A. Sams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14008) granting a pension to David Wadkins, John Wadkins, and Jacob Shope—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14009) granting a pension to W. J. Hayes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14010) granting a pension to B. W. Bond, alias Smoke—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14011) granting an increase of pension to Nathan Coward—to the Committee on Pensions.

Also, a bill (H. R. 14012) granting an increase of pension to J. L. Welshaus—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14013) granting an increase of pension to George Stillman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14014) to complete the military record of James A. Sams, and for an honorable discharge—to the Committee on Military Affairs.

By Mr. HOWARD: A bill (H. R. 14015) for the relief of the heirs of James Stewart, deceased, and John Lee McMichael, deceased, late of Jasper County, Ga.—to the Committee on War Claims.

By Mr. JONES of Virginia: A bill (H. R. 14016) granting an increase of pension to William J. Whealton—to the Committee on Invalid Pensions.

By Mr. LINDSAY: A bill (H. R. 14017) granting an increase of pension to Louis Voll—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 14018) to remove the charge of desertion from the record of James Lyons—to the Committee on Military Affairs.

By Mr. PADGETT: A bill (H. R. 14019) for the relief of the estate of Washington W. Miller, late of Maury County, Tenn.—to the Committee on War Claims.

By Mr. ROBB: A bill (H. R. 14020) granting an increase of pension to Nancy A. Meredith—to the Committee on Pensions.

By Mr. SCUDDER: A bill (H. R. 14021) granting an increase of pension to Henry C. Earle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14022) granting an increase of pension to Peter Walster—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14023) granting a pension to Phoebe E. Noon—to the Committee on Pensions.

By Mr. SHULL: A bill (H. R. 14024) granting a pension to John J. Gangwere—to the Committee on Invalid Pensions.

By Mr. SOUTHALL: A bill (H. R. 14025) for the relief of the estate of Peter McEnery, deceased—to the Committee on War Claims.

By Mr. STEENERSON: A bill (H. R. 14026) for the relief of Alex Ebberson—to the Committee on Claims.

Also, a bill (H. R. 14027) granting an honorable discharge to Jacob Niebels—to the Committee on Military Affairs.

By Mr. SULLIVAN of Massachusetts: A bill (H. R. 14028) granting an increase of pension to Carrie E. Risley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14029) granting a pension to Clara D. Jones—to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 14030) for the relief of Deloss M. Baker, Frank W. Clay, and Herman V. C. Hart, committee, and to reimburse those who subscribed and paid for site for post-office building at Adrian, Mich.—to the Committee on Public Buildings and Grounds.

By Mr. WADE: A bill (H. R. 14031) granting an increase of pension to W. S. Peck—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14032) granting an increase of pension to John J. Hasson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14033) granting an increase of pension to James S. Throop—to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 14034) granting an increase of pension to Edward C. Sanders—to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 14035) granting an increase of pension to Sarah F. Burnet—to the Committee on Pensions.

By Mr. VREELAND: A bill (H. R. 14036) granting an increase of pension to R. T. Hazzard—to the Committee on Invalid Pensions.

## PETITIONS, ETC.

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

By Mr. ACHESON: Petition of Picking Naval Garrison, No. 4, Army and Navy Union of the United States, of Erie, Pa., in favor of bill H. R. 3586—to the Committee on Naval Affairs.

By Mr. ADAMS of Pennsylvania: Petitions of 89 citizens, M. J. Kappers and 15 others, George A. Stoeckel and 193 others, Michael Koenig and 141 others, Andrew Vogt and 107 others, William Gretz and 27 others, William Giger and 34 others, James McCabe

and 47 others, Henry Stroh and 49 others, Adam Zimmerman and 296 others, all of Philadelphia, Pa., against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petition of Picking Naval Garrison, No. 4, Army and Navy Union of the United States, of Erie, Pa., in favor of bills H. R. 3586 and S. 656—to the Committee on Naval Affairs.

Also, resolution of the Philadelphia Association of Retail Druggists, in favor of bill H. R. 12646—to the Committee on Naval Affairs.

Also, resolution of the Philadelphia Association of Retail Druggists, in favor of a reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. BABCOCK: Papers to accompany bill H. R. 11451, granting an increase of pension to Alexander Morrison—to the Committee on Invalid Pensions.

By Mr. BIRDSALL: Petition of Frank M. Rhomberg and others, of Dubuque, Iowa, against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. BOWERSOCK: Resolution of Allison Circle, Ladies of the Grand Army of the Republic, of Vermilion, Kans., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. CONNELL: Petition of the Scranton Bedding Company, in favor of the enactment of bill H. R. 9302, providing for untaxed denaturized alcohol for industrial purposes—to the Committee on Ways and Means.

By Mr. COWHERD: Petition of Dreyfus, Jones & Co. and others, of Kansas City, Mo., against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, papers to accompany bill H. R. 14002, for relief of F. H. Mulhaupt and Caroline Mulhaupt—to the Committee on War Claims.

By Mr. CURRIER: Resolution of Lebanon (N. H.) Grange, favoring bill H. R. 10765, providing for good roads—to the Committee on Agriculture.

Also, petition of the Prescott Piano Company, of Concord, N. H., in favor of bill H. R. 9302—to the Committee on Ways and Means.

By Mr. CURTIS: Petition of the Columbia Novelty Company, of Leavenworth, Kans., in favor of bill H. R. 9302—to the Committee on Ways and Means.

Also, resolution of Allison Circle, Ladies of the Grand Army of the Republic, Vermilion, Kans., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. DRAPER: Resolution of the Yacht Masters and Engineers' Association, of Brooklyn, N. Y., in favor of bill H. R. 7056—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the executive committee of the Troy (N. Y.) Branch of the Women's National Indian Association, praying for relief for the landless Indians of northern California—to the Committee on Indian Affairs.

By Mr. ESCH: Petition of Thomas P. Benton & Son, in favor of bill H. R. 9302, providing for a reduction of duty on alcohol used in arts and manufactures—to the Committee on Ways and Means.

By Mr. GAINES of West Virginia: Petitions of C. H. Merrill and W. T. Turner, jr., and 28 others, of St. Albans, W. Va.; R. E. Thrasher and members of Richlands Grange, No. 76, of Lewisburg, W. Va., and E. C. Colcord and 48 others, of Kanawha City, W. Va., in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. GRIFFITH: Petition of the John Cobb Chair Company, of Aurora, Ind., in favor of bill H. R. 9302—to the Committee on Ways and Means.

By Mr. GROSVENOR: Petition of citizens of Lancaster, Ohio, in favor of an increase of salary for rural mail carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. GUDGER: Papers to accompany House bill granting a pension to James A. Sams—to the Committee on Invalid Pensions.

By Mr. HEPBURN: Petitions of patrons of rural route No. 5, of rural route No. 3, of rural route No. 7, and of rural route No. 6, of Corning, Iowa; of Mount Etna, Iowa, and of Union County, Iowa, asking for increased pay for rural route carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. HOWELL of Utah: Petition of Charles H. Lindley and others, of Salt Lake City, Utah, against the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. HUFF: Resolution of the Chicago Real Estate Board, in favor of bill H. R. 4483—to the Committee on Interstate and Foreign Commerce.

Also, resolution of Captain George A. Cribbs Circle, Ladies of the Grand Army of the Republic, Department of Pennsylvania, in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, resolution of the Philadelphia Association of Retail Druggists, in favor of bill H. R. 9302—to the Committee on Ways and Means.

By Mr. MILLER: Petition of veterans of the civil war of Lost Springs, Kans., in favor of a service-pension bill—to the Committee on Invalid Pensions.

By Mr. MORRELL: Resolution of the Philadelphia Association of Retail Druggists, in favor of a reduction of the tax on alcohol—to the Committee on Ways and Means.

Also, resolution of the Philadelphia Association of Retail Druggists, in favor of bill H. R. 12646—to the Committee on Naval Affairs.

Also, petition of General Hector Tyndale Circle, No. 65, Ladies of the Grand Army of the Republic, of Philadelphia, Pa., in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of Picking Naval Garrison, No. 4, Army and Navy Union of the United States, of Erie, Pa., in favor of bills H. R. 3586 and S. 656—to the Committee on Naval Affairs.

By Mr. RANDELL of Texas: Petitions of W. H. Chandler and others, of Plano, Tex., and E. W. Olderson and 37 others, of Sherman, Tex., in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. RICHARDSON of Alabama: Papers to accompany bill for relief of William C. Bragg—to the Committee on War Claims.

Also, papers to accompany bill for relief of James H. Ware—to the Committee on War Claims.

By Mr. ROBB: Paper to accompany bill granting an increase of pension to Nancy A. Meredith—to the Committee on Pensions.

By Mr. ROBINSON of Indiana: Petition of Morton T. McComb, of Fort Wayne, Ind., in favor of an increase of salary and privileges for rural mail carriers—to the Committee on the Post-Office and Post-Roads.

Also, petition of Dr. Z. H. Stamets, of Auburn, Ind., in favor of the Brownlow good-roads bill—to the Committee on Agriculture.

By Mr. RYAN: Petition of Hayward Porter Circle, No. 12, Ladies of the Grand Army of the Republic, of Troy, N. Y., in favor of a service-pension law—to the Committee on Invalid Pensions.

Also, petition of the New England Grain Dealers' Association, of Boston, in favor of bill H. R. 6273—to the Committee on Interstate and Foreign Commerce.

Also, petition of the drug trade section of the New York Board of Trade and Transportation, to reduce the tax on alcohol—to the Committee on Ways and Means.

By Mr. STEENERSON: Paper to accompany bill for relief of Alex. Ebberson—to the Committee on Claims.

By Mr. SULLIVAN of Massachusetts: Petition of the Doten-Dunton Desk Company, in favor of bill H. R. 9302—to the Committee on Ways and Means.

By Mr. SULZER: Petition of R. A. Anthony, of New York, in favor of bill H. R. 9302—to the Committee on Ways and Means.

Also, resolution of the Travelers' Protective Association of America, relative to amending the bankruptcy act—to the Committee on the Judiciary.

Also, letter of Post Commander Greenough, relative to remodeling of the post at Fort Hamilton, N. Y.—to the Committee on Military Affairs.

Also, resolution of the Chicago Real Estate Board, in favor of bill H. R. 4483, known as the "Mann bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. VAN VOORHIS: Papers to accompany House bill granting a pension to Samuel Lhane—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting a pension to Margaret Dunbar—to the Committee on Invalid Pensions.

By Mr. VREELAND: Petition of Lake Erie Lodge, No. 401; Helfurs Division, No. 56, and Lodge No. 125, Brotherhood of Boiler Makers and Iron-ship Builders of America, of Dunkirk, N. Y., for the passage of a bill for the development of the American merchant marine—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Picking Naval Garrison, No. 4, of Erie, Pa., for the passage of the Penrose-Bates naval retirement bill—to the Committee on Naval Affairs.

Also, petition of the Atlas Furniture Company, the Jamestown Brewing Company, and the Shearman Bus Company, of Jamestown, N. Y., for untaxed denaturized alcohol for industrial purposes—to the Committee on Ways and Means.

By Mr. WADE: Petitions of M. Hollopeter and others, of Roszta, Iowa, and G. W. Swift and others, of Morse, Iowa, against the passage of a parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS of Illinois: Resolution of Coleman Post, No. 508, Grand Army of the Republic, Mount Vernon, Ill., in favor of a service-pension bill—to the Committee on Invalid Pensions.

Also, petition of Andrew Davison and others, of Metropolis, Ill., in favor of bill H. R. 9302—to the Committee on Ways and Means.