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

EXECUTIVE SESSION.

Mr. McCUMBER. 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 five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned until Monday, March 19, 1906, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate March 15, 1906.

CONSUL.

George Eugene Eager, of Illinois, to be consul of the United States at Barmen, Germany, vice Theodore J. Bluthardt, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 15, 1906.

SURVEYOR OF CUSTOMS,

Robert Calvert, of Wisconsin, to be surveyor of customs for the port of La Crosse, in the State of Wisconsin.

RECEIVER OF PUBLIC MONEYS.

George D. Orner, of Oklahoma, to be receiver of public moneys at Alva, Okla.

REGISTER OF THE LAND OFFICE.

Andrew J. Ross, of Oklahoma, to be register of the land office at Alva, Okla.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. Kirtland Warner Perry to be a captain, to rank as such from March 5, 1906, in the Revenue-Cutter Service of the United States.

Second Lieut. Charles Satterlee to be a first lieutenant, to rank as such from March 5, 1906, in the Revenue-Cutter Service of the United States.

Third Lieut. George Ellender Wilcox to be a second lieutenant, to rank as such from March 5, 1906, in the Revenue-Cutter Service of the United States.

POSTMASTER.

NEW YORK.

Edward D. Tompkins to be postmaster at Middletown, in the county of Orange and State of New York.

WITHDRAWAL

Executive nomination withdrawn March 15, 1906.

John Embry, of Oklahoma, to be United States attorney for the district of Oklahoma, vice Horace Speed, removed.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March 15, 1906.*

The House met at 12 o'clock noon.

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

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

WAR CLAIMS.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that Thursday, the 22d instant, be set apart for the consideration of bills on the Private Calendar reported from the Committee on War Claims instead of to-morrow.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that Thursday, the 22d instant, be set apart instead of to-morrow for consideration of bills on the Private Calendar reported from the Committee on War Claims. Is there objection? [After a pause.] The Chair hears none.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

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 14, 1906:

H. R. 13674. An act to amend an act entitled "An act to amend an act entitled 'An act to supplement existing laws relating to the disposition of lands, and so forth, approved March 3, 1901,' approved June 30, 1902."

On March 15, 1906:

H. R. 13673. An act to extend the provisions of the homestead laws to certain lands in the Yellowstone Forest Reserve.

RAILWAY DISCRIMINATIONS AND MONOPOLIES.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent for the present consideration of joint resolution 115.

The SPEAKER. The gentleman from Michigan asks unanimous consent for the present consideration of a joint resolution, which the Clerk will report.

The Clerk read as follows:

Joint resolution (H. J. Res. 115) amending joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March 7, 1906.

Resolved, etc., That joint resolution instructing the Interstate Commerce Commission to make examinations into the subject of railroad discriminations and monopolies, and report on the same from time to time, approved March 7, 1906, is hereby amended by adding the following thereto:

Ninth. To enable the Commission to perform the duties required and accomplish the purposes declared herein, the Commission shall have and exercise under this joint resolution the same power and authority to administer oaths, to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence, and to obtain full information, which said Commission now has under the act to regulate commerce, approved February 4, 1887, and acts amendatory thereof or supplementary thereto now in force or may have under any like statute taking effect hereafter. All the requirements, obligations, liabilities, and immunities imposed or conferred by said act to regulate commerce and by "An act in relation to testimony before the Interstate Commerce Commission in cases under or connected with an act entitled 'An act to regulate commerce,' approved February 4, 1887, and amendments thereto," approved February 11, 1893, shall also apply to all persons who may be subpœnaed to testify as witnesses or to produce documentary evidence in pursuance of the authority herein conferred.

Tenth. The sum of $50,000 is hereby appropriated and added to the appropriation of the Interstate Commerce Commission for the present fiscal year.

The committee amendments were read, as follows:

On page 2, in line 19, after the word "dollars," insert "be, and the same;" and in line 22, after the word "appropriated," insert "out of any money in the Treasury not otherwise appropriated."

On page 2, in line 23, strike out the words "and added," and insert in lieu thereof "in addition."

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

Mr. TOWNSEND. Mr. Speaker, I understand that the Interstate Commerce Commission is ready to proceed with this investigation and are now preparing to submit estimates as to the expense of the investigation, and that the Committee on Appropriations is to look after the appropriation. I therefore move to amend the resolution by striking out lines 21 to 25, inclusive, on page 2.

The SPEAKER. The gentleman from Michigan moves to strike out the lines specified.

Mr. TAWNEY and Mr. MANN rose.

Mr. MANN. I would like to have the amendment reported to the House.

The SPEAKER. The Clerk will report the lines proposed to be stricken out.

The Clerk read as follows:

Strike out the last paragraph of the resolution, which reads as follows: "Tenth. The sum of $50,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in addition to the appropriation of the Interstate Commerce Commission for the present fiscal year."

Mr. TAWNEY. Mr. Speaker, if the gentleman will yield for a moment, I wish to state for the information of the House that the Secretary of the Interstate Commerce Commission called upon the Committee on Appropriations yesterday, under direction of the chairman of the Commission, and stated that they were preparing estimates as to the cost of this investigation, and that, roughly speaking, these estimates will show that cost to be at least $150,000; that $50,000 would not be sufficient. Upon inquiry I learn that the Interstate Commerce Commission could make a reasonably certain estimate and that it will submit its estimate to the Committee on Appropriations or to Congress asking for an appropriation covering the entire investigation.

Thinking that is the better plan, for the reason that then in the future we can pass upon the expenditure of this money, we have requested that the matter be left for the Committee on Appropriations to handle. We can then provide for the entire amount estimated for by the department for this purpose and also attach certain limitations in regard to reporting the expenditures from the appropriation to Congress.

Mr. DALZELL. I desire to ask the gentleman a question. It seems to me from a cursory examination of this resolution that this is merely a reenactment of these two acts.

Mr. TOWNSEND. I would say to the gentleman from Pennsylvania that this is in accordance with the suggestion of the President of the United States.

Mr. DALZELL. I understand that.

Mr. TOWNSEND. In which he suggests that the resolution which we adopted with relation to the Interstate Commerce Commission did not through the amendment confer the power that we sought to confer upon the Commission. And, while we do not assent to the statement that the power does not already exist, we do feel that it is better, inasmuch as the President and the Attorney-General has suggested a doubt, to remove that doubt by enacting an amendment making it perfectly plain.

Mr. DALZELL. I see.

Mr. MANN. Will the gentleman yield to me for a few minutes?

Mr. TOWNSEND. Certainly.

Mr. MANN. Mr. Speaker, I do not oppose the amendment to the resolution or this amendment to this resolution; but in my judgment it is entirely unnecessary. I think the President had been badly informed when he sent to the Congress the message which he did, connected with the statement that he had signed the original resolution. Section 12 of the interstate-commerce act provides that—

> The Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.

Mr. Speaker, under that section of the law the Interstate Commerce Commission under the original law had authority to inquire into every act of the common carriers whether engaged in the transportation of coal or oil or any other commodity. It was given an extensive power, as extensive as it is possible to give by words in the English language. The Commission under the act could have instituted this inquiry on its own motion under the law as it existed. The original resolution passed by this House was simply a direction to the Commission to exercise the law already upon the statute books. Full power was given to the Commission to make an investigation, to subpœna witnesses, to call before the Commission not only witnesses who are railroad officials, but witnesses who might know anything about the subject, from whatever business in life; and, in my judgment, the President was illy informed in reference to the existing law when he sent his message to Congress.

Now, personally, Mr. Speaker, I think the Commission ought to be engaged in other business. I certainly think it is wise to have an investigation at any time for the acquirement of information; but I believe with most gentlemen who have considered this subject, probably including the gentleman who now presents it to the House himself, that the Commission ought to be engaged in enforcing other provisions of the law and let somebody else investigate these charges in relation to railroads being controlled in the interest of coal and oil trusts.

Mr. CRUMPACKER. Will the gentleman allow me to ask him a question?

Mr. MANN. Why, certainly.

Mr. CRUMPACKER. Does the gentleman not get the impression from the President's message upon the Tillman resolution that the President is of the opinion that the resolution contemplated an independent investigation, both of the coal and oil industries, without any regard to transportation?

Mr. MANN. Well, I can not say what the impression of the President might be; but undoubtedly the purpose of Congress in passing the resolution was to have an investigation of the coal and oil business as related to transportation. We have another Department of the Government given the power under existing law to make an investigation of the coal and oil business apart from transportation. That is the Bureau of Corporations, in the Department of Commerce and Labor; and I understand that it has already made an investigation of the oil business, and has had under consideration an investigation of the coal combine.

Mr. CRUMPACKER. I can not understand why the President should treat the resolution in the manner that he did, unless he gave it the interpretation that I have suggested.

Mr. MANN. Well, I do not know why the President treated it as he did. From my experience of departmental methods, I suppose some $1,000 clerk in the Department of Justice gave an opinion, without knowing what the law was, that the resolution was not sufficiently broad, and this opinion, in the course of its peregrinations, reached the Attorney-General and the President and was given out. We all know that sort of thing is constantly happening. It is not the fault of any official, and certainly not of the President.

Mr. TOWNSEND. I wish to say just a word in answer to the gentleman from Illinois. I agree with the gentleman in what he has said upon the original resolution; but I believe that, inasmuch as the President has taken the position that the original resolution was not broad enough, it is evidently the part of wisdom for us to make no mistake in withholding ample authority. The Commission ought to have the power necessary to perform the duties which we impose upon it. It may have, and I am inclined to believe does have, such power now, but it will be better to reconfer it in express terms than to take any chances. And now that a doubt has been raised by so high an authority let us resolve it by passing this resolution.

The SPEAKER. The question is upon agreeing to the amendments.

The amendments were agreed to.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. TOWNSEND, a motion to reconsider the last vote was laid on the table.

FRANKING PRIVILEGE.

Mr. SIBLEY. Mr. Speaker, I am directed by the Committee on the Post-Office and Post-Roads to submit a report in accordance with House resolution No. 120, on the subject of alleged abuses of the franking privilege. I move the adoption of the report.

The SPEAKER. The Chair understands that the resolution was referred to the Committee on the Post-Office and Post-Roads.

Mr. OVERSTREET. Mr. Speaker, a resolution of the House directed the Committee on the Post-Office and Post-Roads to make a certain investigation. That investigation has been made and the committee reports back.

The SPEAKER. The Clerk will read the report.

Mr. WILLIAMS. Mr. Speaker——

The SPEAKER. Does the gentleman desire the report to be read?

Mr. OVERSTREET. The report is not long, and it should be read.

Mr. WILLIAMS. I will ask the gentleman from Pennsylvania if this is the unanimous report of the committee?

Mr. SIBLEY. It is the unanimous report of the committee, Mr. Speaker.

The SPEAKER. The Clerk will read the report.

The Clerk proceeded with the reading of the report. Having read all except the exhibits attached thereto—

Mr. SIBLEY said: Mr. Speaker, I ask unanimous consent that further reading of the report be dispensed with and that the entire report be printed in the RECORD.

The SPEAKER. The gentleman asks unanimous consent that the report be printed in the RECORD.

Mr. SIBLEY. The report and the testimony accompanying it.

The SPEAKER. And the testimony accompanying the report. Is there objection?

Mr. MANN. Mr. Speaker, will this be printed as a document in the regular order?

The SPEAKER. It will be.

Mr. MANN. It is difficult to read in the small type in which it appears in the RECORD.

The SPEAKER. The Chair hears no objection to the request. The question is on agreeing to the motion that the committee be discharged from further consideration of the resolution.

The report was read, as follows:

[House Report No. 2332, Fifty-ninth Congress, first session.]

On January 4, 1906, the House of Representatives adopted the following resolution:

"*Resolved*, That the Committee on the Post-Office and Post-Roads be, and hereby is, instructed to investigate whether or not there are or have been abuses of the franking privilege by Members of Congress or in the name of Members of Congress."

At the time of the consideration of the resolution in the House, as appears from the RECORD of January 4, 1906, at page 673 of the CONGRESSIONAL RECORD, what purported to be an editorial printed in the Washington Post was read and made a part of the record. This editorial was in the following language:

"We quite agree that something ought to be done for the relief of the Post-Office Department. Its work is simply tremendous and, by an interesting coincidence, its usefulness is quite as great. There is no section of the governmental machinery more important or more accurately and satisfactorily conducted. But the burden put upon Mr. Cortelyou and his coadjutors can be materially lightened without impairing its efficiency. It is our opinion, indeed, that the people and the Government both would be better off if the franking privilege were abolished utterly.

"That this privilege has been outrageously abused is a fact of universal knowledge. Congressmen load the postal cars with all sorts of freight—furniture, libraries, kitchen utensils, the family wash, pianos, poultry, barnyard animals, etc., without limit. They frank a cow, a washtub, or a churn as glibly as they do a letter or a speech that no one ever heard. They go further; they lend their franks in large, uncounted bunches to societies and propagandas that would flourish on the public Treasury, as they already thrive upon the people's discontent. The whole system has been converted to the most abominable ends. It presents the perfected spectacle of graft. But its worst expression is to be found in the lumbering up of the mail cars, the preposterous

demands upon the Department's resources of transportation, and the corresponding and concurrent crippling of the postal service in all its proper and legitimate activities.

"We note the presentative of an alternative arrangement, an arrangement under the operation of which Members of Congress will receive a direct allowance for the purpose of conducting their official correspondence without cost to themselves. The expedient is most commendable. We quite agree that Members of Congress, who are but ill-paid public servants, should be spared the constant drain upon their resources involved in postage and the like. They should at least be left entirely free of artificial taxes and protected in the complete enjoyment of what small emolument has been assigned them. But this franking concession, which has grown to the proportions of insolent and predaceous graft, this should be contracted within the limits of common decency and transformed into an explicit allowance, no matter how generous and liberal it may be.

"We think there are very few Congressmen who would care to oppose this adjustment in full view of the public gaze. Why not try it, gentlemen?"

Acting under the direction of the resolution, and presuming that the editorial above referred to was the basis for said resolution, the Committee on the Post-Office and Post-Roads communicated with the Postmaster-General requesting such information as he might be able to give the committee relative to the subject-matter of the resolution. The correspondence with the Postmaster-General in full is attached hereto and made a part of this report.

The committee also requested the managing editor of the Washington Post to inform the committee of the name of the writer of the editorial, and later had before it for examination Mr. John R. McLean, managing editor of the Washington Post, and Mr. Richard Weightman, an editorial writer on the Post. The examination in full of both of these witnesses is attached hereto and made a part of this report.

In his letter to the committee the Postmaster-General said in reference to the subject-matter of the resolution:

"I have the honor to inform you that there have been from time to time instances in which, as the law was construed by the Department, franks have been improperly used, but so far as known the irregularities have been corrected promptly when attention has been drawn to them. There is no penalty for violation of the franking privilege.

"Franked matter is ordinarily under seal, and therefore is not subject to scrutiny. The recipient of the matter, judging for himself, often alleges abuse when such may not be the fact. No doubt this circumstance accounts in a measure for some of the criticism on the subject."

In the examination of both the managing editor of the Washington Post and Mr. Weightman, who admitted that he wrote the editorial in question, it appeared that neither one of these gentlemen had any information whatever of a single instance wherein any Member of Congress had at any time violated the law relative to the franking privilege. It appears that Mr. Weightman had no idea that the statements which were contained in the editorial were based upon facts, but the editorial was written in a spirit of exaggeration. The managing editor of the paper stated that he directed the publication with that idea only, and with no thought of the statements made being accepted by the reading public as statements of facts.

The committee being unable to ascertain any tangible proof which it might use as a basis for further investigation, and believing that the editorial which prompted the resolution was not founded upon facts, as admitted by its writer and the managing editor of the paper, believes no further investigation under the terms of the House resolution is necessary.

While Mr. Weightman, who wrote the editorial, may have intended it as a semihumorous editorial written in an exaggerated style, and while Mr. McLean, the managing editor of the Post, may not have thought that the editorial would be accepted as a true statement of facts, the reading public, which saw the editorial printed in the Washington Post or as copied in numerous papers throughout the country, appears to have taken the editorial more seriously.

It is unfortunate that greater care is not exercised by public journals in presenting their criticism of public men so as to base such criticism upon fact instead of fancy.

In the editorial in question the charges definitely describe misuse of the mails, specifically enumerating articles transmitted under frank by Members, and that these abuses are so common as to be a matter of "universal knowledge," and indulged in to an extent by Members of Congress that "it presents the perfected spectacle of graft."

In a message from the President of the United States, delivered to Congress under date of March 7, 1906, he says: "Publicity can by itself often accomplish extraordinary results for good, and the courts of public judgment may secure such results where the courts of law are powerless." The editor who wrote the article and the managing editor who gave it his official sanction were before the committee as witnesses and both disclaim knowledge of any facts affording basis of justification for the publishing of the editorial.

The Washington Post has not been regarded as a sensational journal. Published at the seat of Government, it is recognized generally by the press of the country as a mirror fairly reflecting events transpiring in national life more minutely than is possible by papers otherwise located. By common consent its editorial page is acknowledged as exceptionally bright, crisp, and sparkling, and the publication, taken altogether, an up-to-date journal. Its owner and managing editor is not a novice in journalism, but has successfully cultivated this field for many years, and in the domain of journalism, of business, of social and political life, has attained prominence.

Therefore, if "the court of public judgment" to which the President refers is to accomplish results for good "where courts of law are powerless," public judgment must be enlightened judgment, and must be formed upon correct and truthful presentation of facts. A misinformed and misdirected public judgment is responsible for the greatest tragedies marking human history. This article, reflecting upon the general integrity of Congress, has probably been copied in the newspapers of every Congressional district in the Federal Union, and must necessarily tend to a contempt for law; for if the public mind be imbued with the belief that those who make the laws are venal and their action "presents the perfected spectacle of graft," then the honest citizen may well doubt the permanence of free institutions or blessings to flow therefrom when the fountain sources are polluted and the people's interests so shamelessly betrayed by those empowered to stand as their representatives in public life.

There have been epochs in American journalism where the bias of partisan rancor was reflected in editorial utterances, but the editors of the past who have been illustrious in American journalism were conspicuous for their ability in the marshalling of facts, not in the manufacturing of facts.

Your committee believes and admits that all our official actions are proper subjects for criticism by the press, and that it is entitled to illuminate and enlarge upon our mistakes, but we most respectfully submit that the press which stands as the censor of official conduct and affords an opportunity for the formation of an enlightened public judgment to secure "results of good where courts of law are powerless," owe it not alone to the public, but to itself that when a general indictment is drawn, challenging the integrity of Congress, there should be a substantial basis of facts before Congress be arraigned at the bar of public opinion.

It appears by the testimony that after the publication of these charges, and when Congress had ordered the Committee on the Post-Office and Post-Roads to make investigation and determine who, if any, of its membership was guilty of these offenses, a subsequent editorial appeared in the Washington Post stating that these charges were not to be taken seriously, but rather in the spirit of pleasantry and exaggerated humor, having for its object the abolishment of the franking privilege. It is known that the original charges have been widely copied, but it does not appear that the subsequent editorial explaining that the charges were to be taken in a humorous sense has been copied by the press. Therefore the injury lies in this, that throughout the country there has been instilled the impression that the franking privilege has been abused and that Congress "presents the perfected spectacle of graft," because one of the foremost journals of the nation, in a spirit of pleasantry, has charged as a fact of "universal knowledge" that these abuses do exist.

The committee requests that it be discharged from further consideration of the subject.

[House resolution No. 120, Fifty-ninth Congress, first session.]

Resolved, That the Committee on the Post-Office and Post-Roads be, and hereby is, instructed to investigate whether or not there are or have been abuses of the franking privilege by Members of Congress or in the name of Members of Congress.

JANUARY 9, 1906.

Hon. GEORGE B. CORTELYOU,
Postmaster-General, Washington, D. C.

SIR: By direction of the Committee on the Post-Office and Post-Roads of the House of Representatives, I inclose herewith copy of a resolution adopted by the House of Representatives on the 4th day of January, 1906, and referred for consideration to this committee, and request that you send to me, for use of the committee, at as early a date as possible, any information which you may have relative to the use of the franking privilege by Members of Congress in violation of law.

Very respectfully,

JESSE OVERSTREET, *Chairman.*

JANUARY 11, 1906.

Hon. GEORGE B. CORTELYOU,
Postmaster-General, Washington, D. C.

SIR: Supplementing my letter of yesterday to you, in reference to House resolution of January 4, 1906, I wish to say further that the committee has no intention at this time of considering the general subject of the franking privilege with reference to changes in existing law or existing practices under the law. We intend to confine the present inquiry directly to the resolution and do not desire any information except such as you may be able to give touching violations of the law by Members of Congress in the use of the franking privilege.

Yours, respectfully,

JESSE OVERSTREET, *Chairman.*

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., February 22, 1906.

MY DEAR SIR: Referring to your letters of the 9th and 11th ultimo, with the former of which was inclosed a copy of a resolution adopted by the House of Representatives on January 4, 1906, instructing your committee to investigate "whether or not there are or have been abuses of the franking privilege by Members of Congress or in the names of Members of Congress," I have the honor to inform you that there have been from time to time instances in which, as the law was construed by the Department, franks have been improperly used, but so far as known the irregularities have been corrected promptly when attention has been drawn to them. There is no penalty for violation of the franking privilege.

Franked matter is ordinarily under seal, and therefore is not subject to scrutiny. The recipient of the matter, judging for himself, often alleges abuse when such may not be the fact. No doubt this circumstance accounts in a measure for some of the criticism on the subject.

While possibly not altogether germane to the resolution, as interpreted in your communications of the above dates, I feel that some attention should be given to the practice of permitting the use of franks by organizations in no way connected with any branch of the Government and that it should be greatly restricted, if not altogether prohibited.

Neither the resolution nor your inquiry calls for any further suggestions on this subject, but I deem it proper to invite attention to the recommendations contained in my annual report, under the head of "Government free matter," which had in view a system of accounting whereby the Post-Office Department should receive credit for work performed for the other Departments and branches of the Government. It is the judgment of this Department that such a system would correct in some degree what may not improperly be regarded as abuses of both the penalty and franking privileges.

Very respectfully,

GEO. B. CORTELYOU, *Postmaster-General.*

Hon. JESSE OVERSTREET,
Chairman Committee on the Post-Office and Post-Roads,
House of Representatives.

JANUARY 9, 1906.

MANAGING EDITOR WASHINGTON POST,
Washington, D. C.

SIR: I am directed by the Committee on the Post-Office and Post-Roads, of the House of Representatives, to which committee has been referred for consideration a resolution, copy of which I herewith inclose, to request of you the name of the person who wrote the editorial appearing in a recent issue of your paper, copy of which, as appears in the CONGRESSIONAL RECORD of the day of January 4, I also inclose.

The committee desires the name of the writer for the purpose of re-

questing his appearance before the committee to testify relative to the statements made in that editorial.

Very respectfully,

JESSE OVERSTREET, *Chairman.*

JANUARY 15, 1906.

MANAGING EDITOR, WASHINGTON POST,
Washington, D. C.

SIR: I have had no reply to my letter to you, under date of January 9, asking the name of the person who wrote a certain editorial in your paper.

Will you kindly advise me of the name of this gentleman, in order that I may ask him to appear before the Committee on Post-Office and Post-Roads to testify under the resolution, a copy of which I sent you in my other communication?

Very respectfully,

JESSE OVERSTREET, *Chairman.*

JANUARY 18, 1906.

Hon. JESSE OVERSTREET: The name of the writer is Mr. Richard Weightman. If you will kindly let me know in advance of the time you will want to see him I will let him know and he will call.

Very truly,

J. R. MCLEAN.

FEBRUARY 24, 1906.

Mr. RICHARD WEIGHTMAN,
Washington Post, Washington, D. C.

MY DEAR SIR: Under instructions from the Committee on the Post-Office and Post-Roads of the House of Representatives, I request that you appear before that committee at 10.30 o'clock a. m., Tuesday, February 27, to be heard with respect to the resolution of the House under date of January 4, 1906, a copy of which I herewith inclose.

Very respectfully,

JESSE OVERSTREET, *Chairman.*

THE WASHINGTON POST,
Washington, D. C., February 26, 1906.

Hon. JESSE OVERSTREET, *Chairman, etc.*

DEAR SIR: I am in receipt of your favor of the 24th instant, and in reply beg to say that I shall report at the place and time mentioned, if the illness now visiting my family permits. I know nothing personally about abuses of the franking privilege and can say simply that and nothing more when I appear before the committee. It seems to me that I should not be required to leave a sick bed, where I am needed at that particular hour, merely to explain that I have nothing to say. Please believe that I have no desire to disoblige you or to exhibit anything but sincere respect for the committee. The fact is, however, that I am in some distress at home just now, and, naturally, have no burning appetite for comedy.

Very respectfully,

RICHD. WEIGHTMAN.

MARCH 6, 1906.

Mr. JOHN R. MCLEAN,
Managing Editor the Washington Post, Washington, D. C.

MY DEAR SIR: I am directed by the Committee on Post-Office and Post-Roads to request your attendance at the room of the committee at the Capitol at 11 a. m., March 7, 1906.

The committee desires to interrogate you with reference to a resolution adopted by the House of Representatives on January 4, 1906, a copy of which resolution I herewith inclose, the basis for which resolution was an editorial appearing in the Washington Post, a copy of which editorial as printed in the CONGRESSIONAL RECORD of the date of January 4, 1906, I also inclose.

Very respectfully,

JESSE OVERSTREET, *Chairman.*

Hearing before the Committee on Post-Office and Post-Roads of the House of Representatives on the resolution submitted by Mr. SIMS in regard to alleged violations of the franking privilege. Tuesday, March 7, 1906.

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
HOUSE OF REPRESENTATIVES,
Tuesday, March 6, 1906.

The committee met at 10.50 o'clock a. m., Hon. JESSE OVERSTREET in the chair.

The CHAIRMAN. I wish to lay before the committee a resolution, a copy of which you will find at your places, known as the "Sims resolution," which is as follows:

"*Resolved*, That the Committee on the Post-Office and Post-Roads be, and hereby is, instructed to investigate whether or not there are or have been abuses of the franking privilege by Members of Congress or in the name of Members of Congress."

Mr. Richard Weightman is present, by request, to testify in reference to matters as to which the committee directed me to inquire at the time he attends.

Mr. GRIGGS. I have never seen the editorial. I understand this hearing is based on an editorial in the Post.

The CHAIRMAN. Exactly so.

TESTIMONY OF RICHARD L. WEIGHTMAN.

The CHAIRMAN. Will you please state your name, residence, and occupation?

Mr. WEIGHTMAN. My name is Weightman, Richard; occupation, journalist, and my residence, Washington.

The CHAIRMAN. With which journal are you now associated?

Mr. WEIGHTMAN. The Washington Post.

The CHAIRMAN. How long have you been associated with it?

Mr. WEIGHTMAN. Well, with the exception of a slight absence of a few months I have been there fourteen years.

The CHAIRMAN. I will ask you to examine the CONGRESSIONAL RECORD dated January 4, which is before you, at page 673, in small type, with the heading "Abolish the franking privilege." Have you read that since entering the room?

Mr. WEIGHTMAN. Yes, sir.

The CHAIRMAN. Did that appear in the Washington Post?

Mr. WEIGHTMAN. Oh, yes.

The CHAIRMAN. Will you tell the committee who wrote that?

Mr. WEIGHTMAN. I did.

The CHAIRMAN. Will you kindly inform the committee of any facts with reference to the violation of the franking privilege referred to in that editorial?

Mr. WEIGHTMAN. No, sir.

The CHAIRMAN. Had you any facts upon which to base that editorial?

Mr. WEIGHTMAN. Not to my personal knowledge; no, sir.

The CHAIRMAN. Then I understand that the editorial is not based upon facts at all?

Mr. WEIGHTMAN. Oh, yes; but not upon my personal experience of it.

The CHAIRMAN. What facts do you mean, then?

Mr. WEIGHTMAN. If you will permit me, I will explain it in my own way.

The CHAIRMAN. Very well.

Mr. WEIGHTMAN. In the first place, an editorial writer does not go out and get his own facts; if he did he could not write editorials. His facts are brought to him by the managing editor or the proprietor and he is told to write so and so, and he does that; he takes it for granted that the facts are there. At any rate, it is none of his business.

The CHAIRMAN. Were facts given to you by anybody?

Mr. WEIGHTMAN. This was really a copy of an article that Mr. Beriah Wilkins told me to write three or four years ago; it is practically the same old story.

The CHAIRMAN. What do you refer to as the same old story?

Mr. WEIGHTMAN. The general allegations here, which, of course, anyone can see are fantastic and exaggerated and intended to be; and as long as this article was given so much prominence I don't see why the one published the next day was not given the same prominence. That is your affair, though.

The CHAIRMAN. Then, at the time you wrote this particular editorial, or any time immediately preceding it, you had no particular facts laid before you?

Mr. WEIGHTMAN. No; none except that I could write about so and so.

The CHAIRMAN. Who gave you those——

Mr. WEIGHTMAN. Originally, Mr. Wilkins.

The CHAIRMAN (continuing). Who gave you instructions to write this particular editorial?

Mr. WEIGHTMAN. Nobody. The subject came up and I went on the same facts—the same supposition or theory.

The CHAIRMAN. What do you mean by "the subject came up?"

Mr. WEIGHTMAN. There was something said about it in the papers; somebody made a speech about it.

The CHAIRMAN. Can you give this committee any information, direct or indirect, recent or remote, which would enable the committee to find any facts which you allege in this editorial?

Mr. WEIGHTMAN. Well, personally I can not, but——

The CHAIRMAN. Do you know of anybody with whom you have talked personally whom you believe could give any such information?

Mr. WEIGHTMAN. Oh, yes.

The CHAIRMAN. Please give us their names.

Mr. WEIGHTMAN. Well, Mr. Bennett has been publishing articles in the Post. They are under his own signature.

The CHAIRMAN. About the violation of the franking privilege?

Mr. WEIGHTMAN. Yes.

The CHAIRMAN. Who is Mr. Bennett?

Mr. WEIGHTMAN. Well, he is one of the writers on the Post.

The CHAIRMAN. And what was your purpose in writing that editorial?

Mr. WEIGHTMAN. Nothing at all except to do my day's work. I had no personal object.

The CHAIRMAN. Is it part of your day's work to write that Members of the Congress are violating the law when you have no facts on which to base the allegations?

Mr. WEIGHTMAN. Oh, well, you can not hold me responsible for what the Post writes.

The CHAIRMAN. Can not we hold you responsible for what you say?

Mr. WEIGHTMAN. No; it is not what I say.

The CHAIRMAN. Did you say this?

Mr. WEIGHTMAN. I am telling you that I wrote it, but as a matter of fact I can not say what I may be called upon to write for any newspaper unless I own it, and nobody can say in a well-organized newspaper except the owner and the responsible managing editor.

The CHAIRMAN. Did any managing editor tell you to write this particular editorial?

Mr. WEIGHTMAN. No; he doesn't always tell me. He told me years ago——

The CHAIRMAN. The paper has changed ownership since then?

Mr. WEIGHTMAN. Yes, sir.

The CHAIRMAN. Have you received any instructions from the present managing editor or the proprietor of this paper to write such an editorial as this?

Mr. WEIGHTMAN. No; not at all. When I am left to my own devices I naturally pursue the same course as has been pursued and advocate the same theories which have been advocated before. I hand in my editorials, and sometimes they are not published; sometimes they are amended.

The CHAIRMAN. You use this expression, after making reference to the abuse of the franking privilege:

"That this privilege has been outrageously abused is a fact of universal knowledge."

Mr. WEIGHTMAN. Yes.

The CHAIRMAN. And yet you state to the committee that you have absolutely no facts upon which to base it?

Mr. WEIGHTMAN. I say I have not personally.

The CHAIRMAN. Then the statement I have just read is not true. Is this statement true; that this privilege has been outrageously abused is a fact of universal knowledge?

Mr. WEIGHTMAN. Well, I think it is; I don't know.

The CHAIRMAN. Upon what do you base your thought that it is true?

Mr. WEIGHTMAN. Simply because it has been a matter of common talk and newspaper publication for years.

The CHAIRMAN. You think that because it has been a matter of common talk and newspaper publication it is true?

Mr. WEIGHTMAN. Not all of it; but as I am here in Washington and I——

The CHAIRMAN. What abuses of the franking privilege do you know of, of your own personal knowledge?

Mr. WEIGHTMAN. I haven't seen any, certainly.

The CHAIRMAN. Do you know of any abuse?

Mr. WEIGHTMAN. On the strict line of evidence, no; I can not say that I do.

The CHAIRMAN. Then do you say that it was true when you wrote this language:

"That this privilege has been outrageously abused is a fact of universal knowledge?"

Mr. WEIGHTMAN. I put that in for the paper to print if they wanted to.

The CHAIRMAN. I am asking you that question.

Mr. WEIGHTMAN. You see I can not assume any responsibility for the publication.

The CHAIRMAN. I am not asking that. I am asking you if the statement which you made is true.

Mr. WEIGHTMAN. I thought it was true when I wrote it.

The CHAIRMAN. And yet you can not name a single fact?

Mr. WEIGHTMAN. No, sir. I have a little decision here——

The CHAIRMAN. You say here——

Mr. WEIGHTMAN. Here is a little decision of the Postmaster-General, just rendered, on one of those things about the Reverend Crafts, who has been using franks of Members of Congress here in large quantities, and here is his decision that it is improper and unlawful. If you had asked me the day before yesterday about it, I would only have told you that I thought so; but here is the Postmaster-General's decision.

The CHAIRMAN. I will read again, Mr. Weightman, from your editorial:

"Congressmen load the cars with all sorts of freight—furniture, libraries, kitchen utensils, the family wash, pianos, poultry, barnyard animals, etc., without limit."

Do you know that of your own personal knowledge?

Mr. WEIGHTMAN. No, sir.

The CHAIRMAN. Is that statement true?

Mr. WEIGHTMAN. I think so, but I don't know it.

The CHAIRMAN. Why do you think so?

Mr. WEIGHTMAN. Because I have heard it.

The CHAIRMAN. Do you believe everything you hear?

Mr. WEIGHTMAN. No.

The CHAIRMAN. Is not that statement false, as a matter of fact?

Mr. WEIGHTMAN. I don't think so. It may be exaggerated, as I explained the next day.

The CHAIRMAN. Do you believe that any Member of Congress ever put a piano in the mail?

Mr. WEIGHTMAN. Well, I never heard that; no; but, as I told you, that is an extravagant statement.

The CHAIRMAN. I am asking you if you have ever heard of anybody putting a piano in the mail.

Mr. WEIGHTMAN. I never heard about a piano, but I have heard about sofas and furniture.

The CHAIRMAN. Did you ever hear of anybody putting a barnyard animal in the mails?

Mr. WEIGHTMAN. Not specifically.

The CHAIRMAN. Then is that statement true?

Mr. WEIGHTMAN. I don't know.

The CHAIRMAN (reading further from the editorial)—

"They frank a cow, a washtub, or a churn as glibly as they do a letter or the speech that no one ever heard."

Do you know of any Member of Congress that has ever franked a cow?

Mr. WEIGHTMAN. No, sir.

The CHAIRMAN. Was that statement true?

Mr. WEIGHTMAN. I don't know whether it was or not; perhaps not.

The CHAIRMAN. Was it not false?

Mr. WEIGHTMAN. I don't know.

The CHAIRMAN. Was there not more falsehood to it than there was truth?

Mr. WEIGHTMAN. Possibly. I don't know; I can not tell. As I don't know one thing I can not know the other very well. It all comes back to what I told you before, that the man who prints the article—publishes it—is the man to whom you should apply.

The CHAIRMAN. You say you have been connected with the Post, with a slight interval, for fourteen years?

Mr. WEIGHTMAN. Yes.

The CHAIRMAN. You know in a general way the character of the mails and the articles transmitted through the mails, do you?

Mr. WEIGHTMAN. Yes.

The CHAIRMAN. Have you ever believed that a cow was a mailable article?

Mr. WEIGHTMAN. I know of its being done in Wisconsin.

The CHAIRMAN. By mail?

Mr. WEIGHTMAN. Oh, yes.

The CHAIRMAN. Was it not by express?

Mr. WEIGHTMAN. Well, I don't know.

The CHAIRMAN. Do you mean to say that a cow was ever sent by mail in Wisconsin?

Mr. WEIGHTMAN. I understood it was franked.

The CHAIRMAN. Where did you understand it?

Mr. WEIGHTMAN. I understood——

Mr. GRIGGS. It was not a Congressman, was it?

Mr. WEIGHTMAN. No; this was a governor.

The CHAIRMAN. Does a governor have the franking privilege?

Mr. WEIGHTMAN. I don't know; everybody seems to have it. Mr. Crafts over here has it—this preacher.

The CHAIRMAN. He has not a frank.

Mr. WEIGHTMAN. He has evidently been using one.

The CHAIRMAN. That is a different proposition. I am asking you about your information on which you base this editorial.

Mr. WEIGHTMAN. I have already told you I haven't got any.

The CHAIRMAN. Did you have any when you wrote this article?

Mr. WEIGHTMAN. No more than I have told you.

The CHAIRMAN. No more than you have testified there in your answers?

Mr. WEIGHTMAN. No.

The CHAIRMAN. No information?

Mr. WEIGHTMAN. I hope you don't think I am concealing anything.

The CHAIRMAN. No; I am asking you if you have any more information than you have given us?

Mr. WEIGHTMAN. No.

Mr. SIBLEY. I hope Mr. Weightman does not think he is revealing very much.

Mr. WEIGHTMAN. I am telling you everything I know.

The CHAIRMAN. I am giving you credit for telling everything you know, but you have not displayed very much information about any facts upon which to base such an editorial.

Mr. WEIGHTMAN. I was frank about it in the first place.

The CHAIRMAN. As a matter of fact, you had not any facts of this character when you wrote it?

Mr. WEIGHTMAN. No, sir.

The CHAIRMAN. Then what was your purpose in writing it?

Mr. WEIGHTMAN. I was doing my work on the paper. You don't seem to understand that I am not responsible for what the paper prints, and this was a subject that has been before the country for years. I can find you articles like that printed three or four years ago, when Mr. Wilkins was alive. He came to me and told me to do so and so, and I supposed he knew what he was doing, and he was responsible, and not I. I took this same old subject; I saw some mention that somebody made of it in a speech. Reverend Crafts is getting active again, and I knew about——

Mr. HEDGE. You did not hear about this order you have referred to until yesterday, did you?

Mr. WEIGHTMAN. Oh, yes; and wrote about it. I didn't hear about the decision—no—until last Saturday, but the subject had been discussed in the newspapers and in the press generally.

Mr. HEDGE. You didn't have that in mind at the time you wrote this?

Mr. WEIGHTMAN. No.

Mr. HEDGE. You didn't refer to it?

Mr. WEIGHTMAN. No; not in there. The fact is that the writing of an editorial and the preparation of the news articles are two very different things.

Mr. HEDGE. You say you got your information from Mr. Bennett?

Mr. WEIGHTMAN. Yes.

Mr. HEDGE. Does he bear the same relation to the Post that you do?

Mr. WEIGHTMAN. He writes news articles and signs his name. He gives his facts; he is in a very different position from me.

Mr. HEDGE. Was Mr. Bennett connected with the Post at the time this editorial was written?

Mr. WEIGHTMAN. Oh, yes.

Mr. HEDGE. Had he written any articles on this subject?

Mr. WEIGHTMAN. That I don't know. He writes editorial and news articles, both.

Mr. HEDGE. When you say that this privilege has been outrageously abused and is a fact of universal knowledge what do you mean by "universal knowledge?"

Mr. WEIGHTMAN. You see, you are catechising me; you are asking me for definitions of words that I can not give.

Mr. HEDGE. We do not often have an opportunity of catechising so intelligent a witness. You state that this is a matter of universal knowledge?

Mr. WEIGHTMAN. I should have said, I suppose, that it is the universal belief and gossip.

Mr. HEDGE. You wish to correct that?

Mr. WEIGHTMAN. I can not correct it in the Post, but they do it frequently; it hurts my feelings, but they do it.

Mr. HEDGE. I am referring to the statement here. You are responsible for your statements made here.

Mr. WEIGHTMAN. Yes.

Mr. HEDGE. You made the statement that this was a matter of universal knowledge.

Mr. WEIGHTMAN. No; I said I should have said belief; that is what I say personally; I disclaim any responsibility.

Mr. HEDGE. You do not admit that there is any universal knowledge that you have not a share in, do you?

Mr. WEIGHTMAN. Oh, yes.

Mr. HEDGE. Universal knowledge?

Mr. WEIGHTMAN. Oh, a great deal.

Mr. GRIGGS. As I understand this examination, it is for the purpose of arriving at the names of any persons who may have been guilty of this charge in this editorial. Now, then, can you give to the committee the names of any persons who claim to know things charged in this editorial?

Mr. WEIGHTMAN. Well, Mr. Wilkins is dead, and the managing editor has gone to Chicago; he is the man that received the facts and gave us the subjects to write about; he is not here or I would refer you to him.

Mr. GRIGGS. You mean Mr. Bone, I suppose?

Mr. WEIGHTMAN. Yes; Mr. Scott Bone.

Mr. GRIGGS. Mr. Bone was not managing editor at the time you wrote this editorial?

Mr. WEIGHTMAN. No; but when I wrote the other, previously, Mr. Bone was managing editor. Mr. Bone has left the paper now.

Mr. GRIGGS. You insist, of course, that you are not responsible for anything the Post says——

Mr. WEIGHTMAN. Of course not.

Mr. GRIGGS. We understand that very well, but you understand that you are here in your personal capacity, do you not?

Mr. WEIGHTMAN. Yes, sir.

Mr. GRIGGS. Now, then, as to these charges in that editorial which are directly made against Members of Congress by name——

Mr. WEIGHTMAN. Not names.

Mr. GRIGGS. Yes; Members of Congress.

Mr. WEIGHTMAN. Oh, that way.

Mr. GRIGGS. I possibly should say by title. You do not know of any person except Mr. Beriah Wilkins and Mr. Bone—I simply want to get at facts, that is all——

Mr. WEIGHTMAN. I understand, but you confuse the situation, I think. I am here as a witness in my personal capacity, but I did not write that editorial in my personal capacity.

Mr. GRIGGS. I understand that; but you must have had some knowledge in your personal capacity?

Mr. WEIGHTMAN. I had what I thought was knowledge, but it was not universal.

Mr. GRIGGS. Now, then, give us the basis of that knowledge.

Mr. WEIGHTMAN. Oh, well, in a newspaper office, Mr. Griggs, unless I give you the whole story of the construction of a newspaper office I don't suppose I would make myself plain at all. We have three sets of people in there; one are the men who go out and get the facts, as they suppose, innocently suppose; the others are those employed to comment on them, and the other class are those who tell how to comment on the facts, those who dictate the policy of the paper. The individual writer hasn't anything to do with it. Sometimes he writes things he doesn't believe in.

Mr. GRIGGS. I understand, but the question before you and before the committee is whether you believe him——

Mr. WEIGHTMAN (interrupting). Oh, no, no; I think that was an extravagance and so wrote the next day. Mr. McLean came to me. I think I get $25 a week extra for embroidery.

Mr. GRIGGS. I think I understand.

The CHAIRMAN. You regarded this as embroidery, I understand?

Mr. WEIGHTMAN. It was embroidery of what I believed to be facts. It was put in a grotesque way and, I thought, an extravagant way, and when it was taken seriously here I wrote another article.

Mr. GRIGGS. Then you can not give us facts to reach any persons that are guilty?

Mr. WEIGHTMAN. No.

Mr. SIMS. Inasmuch as I am the man who took seriously the statements which you say now are neither true nor serious, I would like to ask you a few questions.

Mr. WEIGHTMAN. Yes, sir.

Mr. SIMS. This editorial is headed, "Abolish the franking privilege," is it not?

Mr. WEIGHTMAN. I think so.

Mr. SIMS. Did you write that?

Mr. WEIGHTMAN. Yes, sir.

Mr. SIMS. Your object in writing this article, then, was to secure the demand that you made, and that is to have the franking privilege abolished?

Mr. WEIGHTMAN. Not at all.

Mr. SIMS. Is not that the purport of the article from one end to the other—to abolish the franking privilege and have a money allowance made in lieu of it—because, on your allegation, Members of Congress abuse the franking privilege?

Mr. WEIGHTMAN. I deny that as my allegation at all; that is the Post.

Mr. SIMS. I say is not that the object of the article—to furnish an argument, based upon alleged facts, for the abolition of the franking privilege—is not that the object?

Mr. WEIGHTMAN. I fancy that is one of the objects.

Mr. SIMS. You say you "fancy." You certainly ought to be able to state what the object was, if the object is not expressed on the face of it.

Mr. WEIGHTMAN. It seems to me I have made it clear that I have no object in anything I write except to please my employer and carry out his policy.

Mr. SIMS. Now, I want to ask you if you as an editorial writer will write an article that you neither believe in nor indorse, simply because you are a salaried employee, an article touching the character of officials, high or low?

Mr. WEIGHTMAN. Is that in the form of an interrogatory?

Mr. SIMS. That is what it is.

Mr. WEIGHTMAN. I must say again, for about the tenth time, that I do not do these things in my personal capacity, and I am not going to be held responsible for them.

Mr. SIMS. But I ask you as an editorial writer, do you write an editorial alleging existence of facts which you yourself do not believe, simply because you are paid a salary.

Mr. WEIGHTMAN. I do not think I will allege anything seriously that I don't believe.

Mr. GRIGGS. I don't understand you.

Mr. WEIGHTMAN. I say I do not think I would allege anything seriously that I do not believe or that I violently disbelieve.

Mr. SIMS. Now, I want to ask you who gave you orders or directions, or whatever is your way of expressing it, to write upon this subject and to write this article?

Mr. WEIGHTMAN. Nobody.

Mr. SIMS. Was this article passed on by the managing editor, the responsible person in the Post, before it was printed?

Mr. WEIGHTMAN. Why, certainly. Nothing can go into the Post——

Mr. SIMS. Who is the responsible managing editor of the Post, or responsible head?

Mr. WEIGHTMAN. Mr. McLean is the responsible managing editor of the Post.

Mr. SIMS. Did he pass on this?

Mr. WEIGHTMAN. I don't know whether he did or not; it was published by his authority.

Mr. SIMS. And you declare you have no responsibility whatever——

Mr. WEIGHTMAN. No personal responsibility.

Mr. SIMS. When you stated here—I want to quote the exact language, and therefore I will look for it—after stating these facts with reference to Members of Congress, this article says:

"It presents the perfected spectacle of graft."

Now, is not that a charge which is very serious and affecting the character and usefulness of any Member of Congress who may be guilty?

Mr. WEIGHTMAN. Yes; I should think it would if he was guilty.

Mr. SIMS. Would you make a charge of that kind simply by direction or orders of the managing editor?

Mr. WEIGHTMAN. Why, certainly; of course I would; or else resign.

Mr. GRIGGS. I understand by that that if the managing editor were to instruct you to write an article like that and you had no knowledge of the facts that you simply use your knowledge of his knowledge of the facts or your belief in his knowledge of the facts?

Mr. WEIGHTMAN. Yes.

Mr. GRIGGS. And you would furnish the embroidery?

Mr. WEIGHTMAN. The embroidery.

Mr. SIBLEY. Right in that connection, were you ever instructed to give a sort of "roast" to the Congressmen on the franking privilege?

Mr. WEIGHTMAN. What is that?

Mr. SIBLEY. Were you ever instructed to give a "roast" to the Congressmen on the franking privilege?

Mr. WEIGHTMAN. Oh, yes; originally. I had never heard of it until it first came out some years ago, just before Mr. Wilkins got so ill. He started that——

Mr. SIBLEY. But since Mr. Wilkins's death?

Mr. WEIGHTMAN. I didn't get any specific instructions about that thing; no.

Mr. SIBLEY. On that very line, I believe you stated that you wrote this identical article at the request of Mr. Beriah Wilkins——

Mr. WEIGHTMAN. Oh, no——

Mr. SIMS. Well, upon the orders of Mr. Wilkins?

Mr. WEIGHTMAN. I said practically the same article; I didn't say specifically the same article; I didn't say that was a copy, but the same tone.

Mr. SIMS. About six years ago?

Mr. WEIGHTMAN. I think so.

Mr. SIMS. And why was it not published?

Mr. WEIGHTMAN. It was.

Mr. SIMS. It was published in the Post?

Mr. WEIGHTMAN. Yes; some things like that have been published in the Post for the last four or five years.

Mr. SIMS. Can you bring that article and incorporate it as part of your statement?

Mr. WEIGHTMAN. I don't think I can undertake to ransack the files of the Post. I have been trying to explain, and I think my statement ought to be taken——

Mr. SIMS. Your explanation was, as I understood it, that you first wrote this character of an article——

Mr. WEIGHTMAN. Many of them——

Mr. SIMS. About six years ago, upon direction of Mr. Beriah Wilkins, who was then the managing editor of the Washington Post?

Mr. WEIGHTMAN. Yes; his suggestion——

Mr. SIMS. Then you say you wrote this, being substantially the same, and put it in the Post without any direction from anyone?

Mr. WEIGHTMAN. Yes.

Mr. SIMS. Then you are responsible for writing this particular article and putting it in the Post upon your own statement, without any direction from anyone?

Mr. WEIGHTMAN. I don't think so; I handed it in to the managing editor, and it was passed on there.

Mr. SIMS. No one suggested it, though?

Mr. WEIGHTMAN. No; not there——

Mr. SIMS. Then you wrote this on your own suggestion?

Mr. WEIGHTMAN. Yes.

Mr. SIMS. Moved by your own reason for writing it?

Mr. WEIGHTMAN. Moved by carrying on the policy of the paper. The same things have been in there before——

Mr. SIMS. Is it the policy of the Post to make statements alleging them to be facts, which are false and believed to be false, as the basis of an editorial?

Mr. WEIGHTMAN. As I do not conduct the Post, and am not responsible for what appears in it, I do not think I can answer that.

Mr. SIMS. I am only asking you as to the facts, as you have referred to the policy of the Post.

Mr. WEIGHTMAN. I knew about the policy because I had written on it before.

Mr. SIMS. Was the policy of the Post, with reference to the franking privilege of Members of Congress, to write editorials upon allegations which were not true and known not to be true at the time?

Mr. WEIGHTMAN. I don't know whether they were true or not.

Mr. SIMS. My object in introducing this resolution was to get at the fact. If any Members of Congress are guilty of abuses of the franking privilege, I think we ought to know it; and if anybody has been guilty of outrageously abusing the franking privilege I think that Member ought to be expelled. You say that this privilege has been outrageously abused is a fact of universal knowledge. And yet you say you wrote this article without suggestion and without any knowledge of facts and up to this time have no knowledge of any of these allegations which you have stated? That is all I wish to ask you.

Mr. SIBLEY. I would like to ask Mr. Weightman this: By anyone has there ever been given you the name of any Congressman, or Representative, who has been guilty of abusing the franking privilege?

Mr. WEIGHTMAN. I can not remember, but there was a story—they had a nickname of him, "Boots." Somebody here had a nickname here of "Boots," because in a mail package which went under a frank and which was broken, a pair of boots came out.

Mr. SIBLEY. Was that in recent years?

Mr. WEIGHTMAN. No.

Mr. SIBLEY. A great many years ago. I think it was way back before the present franking privilege was granted. I remember something about that. Do you know of any other case within recent time?

Mr. WEIGHTMAN. No; I do not.

Mr. SIBLEY. I wondered if this present agitation of the franking privilege grew out of the transmission through the mails of articles by the Reverend Doctor Crafts.

Mr. WEIGHTMAN. It was apropos of that. I had that in mind when I wrote this article, but I didn't mention him, I think. But, as I have told you, I took all this back, so far as the serious statement is concerned, the next day.

Mr. SIBLEY. The trouble is——

Mr. WEIGHTMAN. Yes; I know——

Mr. SIBLEY (continuing). That other papers have published it, because the Post presents things very spicily. You recognize that editorial has been copied very generally throughout the press of the country——

Mr. WEIGHTMAN. The Post is copied, yes.

Mr. SIBLEY (continuing). As tending to show the demoralization existing among Members of Congress. You wrote this evidently in a semi-humorous vein?

Mr. WEIGHTMAN. I think that is obvious.

Mr. SIBLEY. And then you made a denial—that is, in another editorial—saying that it was not altogether true; but the general public, who are interested in this, have not seen the denial.

Mr. WEIGHTMAN. It has the same prominence that this had; the only trouble is that you gave this prominence and did not give the other prominence. If you had, it would not have attracted so much attention.

Mr. SIBLEY. One thing more. I want to get this clear. So far as your personal knowledge extends, and so far as anybody has ever told you of any specific violation of the franking privilege by any Member of Congress is concerned, the statements are incorrect, are they not?

Mr. WEIGHTMAN. For all I know they may be absolutely incorrect.

Mr. SIBLEY. They may be absolutely incorrect?

Mr. WEIGHTMAN. Yes; but for all I know they may be correct.

Mr. SIBLEY. So far as you know, they may be false?

Mr. WEIGHTMAN. So far as I know, they may be absolutely false, absolutely.

Mr. SIBLEY. That is all.

The CHAIRMAN. Just a question or two.

Mr. John R. McLean is now managing editor of the Post?

Mr. WEIGHTMAN. Yes.

The CHAIRMAN. And he was the managing editor at the time of this editorial?

Mr. WEIGHTMAN. Yes.

The CHAIRMAN. Did Mr. McLean direct you to write this editorial?

Mr. WEIGHTMAN. No.

The CHAIRMAN. Do you know whether or not it was ever called to his attention personally——

Mr. WEIGHTMAN. Before, no.

The CHAIRMAN (continuing). Before it was printed?

Mr. WEIGHTMAN. No.

The CHAIRMAN. I say before it was printed?

Mr. WEIGHTMAN. I don't know.

The CHAIRMAN. Personally by you?

Mr. WEIGHTMAN. No; but his local representatives must have seen it, because editorials are not put in any well-regulated paper without attention.

The CHAIRMAN. What I want to know is, did you personally confer with Mr. McLean before this was printed?

Mr. WEIGHTMAN. No, sir.

The CHAIRMAN. Did you confer with anyone?

Mr. WEIGHTMAN. No, sir.

Mr. STEENERSON. What did you do with your editorial after you wrote it?

Mr. WEIGHTMAN. There is a little wire basket that I put it in.
Mr. STEENERSON. Describe the process.
Mr. WEIGHTMAN. Everybody who writes editorials—I have worked on a lot of papers, in New Orleans and other cities—hands them to the representative of the manager, or the managing editor, or whatever he may be called; sometimes he is called the managing editor and sometimes the editor in chief, but he gives them to the head of the paper, whoever he may be, because there is always a head on the paper, for the reason that the paper can not have a policy unless somebody guides. As a writer I do not guide it, and have nothing to do with it; I put what I write in a little basket and that goes to the managing editor——
Mr. STEENERSON. Who is managing editor?
Mr. WEIGHTMAN. Mr. McLean is managing editor.
Mr. STEENERSON. So you suppose Mr. McLean did read it before it was printed?
Mr. WEIGHTMAN. I suppose he did.
The CHAIRMAN. Has any comment been made since this editorial was printed, as to whether or not it was regarded by the management of the paper as serious or comic or otherwise?
Mr. WEIGHTMAN. As I told you, the next day, or two days afterwards—I don't recollect, but within a day or two—Mr. McLean spoke to me about it, and he said it was very much to his surprise. He said he was afraid it had given offense, so better write another article explaining that it was intended for an extravagance and not for an explicit or organized statement of the facts, which I did; but unfortunately that did not seem to attract as much attention as this.
The CHAIRMAN. Then the second article you wrote, to which you refer, explaining that the first article was an exaggeration, you were directed to write by Mr. McLean?
Mr. WEIGHTMAN. He spoke to me about it; yes.
Mr. SIMS. Right there let me ask you this: This second article you refer to was not written until after the House had passed this resolution?
Mr. WEIGHTMAN. I think not.
Mr. SIMS. The article quoted had been written during the recess—in the recess before the time this resolution was introduced?
Mr. WEIGHTMAN. I don't know.
Mr. SIMS. Newspapers had copied this article all over the country before this resolution was introduced, had they not? And had you not seen them?
Mr. WEIGHTMAN. The exchanges don't pass through my hands—except a few southern papers that I look at.
Mr. SIMS. Then I suppose the impression you leave is that if Congress had not taken notice of this there would not have been any editorial coming out and explaining that the statements herein made were not true and were exaggerations?
Mr. WEIGHTMAN. I can not speak for myself, but I fancy that is the reason.
Mr. SIMS. In other words, this would have gone along and been published all over the United States that Members of Congress were violating the franking privilege if Congress had not passed this resolution so far as your paper is concerned?
Mr. WEIGHTMAN. Yes.
The CHAIRMAN. Are there any other questions to be asked of Mr. Weightman?
Mr. FINLEY. I want to ask you, are you aware that the Third Assistant Postmaster-General, in his report, recommends the abolition of the franking and penalty privileges?
Mr. WEIGHTMAN. No; I am not.
Mr. FINLEY. That is, for Members of Congress and the Departments, on page 21 of his report?
Mr. WEIGHTMAN. When did that come out—before this editorial?
Mr. FINLEY. Yes.
Mr. WEIGHTMAN. Probably that is what I wrote about. I write so much—I write so many things——
Mr. GRIGGS. That was published before Congress met.
Mr. FINLEY. This is the report of the Third Assistant Postmaster-General for the year ended June 30, 1905. He says:
"The franking and penalty privileges are, by reason of their nature, subject to abuses, a precise and accurate description of which is not possible at the present time; but in view of experience already had I feel impelled to say that the interests of the Government and of this Department would be best subserved if those two privileges were abolished altogether."
Mr. WEIGHTMAN. I suppose somebody must have put that on my desk and that is what started me. I don't know; I can not——
Mr. FINLEY. I observe that the Third Assistant, in his report to Congress, suggests to Congress whether or not it is advisable to abolish the franking privilege, as I have just read.
Mr. WEIGHTMAN. I think it is very likely that that would inspire me to write this article. I can not remember. I had no idea of giving offense.
Mr. FINLEY. The Third Assistant says, further:
"I have the honor to suggest the consideration of the question of whether or not it is advisable to recommend to Congress the abolition of the franking and penalty privileges, or, at least, the latter, and the substitution therefor of a system of appropriations to supply the needs of Members of Congress and the various Departments for postage expenses in the transaction of their official business."
I ask you this question, because the matter was brought up here in the hearings, and General Madden was examined along that line.
Mr. WEIGHTMAN. That is probably what inspired this—started me out.
Mr. SNAPP. I don't think that report was out when this editorial was written.
Mr. FINLEY. Yes; this is the report for last year.
The CHAIRMAN. At all events there is nothing in this report or in any of the reports to the Post-Office Department which would indicate that Members of Congress have been abusing the privilege.
Mr. FINLEY. No.
Mr. WEIGHTMAN. It refers there to the ease with which it can be abused. It does not say it has been done.
The CHAIRMAN. You know of no foundation in any report of the Post-Office Department of any abuse or suggestion of an abuse by Members of Congress of the franking privilege, do you?
Mr. WEIGHTMAN. No; I don't know of any. This is the first thing I have seen officially—the first thing.
Mr. SNAPP. That report could not have been out then—November 18?
Mr. FINLEY. Yes; it was out, because I received a copy.
Mr. GRIGGS. It was dated November 18.
Mr. FINLEY. They were sent before Congress convened.
Mr. GRIGGS. The report was dated November 18.
The CHAIRMAN. Are there any other questions by members of the committee?
Mr. WEIGHTMAN. I only say it is quite likely that somebody may have cut that out and put it on my desk. I constantly find things there for me to write about—memoranda or suggestions.
The CHAIRMAN. We will excuse you, Mr. Weightman, and we will excuse the reporter.

COMMITTEE ON THE POST-OFFICE AND POST-ROADS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 7, 1906.

The committee met this day at 10.30 o'clock a. m., Hon. JESSE OVERSTREET in the chair.

STATEMENT OF MR. JOHN R. M'LEAN.

The CHAIRMAN. I believe, Mr. McLean, you are the managing editor of the Washington Post?
Mr. MCLEAN. Yes, sir.
The CHAIRMAN. I will ask you to examine the CONGRESSIONAL RECORD of January 4 last, at page 673, which I hand you [submitting copy of RECORD], and the printing in small type particularly, which purports to be an editorial in your paper.
Mr. MCLEAN. Yes, sir.
The CHAIRMAN. You were managing editor of the Post at the time of that publication?
Mr. MCLEAN. Yes, sir.
The CHAIRMAN. Did you see that editorial before it was printed?
Mr. MCLEAN. Yes.
The CHAIRMAN. It came to you in the ordinary process of your organization?
Mr. MCLEAN. Yes.
The CHAIRMAN. And you passed upon it before printing?
Mr. MCLEAN. Yes.
The CHAIRMAN. Will you be kind enough to explain to the committee if you are familiar with the facts as appear to have been stated in that editorial?
Mr. MCLEAN. I know nothing of the facts.
The CHAIRMAN. When you passed upon the item for printing did you pass it with the belief that those statements were facts?
Mr. MCLEAN. No. I passed it as I would pass any general article, thinking that it meant more to be—it seemed to me an aggravated case of editorial. It was not meant to come right down to facts and to say, "These are facts," but it was a thing that had been told and talked about a little bit and commented upon by the newspapers. But as to being facts, or that the Post meant it to be that, or intended it to be accepted as that, there was nothing of it.
The CHAIRMAN. Then you merely intended to pass upon something that was current—something that——
Mr. MCLEAN. Yes; there was no intent to injure at all.
Mr. HEDGE. Was it intended to affect public opinion, Mr. McLean?
Mr. MCLEAN. No, sir. Sometimes we print an article to fill up with. [Laughter.] As I say, there was no intent to injure or damage anyone. It was a general article, and frequently you work up things, and one of the editors is asked to comment on it or criticise it or pass upon it, and sometimes things are accepted and you don't know the writer. He may be in your office, but you may not know him.
Mr. SNAPP. Did it not occur to you that such an article might reflect on Members of Congress and injure them with their constituents?
Mr. MCLEAN. No; this was meant to be general. It was not meant to reflect on any individual.
Mr. SNAPP. Does it not occur to you that exaggerated and untruthful statements of that kind against Members of Congress do hurt them in the public mind?
Mr. MCLEAN. No; it was not meant to be that. I thought the general reader would accept that as a general article. There was no individual in mind, and no particular case cited. It was only a general article.
Mr. SNAPP. How can you expect that the general reader shall discriminate as to the truth or falsity of statements of that kind when you don't do it?
Mr. MCLEAN. Probably I have a wrong impression, but I do not know——
The CHAIRMAN. Do you know of your own knowledge of any instances of the violation or abuse of the franking privilege by any Member of Congress?
Mr. MCLEAN. Not one.
The CHAIRMAN. Are there any other questions, gentlemen? I think, then, Mr. McLean, that is all.

The following is the passage in the CONGRESSIONAL RECORD referred to above:

"ABOLISH THE FRANKING PRIVILEGE?

"We quite agree that something ought to be done for the relief of the Post-Office Department. Its work is simply tremendous, and, by an interesting coincidence, its usefulness is quite as great. There is no section of the governmental machinery more important or more accurately and satisfactorily conducted. But the burden put upon Mr. Cortelyou and his coadjutors can be materially lightened without impairing its efficiency. It is our opinion, indeed, that the people and the Government both would be better off if the franking privilege were abolished utterly.

"That this privilege has been outrageously abused is a fact of universal knowledge. Congressmen load the postal cars with all sorts of freight—furniture, libraries, kitchen utensils, the family wash, pianos, poultry, barnyard animals, etc., without limit. They frank a cow, a washtub, or a churn as glibly as they do a letter or the speech that no one ever heard. They go further—they lend their franks in large, uncounted bunches to societies and propagandas that would flourish on the public Treasury as they already thrive upon the people's discontent. The whole system has been converted to the most abominable ends. It presents the perfected spectacle of graft. But its worst expression is to be found in the lumbering up of the mail cars, the preposterous demands upon the Department's resources of transportation, and the corresponding and concurrent crippling of the postal service in all its proper and legitimate activities.

"We note the presentation of an alternative arrangement—an arrangement under the operation of which Members of Congress will receive a direct allowance for the purpose of conducting their official correspondence without cost to themselves. The expedient is most commendable. We quite agree that Members of Congress, who are but ill-paid public servants, should be spared the constant drain upon their resources involved in postage and the like. They should at least be left entirely free of artificial taxes and protected in the complete enjoy-

ment of what small emolument has been assigned them. But this franking concession, which has grown to the proportions of insolent and predaceous graft, this should be contracted within the limits of common decency and transformed into an explicit allowance, no matter how generous and liberal it may be.

"We think there are very few Congressmen who would care to oppose this adjustment in full view of the public gaze. Why not try it, gentlemen?"

Mr. SIMS. Mr. Speaker, I desire first to submit the original editorial which was the basis of these proceedings.

The editorial is as follows:

ABOLISH THE FRANKING PRIVILEGE?

We quite agree that something ought to be done for the relief of the Post-Office Department. Its work is simply tremendous, and, by an interesting coincidence, its usefulness is quite as great. There is no section of the governmental machinery more important or more accurately and satisfactorily conducted. But the burden put upon Mr. Cortelyou and his coadjutors can be materially lightened without impairing its efficiency. It is our opinion, indeed, that the people and the Government both would be better off if the franking privilege were abolished utterly.

That this privilege has been outrageously abused is a fact of universal knowledge. Congressmen load the postal cars with all sorts of freight—furniture, libraries, kitchen utensils, the family wash, pianos, poultry, barnyard animals, etc., without limit. They frank a cow, a washtub, or a churn as glibly as they do a letter or the speech that no one ever heard. They go further—they lend their franks in large, uncounted bunches to societies and propagandas that would flourish on the public Treasury as they already thrive upon the people's discontent. The whole system has been converted to the most abominable ends. It presents the perfected spectacle of graft. But its worst expression is to be found in the lumbering up of the mail cars, the preposterous demands upon the Department's resources of transportation, and the corresponding and concurrent crippling of the postal service in all its proper and legitimate activities.

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We think there are very few Congressmen who would care to oppose this adjustment in full view of the public gaze. Why not try it, gentlemen?

Mr. SIMS. I desire also to submit certain extracts from the testimony of Mr. Weightman and Mr. McLean.

The extracts are as follows:

Mr. SIMS. Inasmuch as I am the man who took seriously the statements which you say now are neither true nor serious, I would like to ask you a few questions.

Mr. WEIGHTMAN. Yes, sir.

Mr. SIMS. This editorial is headed "Abolish the franking privilege," is it not?

Mr. WEIGHTMAN. I think so.

Mr. SIMS. Did you write that?

Mr. WEIGHTMAN. Yes, sir.

Mr. SIMS. Your object in writing this article, then, was to secure the demand that you made, and that is to have the franking privilege abolished?

Mr. WEIGHTMAN. Not at all.

Mr. SIMS. Is not that the purport of the article from one end to the other, to abolish the franking privilege and have a money allowance made in lieu of it, because on your allegation Members of Congress abuse the franking privilege?

Mr. WEIGHTMAN. I deny that as my allegation at all; that is the Post.

Mr. SIMS. I say is not that the object of the article, to furnish an argument, based upon alleged facts, for the abolition of the franking privilege—is not that the object?

Mr. WEIGHTMAN. I fancy that is one of the objects.

Mr. SIMS. You say fancy. You certainly ought to be able to state what the object was if the object is not expressed on the face of it.

Mr. WEIGHTMAN. It seems to me I have made it clear that I have no object in anything I write, except to please my employer and carry out his policy.

Mr. SIMS. Now, I want to ask you if you, as an editorial writer, will write an article that you neither believe in nor indorse, simply because you are a salaried employee, an article touching the character of officials, high or low?

Mr. WEIGHTMAN. Is that in the form of an interrogatory?

Mr. SIMS. That is what it is.

Mr. WEIGHTMAN. I must say again, for about the tenth time, that I do not do these things in my personal capacity, and I am not going to be held responsible for them.

Mr. SIMS. But I ask you as an editorial writer, do you write editorials alleging existence of facts which you yourself do not believe simply because you are paid a salary?

Mr. WEIGHTMAN. I do not think I will allege anything seriously that I do not believe.

Mr. SIMS. Now, I want to ask you who gave you orders or directions, or whatever is your way of expressing it, to write upon this subject and to write this article?

Mr. WEIGHTMAN. Nobody.

Mr. SIMS. Was this article passed on by the managing editor, the responsible person in the Post, before it was printed?

Mr. WEIGHTMAN. Why, certainly. Nothing can go into the Post——

Mr. SIMS. Who is the responsible managing editor of the Post, or responsible head?

Mr. WEIGHTMAN. Mr. McLean is the responsible managing editor of the Post.

Mr. SIMS. Did he pass on this?

Mr. WEIGHTMAN. I don't know whether he did or not; it was published by his authority.

Mr. SIMS. And you declare you have no responsibility whatever?

Mr. WEIGHTMAN. No personal responsibility.

Mr. SIMS. When you stated here—I want to quote the exact language, and therefore I will look for it—after stating these facts, with reference to Members of Congress, this article says:

"It presents the perfected spectacle of graft."

Now, is not that a charge which is very serious and affecting the character and usefulness of any Member of Congress who may be guilty?

Mr. WEIGHTMAN. Yes; I should think it would if he was guilty.

Mr. SIMS. Would you make a charge of that kind simply by direction or orders of the managing editor?

Mr. WEIGHTMAN. Why, certainly; of course I would; or else resign.

Mr. SIMS. Your explanation was, as I understood it, that you first wrote this character of an article——

Mr. WEIGHTMAN. Many of them——

Mr. SIMS. About six years ago, upon direction of Mr. Beriah Wilkins, who was then the managing editor of the Washington Post?

Mr. WEIGHTMAN. Yes; his suggestion——

Mr. SIMS. Then you say you wrote this, being substantially the same, and put it in the Post without any direction from anyone?

Mr. WEIGHTMAN. Yes.

Mr. SIMS. Then you are responsible for writing this particular article and putting it in the Post upon your own statement, without any direction from anyone?

Mr. WEIGHTMAN. I don't think so; I handed it in to the managing editor, and it was passed on there.

Mr. SIMS. No one suggested it, though?

Mr. WEIGHTMAN. No; not there——

Mr. SIMS. Then you wrote this on your own suggestion?

Mr. WEIGHTMAN. Yes.

Mr. SIMS. Moved by your own reason for writing it?

Mr. WEIGHTMAN. Moved by carrying out the policy of the paper; the same things have been in there before——

Mr. SIMS. Is it the policy of the Post to make statements, alleging them to be facts, which are false and believed to be false, as the basis of an editorial?

Mr. WEIGHTMAN. As I do not conduct the Post and am not responsible for what appears in it, I do not think I can answer that.

Mr. SIMS. I am only asking you as to the facts, as you have referred to the policy of the Post.

Mr. WEIGHTMAN. I knew about the policy because I had written on it before.

Mr. SIMS. Was the policy of the Post with reference to the franking privilege of Members of Congress to write editorials upon allegations which were not true and known not to be true at the time?

Mr. WEIGHTMAN. I don't know whether they were true or not.

Mr. SIMS. My object in introducing this resolution was to get at the fact; if any Members of Congress are guilty of abuses of the franking privilege I think we ought to know it, and if anybody has been guilty of outrageously abusing the franking privilege, I think that Member ought to be expelled. You say that this privilege has been outrageously abused is a fact of universal knowledge. And yet you say you wrote this article without suggestion and without knowledge of facts, and up to this time have no knowledge of any of these allegations which you have stated. That is all I wish to ask you.

* * * * * * *

Mr. SIMS. Right there, let me ask you this: This second article you refer to was not written until after the House had passed this resolution?

Mr. WEIGHTMAN. I think not.

Mr. SIMS. The article quoted had been written during the recess—in the recess before the time this resolution was introduced?

Mr. WEIGHTMAN. I don't know.

Mr. SIMS. Newspapers had copied this article all over the country before this resolution was introduced; had they not? And had you not seen them?

Mr. WEIGHTMAN. The exchanges do not pass through my hands—except a few southern papers that I look at.

Mr. SIMS. Then I suppose the impression you leave is that if Congress had not taken notice of this there would not have been any editorial coming out and explaining that the statements herein made were not true, and were exaggerations?

Mr. WEIGHTMAN. I can not speak for myself, but I fancy that is the reason.

Mr. SIMS. In other words, this would have gone along and been published all over the United States, that Members of Congress were violating the franking privilege, if Congress had not passed this resolution, so far as your paper is concerned?

Mr. WEIGHTMAN. Yes.

STATEMENT OF MR. JOHN R. M'LEAN.

The CHAIRMAN. I believe, Mr. McLean, you are the managing editor of the Washington Post?

Mr. MCLEAN. Yes, sir.

The CHAIRMAN. I will ask you to examine the CONGRESSIONAL RECORD of January 4 last, at page 673, which I hand you [submitting copy of RECORD], and the printing in small type particularly, which purports to be an editorial in your paper.

Mr. MCLEAN. Yes, sir.

The CHAIRMAN. You were managing editor of the Post at the time of that publication?

Mr. MCLEAN. Yes, sir.

The CHAIRMAN. Did you see that editorial before it was printed?

Mr. MCLEAN. Yes.

The CHAIRMAN. It came to you in the ordinary process of your organization?

Mr. MCLEAN. Yes.

The CHAIRMAN. And you passed upon it before printing?

Mr. MCLEAN. Yes.

The CHAIRMAN. Will you be kind enough to explain to the committee if you are familiar with the facts as appear to have been stated in that editorial.

Mr. MCLEAN. I know nothing of the facts.

The CHAIRMAN. When you passed upon the item for printing did you pass it with the belief that those statements were facts?

Mr. MCLEAN. No. I passed it as I would pass any general article, thinking that it meant more to be—it seemed to me an aggravated case of editorial; it was not meant to come right down to facts and to say, "These are facts," but it was a thing that had been told and talked about a little bit and commented upon by the newspapers. But as to being facts, or that the Post meant it to be that, or intended it to be accepted as that, there was nothing of it.

The CHAIRMAN. Then you merely intended to pass upon something that was current—something that——

Mr. MCLEAN. Yes; there was no intent to injure at all.

Mr. HEDGE. Was it intended to affect public opinion, Mr. McLean?

Mr. MCLEAN. No, sir. Sometimes we print an article to fill up with. [Laughter.] As I say, there was no intent to injure or damage anyone. It was a general article; and frequently you work up things, and one of the editors is asked to comment on it or criticise it or pass upon it, and sometimes things are accepted and you don't know the writer. He may be in your office, but you may not know him.

Mr. SNAPP. Did it not occur to you that such an article might reflect on Members of Congress and injure them with their constituents?

Mr. MCLEAN. No; this was meant to be general. It was not meant to reflect on any individual.

Mr. SNAPP. Does it not occur to you that exaggerated and untruthful statements of that kind against Members of Congress do hurt them in the public mind?

Mr. MCLEAN. No; it was not meant to be that. I thought the general reader would accept it as a general article. There was no individual in mind and no particular cases cited. It was only a general article.

Mr. SNAPP. How can you expect that the general reader shall discriminate as to the truth or falsity of statements of that kind when you don't do it?

Mr. MCLEAN. Probably I have a wrong impression, but I do not know——

The CHAIRMAN. Do you know of your own knowledge of any instances of the violation or abuse of the franking privilege by Members of Congress?

Mr. MCLEAN. Not one.

Mr. SIMS. Mr. Speaker, as the author of the resolution I have naturally felt an interest in the investigation and report of the committee. The committee seem to have acted fairly and conscientiously, and have made as full a report as the evidence warranted. The excuse or explanation for the making of these charges, made by this responsible newspaper, after this resolution was introduced and acted upon, as appears from the report of the committee, was that the charges were not serious nor intended to be taken as serious; and reference is made to a second editorial on the same subject in the same paper, which has not been copied by the committee in its report; but as the evidence will show, Mr. Weightman, the editor who wrote the article, seems rather to complain that the editorial was taken seriously, saying that the second article would, as he claims, remove the impression of evil intent in the first article if it had been given the same publicity. Now, I propose to read and comment on that editorial article as I read and commented on the first, so that if there was any injustice done him he may rectify it. This is the second editorial:

AS REGARDS THE FRANKING PRIVILEGE.

We haven't the slightest doubt that the Hon. T. W. SIMS, of Tennessee, is perfectly sincere in calling for a Congressional investigation of the use or misuse that has been made of the franking privilege. Incidentally we wish to acknowledge with appropriate sentiments his very complimentary references to the Post. It occurs to us, however, to suggest that it is rather late in the day to take a solemn view of this or any other matter which has been the subject of gossip and of jest for many years. And we venture this intimation with all the more confidence because we happen to know that the records of the Post-Office Department contain, or ought to contain, large floods of detailed information for the benefit of anyone who thinks it worth while to investigate an ancient and notorious graft.

To say that we were serious in publishing the article which has stimulated Mr. SIMS to stern inquiry would be to exaggerate the situation. Of course we were not serious. Why should we be? The matter has been one of ribald comment for years. Everybody has heard of it, everybody has discussed it, nobody has denied it. Moreover, it is known of all men who keep themselves informed of public affairs that the question is one of official record—supposing the records have been scrupulously kept—and certainly of common knowledge in the Department. As we have already suggested, the only way to attack the scandal is to abolish the franking privilege altogether and to substitute a reasonable annual allowance for postage—a very liberal one, in fact—so that Members of Congress may not be called upon to deplete their meager salaries by paying postage upon mail matter for which they are not properly responsible. What the country wants in this case is not an inquisition into conditions that are as notorious as the process of the seasons, but a law that will put an end to them forever.

We would not have Mr. SIMS imagine for a moment that we object to the searchlight as such. Our object is merely to indicate the inevitable waste of time involved in that method, and point out the practical advantages of the alternative expedient we have outlined. Investigate by all means, if there be any real doubt in Congress as to the facts. Somewhere in the Post-Office Department the material for a finished chronicle is awaiting its discoverer and historian. But if the statesmen on the Hill want to stop a leak rather than amuse the public with a spectacle, they will let the past alone and make laws for the future.

So this is what, upon mature reflection, after this Congress acted upon that resolution and sent it to the committee, is given as the wiping out, the blotting out, of all criminal charge that there was in the first editorial, by simply reiterating that it was all true and that the records of the Post-Office Department would disclose and prove the facts. [Laughter.] Now, that is a strange way—to say that I charge you with being a thief and then state that it is not serious, but cite the record of conviction to prove it. I think the gentleman ought to have the benefit of his explanation of his way of not being serious in charging criminal conduct upon Members of Congress as set forth in a subsequent editorial.

Mr. STEPHENS of Texas. Will the gentleman allow me a question?

Mr. SIMS. Certainly.

Mr. STEPHENS of Texas. Is it true, as stated in the papers frequently, that some Departments have been guilty of franking furniture, safes, and desks, and other things of that kind through the mail?

Mr. SIMS. It has been charged in the papers that the Departments have been guilty of shipping freight under frank which would be cheaper to ship by express or simple freight.

Mr. STEPHENS of Texas. Does not the gentleman think that a mistake has been made, that instead of charging the committee or Members of Congress they should have charged the Departments with violating the law?

Mr. SIMS. The whole article is a charge against Members of Congress; there is nothing in it about the Departments. Now, I want to give you the benefit of the answers by one of these gentlemen. He claims, as appears from his testimony, that he wrote a similar editorial six years ago, when the Washington Post was under the charge of the Hon. Beriah Wilkins, formerly an honored Member of this House; that it was in accordance with the policy of the Post.

I do not want to do injustice to the Post or the editorial writers, but that article read on the 5th here and reread to-day has nothing on the face of it to suggest that it was not serious and intended to be true. If I was misled by not being a competent judge of such a thing, all the leading newspapers of the United States were similarly misled, for they quoted and commented upon it and reiterated it as true. Now, I want to explain to you, in the language of the managing editor, not undertaking to quote him, what he says about his responsibility.

Mr. Weightman denies all responsibility and says he wrote as he was directed, but rather gets away from it when the question comes directly to him.

I would like to ask the distinguished gentleman, if he was going to state a fact and wanted it to be accepted as a fact, what language he would undertake to use that is more specific and definite than the language used in the editorial that was quoted at the beginning of this report. But it seems that a great newspaper that appears to have a well-earned character for conservatism, certainly a great paper so far as ability of editorial writers in the treatment of large questions is concerned, will publish lightly and flippantly an article charging offenses that would disgrace any Member of this House if proven on him and then excuse the gravity of this charge simply by saying that it was general; that he called no names and pointed out no individual. I suppose he thinks that if he calls all Members of the House grafters and thieves it does not hurt, but to call a few individual Members of the House by name and to characterize them as guilty of such charges would be injurious. What would you say to a statement from a responsible newspaper that all the women in Washington are bad, but in explanation should say that they didn't mean it because they included them all? When charges are made that are general and sweeping and which apply to every Member of the House, they are certainly in results more grave and serious than to say that a particular individual is guilty, or a few individuals are guilty, and point them out, because then we could investigate and find out the truth.

I can not believe, Mr. Speaker, that the distinguished managing editor of this paper ever really read the article; that he really did not know what was in it. I do not believe that he is capable of wanting to cast upon this House that degree of contempt and disgrace that this article does on the flimsy foundation of mere rumors or mere gossip that had been floating around the Capitol, as said by his editorial writer, for many years.

I desire to call attention to an article in the Washington Post of yesterday which I highly commend. It is an article advocating self-government for the District of Columbia, to enfranchise the enslaved and enlightened freemen of this District. I believe that article is one that every Member of this House will approve, but is it not strange that a great paper should publish such an article when it flippantly publishes statements that if believed, as they were believed, would cause the people to lose confidence in the agencies of self-government? Why, Mr. Speaker, I know that the constituents of the gentleman from Pennsylvania [Mr. SIBLEY] would not believe that he was guilty, but I also know that the constituents of some gentleman from California might believe that the gentleman from Pennsylvania was guilty. But what shall we say of this when it comes at a time when agitation seems to be the rule, when it seems that the foundations of civil government are almost shaken by the threat of socialism? That an attack, serious or otherwise, should be made upon the integrity of the officials of this Government is something to me too serious to be cast aside with the mere brush of the hand. I do think that the great newspapers,

which under the law of this country enjoy the franking privilege to the extent of nearly $27,000,000 a year, ought to be a little careful when they accuse Members of Congress of abusing the franking privilege to such an extent as to constitute a moral and legal crime.

The SPEAKER. The time of the gentleman has expired.

Mr. SIMS. Mr. Speaker, I would ask the gentleman from Pennsylvania [Mr. SIBLEY] to grant me, say, five minutes more.

Mr. SIBLEY. Mr. Speaker, I yield five minutes more to the gentleman from Tennessee.

Mr. SIMS. Now, Mr. Speaker, I do not want to make a charge unexplained. It is known to everybody in this House, but perhaps not by the whole people, that newspapers are entitled to the second-class mail privileges, and that second-class mail privileges such as those newspapers enjoy cost the Government upon the lowest estimate six times as much as it gets out of it, and when it costs the Government, as I believe it did if I *am not* incorrect, $33,000,000 last year to carry second-class mail matter, and for which the Government received only $6,000,000, it may be said that the courtesies of the franking privilege given to the press of the country exceeds by millions of dollars anything that could possibly be the result of its most liberal and unjust use by Members of Congress.

That is all right, Mr. Speaker. We are making no complaint, but this article seriously demands the abolition of the franking privilege for Members of Congress. Maybe the writer of that article is correct, but suppose we go into the abolition of the franking privilege and abolish that right to the press of the country, would not there be a very large saving to the Treasury of the United States and to the taxpayer? I do not advocate such a thing as this, but before I want to strike down the franking privileges of the Members of Congress I desire to think a little of the enjoyment of that privilege by the newspapers of the country. Twelve and a half per cent is paid upon the actual cost of second-class mail matter. What are the great newspapers of the country? They are business institutions whose editors, some of them, draw princely salaries. Perhaps they are worth it, but when a great newspaper is going through the mails with ten pages of reading matter and thirty pages of advertising—going through the mails at about one-eighth of what the actual cost to the Government is—I think it is time to speak about it. I think, Mr. Speaker, that a charge of this kind, when seriously noticed by a Member of this House, should not be used in an effort to try and belittle and ruin him.

It is a little too grave. Official character is beyond value, or should be. If the people lose confidence in the integrity of the instruments of self-government selected by themselves, what then is to be done? Revolution and anarchy may follow, and there is no better way to bring this country into such a condition than to publish false, villainous, and slanderous statements and libelous charges against the officials of the Government, and especially those who are selected every two years as Members of the legislative branch of the Government. A mere whisper touching the character of a woman is often enough to damn her for life, and next to her precious character that of the official is most easily injured and damaged, and it is irreparable. The article which was published all over the United States, read and believed by thousands, many more thousands than disbelieved it, as shown by the fact the press everywhere accepted it as true, will not be followed in the same papers by the publication of this report. The injury done by such charges, lightly or seriously or otherwise made, is such as to become irreparable. Never can we fully wipe it out; never can we fully reach every one with this report who has been reached by the first publication. Somehow or other the public is disposed to read that which is of a sensational nature, that which reflects upon somebody's character. Mr. Speaker, I believe the world is getting better every day. I believe political parties are getting better every day. I believe the Republican party is better to-day than it ever was before. I believe the Democratic party is better to-day than it ever was before. I have greater confidence in our institutions, in our Government and its instrumentalities, than I ever had before, and attempts to belittle and break down the confidence of the people in the agencies of self-government I denounce as a crime against the whole people of the United States, unjustified by any facts whatever. Mr. Speaker, I ask to include this testimony I have read in full in my remarks. [Applause.]

The SPEAKER. The gentleman from Tennessee asks unanimous consent to print certain testimony in his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. SIBLEY. Mr. Speaker, I move the adoption of the report.

The SPEAKER. The question is on the motion to discharge the committee.

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

MESSAGE FROM THE PRESIDENT.

Mr. LITTAUER. 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 bill H. R. 16472, the legislative, executive, and judicial appropriation bill.

The SPEAKER. Pending that motion, the Chair lays before the House the following message from the President:

To the Senate and House of Representatives:

I have received the following letter from the Secretary of War respecting the recent attack by troops of the United States on Mount Dajo:

WAR DEPARTMENT,
Washington, March 13, 1906.

MY DEAR MR. PRESIDENT: The account of the engagement on Mount Dajo, on the island of Jolo, between our forces and a large band of Moro robbers, in which the fighting lasted for three or four days, showed such a large loss among the Moros as to give rise in a part of the public press to the criticism that there had been a wanton destruction by our troops of Moro lives, including those of women and children. Inquiries were made of me by members of the Senate and House of Representatives in respect to the matter. Accordingly I yesterday directed that the following telegram be sent to General Wood:

"It is charged that there was a wanton slaughter of Moros—men, women, and children—in the fight in Jolo at Mount Dajo. I wish you would send me at once all the particulars in respect to this matter, stating exact facts."

General Wood's answer came to-day. It seems to me to show most clearly that the unfortunate loss of life of the men, women, and children among the Moros was wholly unavoidable, in view of their deliberate use of their women and children in actual battle and their fanatical and savage desire that their women and children should perish with them if defeat were to come. They seem to have exhibited in this fight the well-known treachery of the uncivilized Mohammedan when wounded of attempting to kill those approaching for the purpose of giving aid and relief. General Wood's dispatch is as follows:

"The MILITARY SECRETARY, *Washington:*

"In answer to Secretary of War's request for information March 12, I was present throughout practically entire action and inspected top of crater after action was finished. Am convinced no man, woman, or child was wantonly killed. A considerable number of women and children were killed in the fight—number unknown, for the reason that they were actually in the works when assaulted, and were unavoidably killed in the fierce hand to hand fighting which took place in the narrow inclosed space. Moro women wore trousers and were dressed, armed much like the men, and charged with them. The children were in many cases used by the men as shields while charging troops. These incidents are much to be regretted, but it must be understood that the Moros, one and all, were fighting not only as enemies but religious fanatics, believing Paradise to be their immediate reward if killed in action with Christians. They apparently desired that none be saved. Some of our men, one a hospital steward, were cut up while giving assistance to wounded Moros by the wounded, and by those feigning death for the purpose of getting this vengeance. I personally ordered every assistance given wounded Moros, and that food and water should be sent them and medical attendance. In addition friendly Moros were at once directed to proceed to mountain for this purpose. I do not believe that in this or in any other fight any American soldier wantonly killed a Moro woman or child, or that he ever did it except unavoidably in close action. Action was most desperate, and was impossible for men fighting literally for their lives in close quarters to distinguish who would be injured by fire. In all actions against Moros we have begged Moros again and again to fight as men and keep women and children out of it. I assume entire responsibility for action of the troops in every particular, and if any evidence develops in any way bearing out the charges will act at once.

"WOOD."

Very sincerely, yours,

WM. H. TAFT.

The PRESIDENT.

I have made reply as follows:

"THE WHITE HOUSE,
"*Washington, March 14, 1906.*

"MY DEAR MR. SECRETARY: I have received your letter of March 13, with accompanying cable of General Wood, answering your inquiry as to the alleged wanton slaughter of Moros. This answer is, of course, entirely satisfactory. The officers and enlisted men under General Wood's command have performed a most gallant and soldierly feat in a way that confers added credit on the American Army. They are entitled to the heartiest admiration and praise of all those of their fellow-citizens who are glad to see the honor of the flag upheld by the courage of the men wearing the American uniform.

"Sincerely, yours,

"THEODORE ROOSEVELT.

"Hon. WM. H. TAFT, *Secretary of War.*"

THEODORE ROOSEVELT.

The WHITE HOUSE, *March 15, 1906.*

The SPEAKER. The message will be ordered to be printed, and referred to the Committee on Military Affairs.

JOHN H. PARKER.

The SPEAKER also laid before the House the following message from the President of the United States; which was read:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 13th instant (the Senate concurring), I return herewith House bill No. 10588, entitled "An act granting an increase of pension to John H. Parker."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 15, 1906.*

Mr. LONGWORTH. Mr. Speaker, I move that the message be referred to the Committee on Pensions.

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

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The SPEAKER. The gentleman from New York moves that the House resolve itself into Committe of the Whole House on the state of the Union for the further consideration of the bill H. R. 16472.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. OLMSTED 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 bill H. R. 16472—the legislative, executive, and judicial appropriation bill.

Mr. KEIFER. Mr. Chairman, I follow the time-honored custom of addressing the committee on a subject (H. R. 15674) not relating to appropriations at all, but I have little reluctance in doing this as the subject I shall speak on is of the supremest importance, and one, if not early considered, as the Constitution enjoins on Congress, will endanger the fundamental principle of equality upon which our Republic was founded, and which, if not upheld and perpetuated, will inevitably lead to its overthrow.

If the principle of the bill I am about to advocate is to fail, permanently, money bills will become useless; if an apportionment of representation in this body, based on the equality of American individual sovereignty can not be attained, then appropriation bills will, in time, become unnecessary.

Prodigality of the natural rights of man will not be compensated for by economy in appropriations.

Any degree of departure from sound basic principles is as dangerous in governmental affairs as in the exact sciences, and when the departure has gone so far as to demonstrate the error, only the foolish will continue to propagate it. So, when a political error, fundamental in character, has been so far pursued as to demonstrate its certain evil tendency the time is at hand to heroically apply the remedy and avert the impending certain disaster by returning to sound principles.

A republic can not now be and it never has been successfully maintained, based on inequality of citizenship. All ancient and modern attempts to establish or continue a republic founded on castes or class distinctions have signally and rightfully failed. Their wrecks are found all along the line of the ages, only to be pointed to as examples of attempts, in the name of liberty, to oppress the common people. Madame Roland, bowing before a statue of liberty, cried from the scaffold which she had just ascended from the cart that bore her to the guillotine:

Oh, Liberty, how many crimes have been committed in thy name!

It is, moreover, of supreme importance that constitutional injunctions should be obeyed and enforced, and especially where they are primary in character. Partisan heat should never arise nor be displayed over the enforcement of the Constitution. In its obedience, Members of Congress should all stand for it, coolly, calmly, and alike bound by duty and by that oath taken by each:

To support and defend the Constitution of the United States * * * bear true faith and allegiance to the same * * * without any mental reservation or purpose of evasion.

The help of God is invoked to keep this solemn oath.

The Republican party by its latest national declaration is required to enforce the Constitution relating to representation in Congress and in the electoral college; and its resplendent history even more strongly requires its enforcement, especially in the respect just stated. Its history, running over more than half a century, is studded with achievements for humanity won by upholding immutable, governmental, cardinal principles essential to the preservation of the natural rights of man. It will not now permit its decrees, written in the common blood of all the people and races, to be blotted out, and with them witness the certain overthrow of the principles of universal justice and equality upon which our Union was founded and, if perpetuated, must stand. That party will not, if the overthrow of the Union does come through departure from these principles, survive to witness the fatal day. It has the power, under God, to avert the calamity, and to preserve, perpetuate, and transmit through the ages to posterity the Republic in all its purity and accumulated strength and glory.

The special constitutional decrees of war being the work of the Republican party, and its immortal leaders being in their hallowed graves, the duty comes to their successors here and in the executive and judicial departments of the Government to fairly and impartially enforce them according to their true intent and spirit. Duty is often an exacting master, calling for unpleasant action, but those who are honored by special selection, and by their willing acceptance of high public place and responsibility, can not shield themselves from performing their duty because it may be unpleasant to perform it or for any other reason. No congressional and constitutional duty is so great that those who are charged with its performance should shrink from it.

The day of heroism and heroic deeds in statesmanship still abides, and must ever, or through political degeneracy there will soon be nobody to stand guard on the ramparts or around the citadels of the preserved, regenerated, disenthralled, and purified Union.

The preamble to the bill reads:

That whereas the Constitution of the United States, Article XIV, section 2, requires that "when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State;" and whereas existing law (section 22, Revised Statutes United States) enacted in pursuance of said section 2 requires its enforcement by Congress as empowered by such article; and whereas the Congress is satisfied that the right of certain male inhabitants of States hereinafter named, being 21 years of age and citizens of the United States, at elections therein for some or all of said officers, has been and now is denied, or in some way abridged, in each of said States, and that the representation in the House of Representatives of the Congress of the United States in each of such States so denying or abridging such right to vote should be reduced as the fourteenth article of the Constitution and the law require, to the end that a republican form of government may be guaranteed therein, based on equal political power among the States of the United States and the Congressional districts thereof, and in the electorial college:

The bill proposes to reduce the number of Representatives in Alabama from 9 to 5, Arkansas from 7 to 5, Florida from 3 to 2, Georgia from 11 to 6, Louisiana from 7 to 3, Mississippi from 8 to 3, North Carolina from 10 to 6; South Carolina from 7 to 3, Tennessee from 10 to 8, Texas from 16 to 12, and Virginia from 10 to 8—a total reduction of 37 Representatives, and, as a consequence, a reduction of the same number in the electoral college by force of paragraph 2, Article II, of the Constitution.

The bill does not provide for the reduction in the States mentioned to the extent the votes cast therein at recent elections would warrant. At least 50 Representatives are now based on disfranchised citizens. It only provides for reduction of Representatives in such States to the number they would each be entitled to, based alone on the white voters therein or the white population thereof, although it is certain large numbers of white voters have been disfranchised in each State; and the votes cast in each would warrant a larger reduction after taking liberally into account the usual number who do not vote for ordinary and natural reasons. The Representatives provided for in the bill could be elected in each of the States named by the number of votes cast therein in 1904—Alabama, by 21,769; Arkansas, by 23,284; Florida, by 19,654; Georgia, by 21,644; Louisiana, by 17,970; Mississippi, by 19,461; North Carolina, by 38,711; South Carolina, by 18,971; Tennessee, by 30,345; Texas, by 19,500, and Virginia, by 14,100—while the average number of votes cast in the same year in the other thirty-four States to elect one Member was 41,325, and in most of them the number cast was much greater, as the accompanying table shows. The average vote to elect a Member in Illinois in 1904 was 43,059; Indiana, 52,475; New York, 43,723; Ohio, 47,828, and Missouri, 40,241, etc.

Notwithstanding the small vote in the disfranchising States, the average vote in all the States (1904) to elect a Representative was 35,025.

The bill does not undertake to provide for or in any manner regulate either white or colored suffrage in the States mentioned. That is solely a matter for the States, subject to the limitation of the fifteenth amendment.

The purpose of the bill, as it recites, is to equalize, so far as possible, political power among the several States and Congressional districts thereof, and in the electoral college, and to the end that a republican form of government may be secured in the States named.

It must be assumed that the last apportionment among the States was fairly made, according to their respective numbers, on the ratio of 194,182 inhabitants. This apportionment remains unaffected, save as to disfranchising States. If one or more States deny or abridge the right of some of its white or colored male citizens, over 21 years of age, to vote, it does not change in other States the constitutional rule of apportionment based on the number of inhabitants. The right of Congress to reduce representation applies only to a State that has disfranchised some of its natural voting citizens, and representation in the other States remains unaffected.

It is not a valid objection to a reduction of representation in one State to show that a reduction should also be made for the same or any reason in another or other States. The second section of the fourteenth amendment speaks of reducing repre-

sentation in an offending State; hence each State must be considered separately.

Necessarily some inequality as to numbers must exist in districts created by State law, but this does not result in disfranchisement, nor does it destroy the political equality of the States which results from individual disfranchisement.

This is not the time, nor is it necessary here, to show how the constitutions and laws and practices in the States named deny or in some manner abridge the right of male citizens 21 years of age to vote. That they have operated to and still do this is or should be conceded. The exact nature of the provisions of law or practices is wholly unimportant, either as affecting the inequality of political power between States and Congressional districts or the power of Congress to correct such inequality as the Constitution requires. It is not material to voters of States whose votes express only a fraction of the political power possessed by voters in disfranchising States how the inequality has been brought about. The fact is the important thing to be looked at.

Does disfranchisement exist in the States named in the bill within the meaning of the Constitution?

To the result of the operation of the State constitutional provisions and laws and practices in conducting elections we look for the answer to this controlling question.

Both white and colored voters have been denied the right to vote, or such right has been, in some manner, abridged in a substantial sense in each of the several States named. The more recent elections prove the truth of this statement in a singularly emphatic way.

I submit a table of white and colored population and voters, votes cast, etc., which will be found instructive and demonstrative:

Table showing white and colored (negro) population and voters in each State, according to the census of 1900; present number of Representatives; also number each State would have if apportioned on white voters alone; also total number of votes cast in each State in 1902 and 1904, and average vote cast for Representative in 1902 and 1904 in each State.

State.	Population.		Voters.		Representatives.		Votes cast.		Average vote for each Representative.	
	White.	Colored.	White.	Colored.	Present apportionment.	Apportionment on white votes.	1902.	1904.	1902.	1904.
Alabama	1,001,152	827,307	232,294	181,471	9	5	92,184	108,845	10,242	12,093
Arkansas	941,580	336,456	226,597	87,157	7	5	119,741	116,421	17,105	16,631
California	1,402,727	11,045	489,545	3,711	8	10	303,742	331,433	37,934	41,429
Colorado	529,016	8,570	181,618	3,215	3	4	187,299	243,683	62,433	81,227
Connecticut	892,424	15,226	275,126	4,576	5	6	159,913	191,116	31,982	38,228
Delaware	153,977	30,697	45,562	8,374	1	1	38,161	43,856	38,161	43,856
Florida	297,533	230,730	77,962	61,417	3	2	16,428	39,307	5,476	13,102
Georgia	1,181,294	1,034,813	277,496	223,073	11	6	87,114	129,867	7,919	11,803
Idaho	154,495	293	50,328	130	1	1	59,823	72,583	59,823	72,583
Illinois	4,794,873	85,078	1,370,209	29,762	25	28	859,974	1,076,497	34,398	43,059
Indiana	2,453,502	57,505	701,761	18,186	13	15	500,356	682,185	45,412	52,475
Iowa	2,218,667	12,693	630,665	4,441	11	13	395,412	485,703	35,946	44,154
Kansas	1,416,319	52,003	398,552	14,695	8	8	287,168	324,588	35,896	40,573
Kentucky	1,862,309	284,706	469,206	74,728	11	9	290,489	435,765	26,408	39,615
Louisiana	720,612	650,804	177,878	147,348	7	3	26,265	53,908	3,752	7,701
Maine	692,223	1,319	216,856	445	4	4	110,537	96,040	27,634	24,010
Maryland	952,424	235,064	260,979	60,406	6	5	197,168	224,224	32,861	37,370
Massachusetts	2,769,764	31,974	830,049	10,456	14	17	398,689	445,098	28,477	31,792
Michigan	2,398,563	15,816	712,245	5,193	12	15	402,199	520,451	33,516	43,370
Minnesota	1,737,086	4,959	502,384	2,168	9	10	273,112	292,860	30,345	32,540
Mississippi	641,200	907,630	150,530	197,936	8	3	18,058	58,383	2,257	7,297
Missouri	2,944,843	161,224	809,797	46,418	16	17	517,977	643,861	32,373	40,241
Montana	228,223	1,523	94,873	711	1	2	55,360	64,444	55,360	64,444
Nebraska	1,056,526	6,269	297,817	2,298	6	6	194,141	224,687	32,356	37,447
Nevada	35,405	124	14,652	70	1	1	11,315	12,118	11,315	12,118
New Hampshire	410,791	662	130,648	230	2	3	85,607	90,089	42,803	45,044
New Jersey	1,812,317	69,844	532,750	21,474	10	11	358,267	432,547	35,826	43,254
New York	7,156,881	99,232	2,145,057	31,425	37	44	1,384,116	1,617,770	37,408	43,723
North Carolina	1,263,606	624,469	289,263	127,114	10	6	203,514	206,134	20,351	20,613
North Dakota	311,712	286	93,237	115	2	2	50,326	80,190	25,163	40,095
Ohio	4,060,204	96,901	1,180,599	31,235	21	24	811,466	1,004,393	38,641	47,828
Oregon	394,582	1,105	131,261	590	2	3	90,692	90,171	43,346	45,085
Pennsylvania	6,141,664	156,845	1,763,482	51,668	32	36	1,094,713	1,234,738	34,209	38,585
Rhode Island	419,050	9,092	124,001	2,765	2	3	59,792	68,656	29,896	34,328
South Carolina	557,807	782,321	130,375	152,860	7	3	31,817	56,912	4,545	8,130
South Dakota	380,714	465	107,353	184	2	2	74,457	101,440	37,228	50,720
Tennessee	1,540,186	480,243	375,046	112,236	10	8	160,159	242,756	16,015	24,275
Texas	2,426,669	620,722	599,961	136,875	16	12	287,792	234,008	17,987	14,625
Utah	272,405	672	65,205	358	1	1	84,718	101,624	84,718	101,624
Vermont	342,771	826	108,027	289	2	2	69,927	51,872	34,963	25,936
Virginia	1,192,855	660,722	301,379	148,122	10	8	200,509	129,103	20,050	12,910
Washington	496,304	2,514	183,999	1,250	3	4	97,136	145,151	32,378	48,383
West Virginia	915,233	43,499	253,129	14,786	5	5	188,573	239,923	37,714	47,984
Wisconsin	2,057,911	2,542	567,213	1,006	11	12	365,676	442,649	33,243	40,240
Wyoming	89,051	940	36,262	481	1	1	25,052	30,655	25,052	30,655
Total	65,674,350	8,708,350	18,593,256	2,021,398	386	386	11,416,934	13,519,604	1,399,917	1,653,198

(Unless otherwise stated, the census of 1900 and the election of 1904 are hereinafter referred to.)

This table shows that Alabama, with 9 Representatives, has a white voting population of 232,294, and that the vote cast in the election of 1904 was 108,845; Arkansas, with 7 Representatives, has a white voting population of 226,597, and that the vote cast was 116,421; Florida, with 3 Representatives, has a white voting population of 77,962, and that the vote cast was 39,307; Georgia, with 11 Representatives, has a white voting population of 277,496, and that the vote cast was 129,867; Louisiana, with 7 Representatives, has a white voting population of 177,878, and that the vote cast was 53,908; Mississippi, with 8 Representatives, has a white voting population of 150,530, and that the vote cast was 58,383; North Carolina, with 10 Representatives, has a white voting population of 289,263, and that the vote cast was 206,134; South Carolina, with 7 Representatives, has a white voting population of 130,375, and that the vote cast was 56,912; Tennessee, with 10 Representatives, has a white voting population of 375,046, and that the vote cast was 242,756; Texas, with 16 Representatives, has a white voting population of 599,961, and that the vote cast was 234,008; and Virginia, with 10 Representatives, has a white voting population of 301,379, and that the vote cast was 129,103.

It thus appears that these 11 States have 98 Representatives and 120 electors and a total of white voters of 2,838,781, and that they cast 1,375,644 votes—less than one-half the number of white voters.

It will be seen that New York, with 37 Representatives and 39 electors and a white voting population of 2,145,057, cast 1,617,770 votes, above 200,000 more than were cast in the 11 named States, to elect 98 Representatives and 120 electors.

New York in 1904, in electing 37 Representatives and 39 electors, cast 1,617,770 votes, while Alabama, Arkansas, Florida, Georgia, and Louisiana, in electing 37 Representatives and 47 electors, cast 448,348 votes—less than one-third the number cast in New York.

Alabama, Arkansas, Georgia, and North Carolina together have a white population of 4,390,629 and 37 Representatives, while New York has a white population of 7,156,881 and only 37 Representatives. The four States have 45 electors.

The same four States cast in 1904, in electing the 37 Members, 564,152 votes, while New York the same year cast 1,617,770

votes to elect 37 Members—above three times as many as the four States. On the basis of white voters the four States would be entitled to 22 Members and New York to 45—more than double.

Pennsylvania in 1904, in electing 32 Representatives and 34 electors, cast 1,234,738 votes, while Alabama, Florida, Louisiana, Mississippi, and South Carolina, in electing 32 Representatives and 42 electors, cast 317,355 votes—about one-fourth the number cast in Pennsylvania.

Mississippi, Kansas, and California each has 8 Members and 10 electors. Mississippi, with 150,530 white voters, in 1904 polled 58,383 votes to elect 8, while Kansas, with 398,552 white voters, polled—same year—324,588 votes, and California, with 489,545 white voters, polled—same year—331,433 votes each to elect the same number of Representatives and electors as Mississippi. In 1902 Mississippi polled only 18,058 to elect 8 Members of the House.

Maine, with 4 Representatives and 6 electors and a white voting population of 216,856, cast 96,040 votes, while Mississippi, with a white voting population of 150,530, cast 58,383 votes and elected 8 Representatives and 10 electors.

Massachusetts, with 14 Representatives and 16 electors and a white voting population of 830,049, cast 445,098 votes, while Alabama, Arkansas, Florida, Louisiana, and Mississippi, with a white voting population of 865,261, cast 376,864 votes and elected 34 Representatives and 44 electors.

Indiana, with 13 Representatives and 15 electors and a white voting population of 701,761, cast 682,185 votes, while Florida, Louisiana, Mississippi, and South Carolina, with a white voting population of 536,745, cast 208,510 votes to elect 25 Representatives and 33 electors.

Delaware, with 1 Representative and 3 electors and a white voting population of 45,592, cast 43,856 votes, while Florida, with a white voting population of 77,962, cast 39,307 to elect 3 Representatives and 5 electors.

So Illinois, with 25 Representatives and 27 electors and a white voting population of 1,370,209, cast 1,076,497 votes, while Florida, Louisiana, Mississippi, and South Carolina, with a white voting population of 536,745, cast 208,510 votes (less than one-fifth of Illinois) to elect 25 Representatives and 33 electors.

Colorado, with 3 Representatives, cast an average vote for each of 81,227.

Montana, with 1 Representative, cast 64,444 votes.

Utah, with 1 Representative, cast 101,624 votes, and Idaho, with 1 Representative, cast 72,583 votes—in each instance much larger than the total votes cast in a number of the disfranchising States.

The white vote—Democratic—in 1872 and before disfranchisement began was much larger in Mississippi and other States in the South than the entire vote in recent years, though the white population was then much less.

Mississippi, South Carolina, Alabama, and Louisiana, with 31 Members of the House and 39 electors, having an aggregate white vote of 691,077, polled (1904) an aggregate vote of 278,048, while Ohio, having 1,180,599 white voters, polled (same year) 1,004,393 votes to elect her 21 Representatives and 23 electors—that is, the four States, with more than 300,000 less white voters and only a little more than one-fourth the actual vote cast in Ohio, elected 10 more Representatives and 16 more electors than Ohio.

Ohio in 1904, in electing 21 Representatives and 23 electors, cast 1,004,393 votes, while Arkansas, Louisiana, and South Carolina, in electing 21 Representatives and 27 electors, cast 227,241 votes—only a little more than one-fifth of Ohio's vote.

Kentucky, with a white voting population of 469,206 cast 435,765 votes (1904) to elect 11 Representatives and 13 electors, while Alabama, Arkansas, Florida, Louisiana, Mississippi, and South Carolina, with an aggregate white voting population of 995,636, cast 433,776 votes (2,000 less than Kentucky) to elect 41 Representatives and 53 electors.

Rhode Island cast 68,656 votes (1904) to elect 2 Representatives and South Carolina cast 56,912 and Louisiana 53,908 votes each to elect 7, and Mississippi cast 58,383 votes to elect 8 Representatives.

Missouri, once a slave State, cast 643,861 votes to elect 16 Representatives, while Mississippi to elect 8 Representatives cast only 58,383, less than one-eleventh the vote of Missouri. In the tenth Missouri district alone there were cast 58,533 votes, more than were cast in Mississippi or South Carolina the same year. This is true of districts in other States.

Iowa with a white voting population of 630,655 cast (1904) 485,703 votes, and Mississippi with a white voting population of 150,530 cast 58,383 votes to elect 8 Representatives, and Florida with a white voting population of 77,962 cast 39,307 votes to elect 3 Representatives, the two electing 11 Representatives, the same number as Iowa, and two more electors.

In 1902 there were many districts in which the Democrats cast a vote greater than the entire vote in Mississippi (18,058), and it failed to elect anybody. The 3d Ohio (Mr. Nevin's) district is an instance of this kind.

Many other comparisons may be made, all demonstrating the inequality among the States arising out of the constitutions, laws, and practices in disfranchising States.

Comparisons with votes in 1902 will show more strongly against such States in most cases. This is particularly true as to Florida, Louisiana, Mississippi, South Carolina, and Tennessee.

There are many single districts in natural voting States that cast more votes to elect one Member than were cast in 1902 or 1904 in the States of Louisiana, South Carolina, or Florida.

In Alabama the total vote (1904) was: First district, 6,986; second, 10,178; third, 9,265; fourth, 9,288; fifth, 13,248; sixth, 11,591; seventh, 17575; eighth, 11,744; ninth, 11,767; and the average vote therein was 12,093. In Arkansas it was: First district, 14,493; second, 14,453; third, 17,266; fourth, 15,660; fifth, 18,661; sixth, 15,319; seventh, 14,279, and the average vote therein was 16,631. In Florida it was: First district, 11,205; second, 13,882; third, 7,671, and the average vote therein was 13,102. In Georgia it was: First district, 7,368; second, 8,041; third, 6,975; fourth, 8,572; fifth, 13,147; sixth, 7,463; seventh, 14,962; eighth, 8,568; ninth, 18,813; tenth, 9,394; eleventh, 12,891, and the average vote therein was 11,806. In Louisiana it was: First district, 10,195; second, 10,750; third, 6,687; fourth, 6,325; fifth, 6,024; sixth, 6,072; seventh, 6,454, and the average vote therein was 7,701. In Mississippi it was: First district, 8,049; second, 7,279; third, 3,744; fourth, 7,135; fifth, 9,454; sixth, 5,730; seventh, 7,012; eighth, 4,934, and the average vote therein was 7,297. In North Carolina it was: First district, 16,232; second, 13,983; third, 16,141; fourth, 17,835; fifth, 28,120; sixth, 13,963; seventh, 21,628; eighth, 30,925; ninth, 23,777; tenth, 26,220, and the average vote therein was 20,613. In South Carolina it was: First district, 6,648; second, 7,845; third, 7,801; fourth, 8,735; fifth, 8,099; sixth, 8,729; seventh, 9,289, and the average vote therein was 8,130. In Tennessee it was: First district, 28,536; second, 22,097; third, 31,076; fourth, 25,076; fifth, 19,773; sixth, 17,546; seventh, 16,299; eighth, 24,847; ninth, 21,669; tenth, 17,902; and the average vote therein was 24,275. In Texas it was: First district, 14,132; second, 10,350; third, 11,427; fourth, 12,390; fifth, 12,254; sixth, 9,310; seventh, 8,147; eighth, 26,606; ninth, 12,190; tenth, 14,372; eleventh, 9,747; twelfth, 10,634; thirteenth, 17,115; fourteenth, 12,325; fifteenth, 17,401; sixteenth, 17,177, and the average vote therein was 14,625. In Virginia it was: First district, 10,157; second, 13,782; third, 14,714; fourth, 7,074; fifth, 13,686; sixth, 11,227; seventh, 14,000; eighth, 10,429; ninth, 27,604; tenth, 13,975, and the average vote therein was 12,910.

In 1902 the total vote for Representatives in most of these States was materially less; the lowest for a Member in Alabama was 5,974, and the highest 17,581; in Arkansas, lowest, 4,796, and highest, 5,817; in Florida, lowest, 4,249, and highest, 6,494; in Georgia, lowest, 2,485, and highest, 5,694; in Louisiana, lowest, 2,723, and highest, 5,882; in Mississippi, lowest, 1,146, and highest, 3,245; in North Carolina, lowest, 12,823, and highest, 29,790; in South Carolina, lowest, 3,924, and highest, 5,381; in Tennessee, lowest, 8,928 and the highest, 25,125.

Texas in the last Presidential election year polled 53,784 and Virginia 71,406 votes less than in 1902, the average vote for a Member in that year in Texas being 17,978 and in Virginia 20,050.

In no one of the States named in the bill was the average vote cast (1904) for a Representative equal to one-half the average vote cast for one in the other States. In some instances (two) it did not reach one-fifth; in others not one-fourth, and in all, save two, was below one-third.

Most of the States have a long history of disfranchisement, conclusively proving that their constitutions, laws, and plans, and the practices therein relative to elections have been effective. Some States did not get their constitutions and laws into operation until in recent years. Virginia, for example, in 1902 cast 200,509 votes, but under her later methods of disfranchisement her vote went down, in 1904, to 129,103.

The Houston Daily Post (March 7, 1906) says:

The vote of Texas dropped from 560,000 in 1892 to 235,000 in 1904, although in the latter year there were in the State 250,000 more males of voting age than in 1892. The vote of the State is steadily falling, notwithstanding the fact that the population of the State is increasing at the rate of nearly 4 per cent annually. It is scarcely probable that the total vote of the State next November will exceed 200,000, although the potential voters of the State number 1,000,000.

The vote of other States has fallen off in like manner. Where free suffrage is the rule in general, above 20 per cent of the population vote. In New York it is above and in Ohio it is about 25 per cent. So of some other States.

Assuming negroes did not vote at all in Alabama the percentage of the white population who voted in 1904 was about 10; Arkansas, about 11; Florida, about 13; Georgia, about 11; Louisiana, less than 8; Mississippi, about 9; North Carolina, about 17; South Carolina, about 10; Tennessee, less than 16; Texas, less than 10, and Virginia, less than 11 per cent. If some negroes voted in any of these States the percentage of whites who voted was proportionately less.

The severest criticism on the bill that can be fairly made is that it does not make all the reduction the facts warrant and the Constitution requires. The friends of the bill, however, prefer to err in favor of the disfranchising States. No one of the States not included in the bill, save Nevada, elected in 1902 or 1904 its Representatives with an average vote as small as would be the average vote in each of the eleven disfranchising States in electing the number of Representatives provided for in the bill if the votes cast should not exceed those of 1904, excepting Georgia, North Carolina,, and Tennessee. In general, it may be said that with the bill a law, and disfranchisement continuing as now, there will be twice as many votes to elect a Representative in the States not affected by it as in any of the States included in it.

For example, West Virginia (1904), with five Representatives and seven electors and 233,129 white voters, cast 239,923 votes, while Virginia, with 301,379 white voters, cast 129,103 votes to elect ten Representatives and twelve electors. The average number of votes cast to elect a Representative in West Virginia was 47,984, while in Virginia it was 12,910. Virginia did not poll a number equal to one-half her white voters and West Virginia polled a number in excess of her white voters. In the former State disfranchisement was effectual, in the latter it did not exist.

By the rule of numbers all citizens are given representation, but those who are disfranchised are wholly without it; and nothing justifies the transfer of their voting rights to those who disfranchise them, thereby giving them a political or voting power not possessed by voters in other States or districts. Each naturally qualified voter should exercise his own sovereign right as a citizen of the Republic, and on being deprived of this right it must remain unexercised. If he is in any manner deprived of such right by his State no right is vested in it to transfer his lost right to others of his State, thereby conferring on its voting citizens a political power in national affairs not possessed by voting citizens of other States; and this is not only against the just, reasonable, and natural principles of our Republic, founded as it was, necessarily, on the universal equality and the natural rights of all free citizens thereof, as its founders declared in all their polity as well as in the Declaration of Independence. The fourteenth amendment, in clear and express terms, requires Congress to prevent, by a defined rule of reduction of representation, this invasion of the rights of voters in States, thereby recognizing the primary rule of the founders of the Republic.

NOT REPUBLICAN IN FORM.

To concentrate the political power of a State in the hands of the few, or into the control of even a majority of its citizens, they to enjoy the power all the citizens thereof might possess, leads to that injustice between States we have pointed out, and to a form of government not republican; and, if tolerated, must lead to aristocracy, autocracy, and monarchy, wherein political slavery will necessarily prevail, and the voting citizens of a State thus governed would possess unequal political power in the choice of a President and Vice-President and Representatives in Congress.

The Constitution (sec. 4, Art. IV) provides that this shall not occur without a remedy. It reads:

> The United States shall guarantee to every State in the Union a republican form of government.

The Constitution (sec. 2, Art. IV) also provides that:

> The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

And section 1 of the fourteenth amendment reiterates this provision, thus:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

These provisions are violated if certain citizens of one or more States are granted a voting power not enjoyed by citizens of other States.

And it is enjoined on Congress (sec. 8, Art. I):

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested in this Constitution in the Government of the United States.

The proviso that the United States shall guarantee to every State in the Union a republican form of government was fiercely assailed by those opposed to the ratification of the Constitution, but its importance was as fiercely maintained by those who framed the Constitution. This proviso is the sole one authorizing the Federal power to interfere with the polity of a State and correct a departure from republican principles by guaranteeing to it a republican form of government. This right, it was maintained, must rest somewhere, and could best be vested in a plenary way in the United States through its congressional power. The power intended to be granted by the proviso was not then denied; its wisdom and necessity only was assailed. James Madison, one of the framers of the Constitution, though conservative in his interpretation, in 1788, in the Federalist (No. 43), speaking of the importance of the proviso, says:

> In a confederacy founded on republican principles and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchial innovations. The more intimate the nature of such a union may be the greater interest have the members in the political institutions of each other and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained.
>
> But a right implies a remedy, and where else could the remedy be deposited than where it is deposited by the constitution? Governments of dissimilar principles and forms have been found less adapted to a federal coalition of any sort than those of a kindred nature.

To guard against "aristocratic or monarchial innovations" or "governments [States] of dissimilar principles and forms" being joined in the same coalition were the things intended to be prevented—this to secure uniformity and to avert the danger of their falling apart through lack of harmony of purpose and to avoid dissatisfaction among the States through an unequal political national power some States and their citizens might acquire over other States and their citizens.

Cooley and other expounders of the Constitution support the Federalist.

What more certain way to bring about dissensions than to allow some States, through a small number of voting citizens, to have a greater political power than other States with a much larger number of voting citizens?

The political enslavement of some of the citizens of the United States for causes other than crime is the destruction of our boasted liberty, and enters us upon the road to aristocracy, autocracy, and monarchy, especially when the few of some States or localities usurp the rights of the whole, producing inequality of political power among voters of the several States, and in some cases among voters of districts of the same State. There are instances in North Carolina and Tennessee where the lowest vote in a district is little more than one-half of the vote in other districts; in Texas this is also the case, and in some districts the vote is less, or only about one third the vote in others of the same State.

Any abridgment of the right to vote of citizens of the United States residing in a State, for causes other than crime, constitutes an "aristocratic or monarchial innovation." Especially is this true where more than one-half the natural voters in a State are deprived of all political power, as is now confessedly the case in Mississippi and South Carolina, considering only disfranchised colored citizens therein.

Greece was undone, says Montesquieu, as soon as the King of Macedon obtained a seat among the Amphyctions.

The Roman Republic fell through an unequal exercise of political power.

The once so-called confederated republics of Germany consisted of free cities and petty states subject to different rulers, and being unequal in centralized power were inharmonious and without political cohesion and consequently impossible of perpetuation. Holland was much freer from such conditions. Switzerland's cantons were substantially equal in national affairs, though not absolutely so in local respects. She still so exists in the midst of European monarchies.

The equalizing of political power is therefore not only required by section two of the fourteenth amendment, but by primary requirements of the Constitution as originally adopted. How else is a republican form of government in each State to be guaranteed, or the citizens thereof secured "all the privileges or immunities of citizens in the several States?"

To allow a few citizens of one State to enjoy the privilege of casting their votes in electing a President and Vice-President and Representatives in Congress, while in other States double or triple the number of voters do not equal them in political power, is to regard the voters of the other States as unfit or unworthy to exercise equal political power in Federal affairs.

WHAT CONSTITUTES DISFRANCHISEMENT.

Disfranchisement is an evolution in most of the States where it exists. It commenced in the early days of reconstruction—in Kuklux days—and when election frauds were common, by

the use of tissue and other fraudulent ballots, by the shotgun policy, by dishonestly refusing registration, by failing to count or return ballots cast, by false election returns, and by intimidation through riots at the polls. Then came the more convenient and less violent methods whereby, sometimes, under the forms of law, citizens are prevented from registering, going to the polls, or voting.

The privileged few knew well that to encourage or to allow the masses of white voters to vote would result in some of them aspiring to hold offices, a right only the elect few claim for themselves.

In 1904 in Alabama, Arkansas, Georgia, Louisiana, Texas, and Virginia less than one-half of the white voters voted; and in Mississippi and South Carolina but a little more than one-third voted; in Florida just about one-half voted, and in North Carolina and Tennessee a little more than one-half voted.

It is claimed that, owing to systems of primary elections to nominate candidates, voters do not take any interest in the elections, and because there is seldom any opposition candidates to Democratic candidates but few vote. Taking this as true in general in the States named, it proves that the right of the natural voters to vote has been abridged within the meaning of the Constitution.

A State must take the consequence of conditions which prevail in it. If by its constitution, laws and manner of executing them, and the general conditions of society and the conduct of its people the rights of its citizens in considerable numbers are withheld from them, or they are generally deprived of a right they would naturally desire and seek to enjoy, especially one like the right to vote at an election for President and Vice-President, or for a Representative in Congress, then it is clear such rights are denied them, or, at least, abridged.

In the years of secession or rebellion all acts of the so-called Confederate States were unconstitutional and without warrant of legal authority, as the courts have held, yet the conditions existing, however illegally produced, entailed on such States and their people a responsibility that they could not and did not escape.

Citizenship in the United States, as guaranteed by the first section of the fourteenth amendment of the Constitution, carries with it individual sovereignty which can only be exercised through the ballot, and a denial of the ballot or any abridgment of its enjoyment in any manner by a State renders it subject to a proportionate reduction of its representation. This sovereignty is never lightly surrendered or neglected, especially by the less favored classes of our people. They are jealous of this one sovereign right which they understand they ought to be allowed to enjoy on a footing with the wealthiest or more favored class. The humblest citizens are the most reliable voters everywhere in our Republic unless causes beyond their control prevent their voting. Voting is the one right they never willingly surrender; hence when the masses of voters, white or colored, do not vote, it is because their right to enjoy that privilege has been denied or in some manner abridged. It follows that where a number less than one-half of the white voters, to say nothing of the colored voters, do not vote, it may be conclusively assumed that it is not of their own volition, but because their enjoyment of the right is in some way denied or abridged. Why Mississippi should cast only 7,297, Louisiana 7,701, and South Carolina 8,130 votes, on an average, to elect a Member of this House, while Missouri cast 40,241 and Kentucky cast 39,615 votes (all once slave), on an average, to elect a Member, can only be accounted for on this assumption. To refuse to register a voter or to refuse to accept at the ballot box a voter's ballot or to not count and return it when cast is as effectual a denial or abridgment of his right to vote as to forbid his voting by State law. Suppose no attempt was made to prevent citizens from voting and they were freely invited and encouraged to do so, yet the law of the State required or allowed returning boards to throw out such votes as they pleased, and they did so, would it still be contended that there was no denial or abridgment of the right to vote? The scheme of denial or abridgment is wholly immaterial.

The Constitution only regards the fact. If the shotgun policy which once prevailed in certain parts still prevailed as then with popular acquiescence or approval, it would also be a denial of the citizen's right to vote, or an abridgment of such right. If the people of a State persist in denying the right of large numbers of its citizens by any policy of intimidation or fraud through its election machinery or election officers, the denial is none the less effectual than if it results from State law or a constitutional provision. So the fact, appearing from year to year that only a fraction of the natural number of voters in a State actually vote, becomes convincing that the others are substantially all denied the ballot or that their right to vote is in some manner abridged.

A disfranchised voter has not the right and can not confer on another or others the right to vote for him, nor can his State. The power of the ballot is nontransferable; it can not be delegated; it admits of no agency; it is the only mode of exercising individual sovereignty by the citizen, and in its exercise there are no political or class castes, degrees, or distinctions; and by the ballot the humblest citizen of the United States is enabled to stand at the polls abreast, and as the peer, of the wealthy, the most haughty and aspiring in the Republic. With the ballot in hand, the humblest of our people stand equal by the side of those who assume superiority or supremacy, and by its power injustice and oppression may be averted, and the unworthy in high places may be cast down, the Union upheld, and the rights of man preserved and maintained when in danger. The ballot stands for law against the lawless, for official honesty against dishonesty, and without it and its equal exercise there can not long be maintained in its integrity a union of States, with a common purpose such as ours was intended to be, in fact as well as in name, and to be perpetuated through time.

The Declaration of Independence (1776) and the Articles of Confederation (1778) and the Constitution our forefathers framed (1787), were each based on the fundamental idea of equality in making and administering the laws, in the choice of executive officers, and of representatives in legislative bodies. The central idea was individual equality of citizenship; this to escape the fetters of oppression that had been forged by the King and Parliament of England.

Taxation without representation led to the Declaration of Independence, to revolution, to war, to the founding of our new great Republic, and to the Constitution of the United States for the government of a free people by a free people, under one flag, with one destiny, and to a nation now first of the powers of earth.

The defiant cry of our Revolutionary fathers was:

Millions for defense, but not one cent for tribute.

The ship of state, armored and protected by the Constitution, has ridden for above a century and a quarter the stormy billows of mighty political seas, coming at times close to danger shoals and rocks and reefs, barely escaping the doom of destruction common to all nations, monarchies, or republics that recognized or tolerated human slavery; and it was saved only by the irresistible might of Divine power, embodied and worked out through the equal rights of man as written in the original Constitution, reenforced by the three amendments—decrees of successful war—engrossed in the blood of the fallen heroes who fought for and against the natural and equal rights of humanity and for universal liberty.

If we have drifted from a safe anchorage it is our duty at the earliest time possible to take soundings anew and right the proud old ship of State and keep her on a course where she may ride in eternal safety.

Our country, thus typified, should continue to be not only first of the earth, but an example to be imitated through time by nations desiring to govern their people humanely, recognizing at all times and under all circumstances the equality of all participating in the governing power; and to be pointed to by the oppressed of all lands as a country of the free and as a warning to oppressing nations that, in God's time sooner or later to come, they too must yield to a freer and better government and grant equal liberty to their subjects or the common fate of nations founded on inequality and tyranny will come. The world is just now witnessing the defiant, autocratic, despotic empire of the Czar of Russia surrender its long continuing power of the centuries on the demand of her mighty hosts of long-oppressed subjects. The fates and God alike are inexorable.

The claim that reduction of representation can only be enforced as a punishment or to penalize a State merely because it will not allow the negro to vote, or that it should not be done because, by possibility, representation in other States should also be reduced, is unfounded. There is no such thing as penalizing a State under the Constitution. It works no wrong or injustice to enforce the Constitution, and nothing enjoined by it is sectional, and not to enforce it propagates a wrong, works unequality in, and continues injustice to States that allow the citizens of the United States residing therein to vote. These latter States are penalized by not enforcing the Constitution. To refuse or neglect to enforce the Constitution in any respect shows disregard of it, and if persisted in will lead to its destruction. That other States not mentioned in the bill should suffer a reduction of representation is not worthy of

consideration, for if such is the case then the same rule of reduction should be applied. That other guilty persons have escaped punishment has been a common complaint of offenders about to be brought to justice ever since Cain killed Abel.

But the Constitution is directed against a State which denies or abridges suffrage, and the necessity for reduction in one State does not require or authorize reduction or increase of representation in any other State or States. Save in disfranchising States, as already stated, the rule of apportionment based on numbers is unchanged. (Sec. 2, Art. XIV.)

With all the expedients at work, how are we to determine the extent of the denial or abridgment, save by actual results in normal election years? It is not pretended that if the election returns do not show that all the voting population of a State have voted, the presumption of disfranchisement arises. It is not to be presumed that all of the voting population of a State who do not vote are disfranchised, for in all the States, through usual and natural causes (such as illness, bad weather, bad roads, inconvenient voting places, natural indisposition, etc.), many do not vote who would be allowed to vote, but it is fair to presume that where the vote is unnaturally small the fault is with the State.

Recurring to the amendment we see that the denial or abridgment must be in the right to vote for President, Vice-President, Representatives in Congress, the executive and judicial officers of a State or the members of the legislature thereof. If the denial or abridgment is only as to one of the enumerated classes of officers reduction of representation in Congress is still required. Just why this was made so may not be very clear, for State, executive, and judicial officers and legislators have no direct connection with Federal officers or influence over their action. The executive of a State, however, often has the right to appoint a Senator, and legislatures elect Senators and also form Congressional districts, while the State judiciary construes election laws.

Whatever the reason may have been, it is clear that Congress is given power to reduce representation in a State when citizens with a natural right to vote are deprived of it in either of the cases named. So, even though there was no disfranchisement in a State in an election for President, Vice-President, or Members of Congress, and it existed in electing either of the State officers or legislators named, the right of reduction would still exist. This shows the great care of the framers of the amendment to secure, and how important they regarded such right. In all respects the proviso was drawn to the end that its purpose could not be defeated. To provide that reduction should follow when the right to vote is denied was evidently not deemed sufficient to accomplish the desired end, hence, later in the sentence, the words "or in any way abridged" appear. The Congress had, as the debate shows, a fixed purpose to provide for the equalization of the voting power among voting citizens of the several States in case any one or more of them denied, or in any manner abridged, suffrage therein.

Nor does the language provide that such denial shall be by lawful or unlawful methods; it is sufficient if it is accomplished in fact, with or without State law, or with or without the forms of law. If done by intimidation or by violence of communities, organized or unorganized, or by fraud, either in the common practices of dominant people of the State, or in the execution or administration by its officers of the constitutions and laws thereof relating to elections, or by other evasive methods, the result is the same as though done under the ordinary and direct forms of law, and the consequence must be the same. What boots it to the wronged voters of nondisfranchising States and districts how the disfranchising was brought about? Their rights are invaded the same, regardless of the expedients or devices resorted to.

The amendment, being benign in character (118 U. S., 356) and intended to secure personal rights, not to defeat them, is therefore entitled to a liberal construction (an established rule of construction in courts of justice) to the end that its purpose may be accomplished.

That disfranchisement may be accomplished within the meaning of section 2 of the amendment may be regarded as judicially settled by our Supreme Court in the Williams case (170 U. S., 213), wherein Mississippi's election laws were drawn in question, and involving a clause of section 1 of the fourteenth amendment relating to a denial by a State of the "equal protection of the laws" to citizens of the United States. The court held that the case (one involving jurors) as presented, or the Mississippi statute on its face, did not show a denial to the complainant of his right to the equal protection of the laws, and therefore was not entitled to the relief prayed for; yet it made clear, without dissent, that if a case had been made showing that through the administration of the election laws the plaintiff had been deprived of any right, he would have been entitled to relief.

I quote from the opinion:

> There is no charge against the officers to whom is submitted the selection of grand or petit jurors, or those who procure the lists of jurors. There is an allegation of the purpose of the convention to disfranchise citizens of the colored race, but with this we have no concern, unless the purpose is executed by the constitution or laws or by those who administer them. If it is done in the latter way, how or by what means should be shown.

This case cites and affirms the California laundry case (118 U. S., 356), wherein it is held that public authorities charged with the administration of a law or ordinance represent the State, and that they may act so unequally and oppressively "as to amount to a practical denial by the State" of the equal protection of the laws. I quote from the latter case:

> And the facts shown establish an administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the ordinances as adopted, they are applied by the public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secured to the petitioners, as to all other persons, by the broad and benign provisions of the fourteenth amendment to the Constitution of the United States. Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution. This principle of interpretation has been sanctioned in 92 U. S., 259; 92 U. S., 275; 100 U. S., 339; 103 U. S., 370, and 113 U. S., 703.

The clause, however, of section 1 of the amendment requires an absolute denial of the equal protection of the laws, hence not to be compared with the clause in question in section 2, which contains the broad, qualifying words "or in any way abridged;" that is, "in any way" reduced, cut down, shortened, though not denied. Hence, if the right to vote is not actually denied, but only in some way abridged, the rule of reduction obtains.

There is not time now to review and show how the constitutions and laws and their administration operate or have operated to disfranchise white and colored citizens alike, or the varied means devised to reach that end. As an example and illustration I quote from a Mississippi supreme court case (20 So. Rep., 865) to show the many expedients resorted to:

> Within the field of permissible action under the limitations proposed by the Federal Constitution, the convention swept the field of expedients, to obstruct the exercise of suffrage by the negro race. And further the court said, speaking of the negro race: By reason of its previous condition of servitude and dependencies, this race had acquired or accentuated certain peculiarities of habit, of temperament, and of character, which clearly distinguished it as a race from the whites. A patient, docile people; but careless, landless, migratory within narrow limits, without forethought; and its criminal members given to furtive offenses, rather than the robust crimes of the whites. Restrained by the Federal Constitution from discriminating against the negro race, the convention discriminates against its characteristics, and the offenses to which its criminal members are prone.

But if the laws of a State are so ineffective, or so poorly administered, or society therein is so vicious, so disorganized, and so chaotic that large numbers of its citizens are not able, or not allowed, to enjoy the elective franchise, the State must be held to have denied or abridged the right to enjoy it. In other words, the State is so far responsible for a proper organized government within it that it can not escape consequences on the puerile plea that it does not deny or abridge natural rights to citizens of the United States by express or direct provisions of law, but only by sinister and evasive expedients, or by the unjust administration of the laws. If negroes are disfranchised as effectually by laws other than such as would discriminate against them on account of race or color, or through the wrongful administration of laws, or from violence, or fraud, or in consequence of a condition of society existing in a State, the result is the same; and the same evil effect on other States and their voters likewise results, calling as imperatively for the remedy the Constitution provides as if there was a denial or abridgment of the right to vote by express provisions of organic law. The framers of the amendment had a purpose to attain, and they used language to compass it, which can not be overridden by mere technical construction.

It is inconceivable that the great, earnest, and learned statesmen who framed the fourteenth amendment did so on the theory that it was only applicable to a State that denied or abridged the right of citizens to vote therein by open, honest, and direct proceedings, and that it was not designed to be applicable to a State that accomplished disfranchisement through fraud, chicanery, violence, indirection, by unjust and unfriendly administration of law, or without law, or by "sweeping the field of expedients to obstruct the exercise of suffrage by the negro race." To admit the latter as their theory of the constitutional provision presupposes that they framed it as a mode

of encouraging and inducing the most sinister and vicious of methods, and as a premium therefor.

The amendment had for its object the equalizing of the voting power of citizens of the different States, and to accomplish this no regard was paid to the methods used to acquire unequal power.

It is not proposed here to review the constitutions and laws of the several States. This is largely unnecessary, save, possibly, as to a few of them, as disfranchisement is openly avowed and boasted of by public officers, prominent men, and the public press in many of the States named in the bill.

A State must be held responsible for the conditions existing in it, especially in so far as they affect political rights of other States and their citizens, and this whether the conditions result from law or lawlessness.

It is said an educational test does not disfranchise, nor a poll tax. Whatever might be a defense to a personal claim for relief if one could be preferred by a disfranchised voter against officers for refusing his vote in such tests, it is certain that others in the disfranchising States can not become, individually or collectively, endowed through them with increased national political power, or that States wherein there are no such tests, and their citizens, must thereby lose a share of their political power in the Republic. What is contended for, and only that, is that a vote in one State shall count for as much in the Republic as a vote in any other State. To say a citizen should, or could, learn to read, and could or should have money and pay a poll tax does not tend to show there was no denial or abridgment of his right to vote within the meaning of the Constitution. Whatever operates to prevent suffrage in a State is a denial or abridgment of it. But an educational test in a State that is not designed to promote education, but only to disfranchise citizens, is an abridgment of the right to vote. And a poll tax that is not imposed as a means of raising revenue and not even collectible by law of parties financially responsible is simply a like abridgment. Registration laws impossible to be complied with on the part of the natural voter, taking into account his condition as to education or property, is also a denial or abridgment of his right to vote.

Laws are made with reference to existing conditions and the purposes designed to be accomplished. Their purpose and the motives of the legislators in enacting them—

> may be disclosed on the face of the acts, or be inferrable from their operation, considered with reference to the condition of the country and existing legislation.
>
> * * * * * * *
>
> The motives of the legislators, considered as the purposes they had in view, will always be presumed to be to accomplish that which follows as the natural and reasonable effect of their enactments. (170 U. S., 704, 710.)

It was the understanding, as repeatedly stated while the fourteenth amendment was under consideration in Congress, that the negro might be disfranchised because of illiteracy and for reasons other than on account of color. Senator Fessenden, of Maine, in a speech delivered while the amendment was pending in the Senate so stated, as did others. They then said they feared such disfranchisement would come, but that a consequent reduction of representation would restore and preserve equal Federal political power among the States and all the voters thereof, and might lead to the negro being educated to prepare him for suffrage.

Mr. Garfield, since President of the United States, also one of the framers of the amendment, expressed similar views (September 6, 1871).

Mr. Shellabarger, of Ohio (December 12, 1871), one of the greatest of statesmen, a profound lawyer, who brought his legal learning to bear on all important national and political questions, also a framer of the amendment, in a speech here, bore testimony as to the meaning and purpose of the amendment as understood by those who prepared it. He then said that its purpose was to secure equality here, and in the electoral college by a reduction of representation if disfranchisement came on account of educational or property qualification, or on any other account. Speaking of such qualifications he said:

> You have your choice. The design of this constitutional amendment was that the poor man, the ignorant man, the colored man, should be secured, should be guaranteed his right to vote; that the States should not deprive him of this right of representation except by taking the consequences of not having in this Hall representation for those of his class.

It follows that an administration of the constitution and laws of a State, regardless of what they are, which prevents citizens from voting, results also in such denial or abridgment. The election laws are made and executed in a State with reference to the education and property, or want of it, possessed by its citizens; so we must interpret the laws as to their intent (if that is important in the solution of this question), and especially, as here, when the intent attributed is proved by the practical result of the law's operation.

The fourteenth amendment was adopted with full knowledge of the illiteracy and poverty of colored and white persons in all the States, and of their political status and condition, also capacity and fitness to enjoy political rights and the necessity to possess them; in the light of all this the amendment must be interpreted.

But neither an educational nor property qualification, nor a poll tax, can be held to be other than disfranchising expedients. If the ability to read and write, or the ownership of $500 in value, or the payment of a $2 poll tax, could be a test free from a constitutional denial or abridgement of the citizen's right to vote, then the requirement might be that he should be able to read and write Greek, Hebrew, Sanscrit, and Latin and work all the propositions in Playfair's Euclid, or that he should own $100,000 in value of property, or should pay as a condition of voting a poll tax of $1,000 or more, or meet all three requirements combined, or others even more severe. What manner of autocracy or plutocracy would this establish? Would we still have a republic based on individual sovereignty? Who would say this would not deny or abridge the right to vote even in the most favored parts?

If inability to read and write, to possess $500 in value in property, or to pay $2 poll tax, or other like requirement, necessarily operates to prevent large numbers of citizens of a State from voting, is not the denial or abridgment as complete as it could be under any other requirment? It is therefore proper to say that anything that operates to deprive a natural voter of his right to vote is a denial or abridgment of such right.

Taking conditions into consideration the educational or property qualifications required are such that they can not possibly be complied with by large numbers of natural voting citizens. This was well understood when the requirements were made, and this impossibility was then well known to the State and its authorities. It follows that it was intended to be a denial or abridgment of the right to vote. No respectable authority goes so far as to say that an educational or property qualification or a poll tax that works disfranchisement in fact does not abridge the right to vote, within the meaning of the Constitution. The important thing is the denial or abridgment of the right to vote, not the manner of doing it.

The plea that the fault is not with the constitutions and laws of the States, but with the ignorance and poverty of the negroes and poor whites, hardly deserves attention. It is too soon after slavery to charge disfranchisement by the State on its ignorant and poor; that the disfranchised and not the State are to blame, and therefore other States and their citizens should not be allowed to complain of political inequality or have the Constitution enforced. The people constitute the State, and it, in an organized capacity, is amenable for the people's conduct and shortcomings regardless of their condition.

It is further claimed that as any State, subject only to the limitation fixed by the fifteenth amendment, may regulate the suffrage of citizens residing therein, the remedy against inequality of voting power is for each State to deny and abridge the suffrage to an extent great enough to produce political equality; that is, for all the States to vie with each other in denying or abridging the right to vote. In doing this the Hebrew, the German (as was attempted recently in Maryland), the Irishman, and those of other nationality or nativity, and the poor, are, of course, to be the victims. There are not enough colored citizens for this universal political slaughter.

The suggestion may be safely made that no candidate of any party will go, or will ever dare go, on the stump in any Congressional district in any State where suffrage is free and advocate the right or policy of a voter in other districts or States to continue to exercise two or more times as much Federal power as the voters of his own district. No matter what the previous politics of the district has been, the candidate who would do this would be beaten. The time is near at hand when in no district thus situate a candidate of any party can be elected who does not advocate equalization of representation between the States on the rule of the Constitution.

It is inconceivable that any man of any party would dare expect public support who claims his constituency is not equal in capacity and political right to that of any other district in any State. When the time comes that statesmen can successfully claim a voter in one part of the Union is superior in right to a voter in other parts, the end is near.

There is no party in this country which will ever dare declare in its platforms that it believes that voters in some sections or States of the Union ought to enjoy (as they now do) undue voting power. A party with such platforms would be without supporters.

Instead of meeting the question fairly, the Democratic party, which has always boasted that it stood for the common people and their natural rights, raise the false cry that to reduce representation as the Constitution provides would be sectional, raise the race question, promote social equality, lead to negro domination, penalize the disfranchising States, bring about negro suffrage, etc. Some few say those who seek to enforce the Constitution are prompted to it because they desire to keep up old war issues and to wave the "bloody shirt," and because they love the negro better than white people, and because people South vote the Democratic ticket, just as though, if these things were not also false, it would afford any excuse for not enforcing the Constitution, especially that part resting on principles of justice and designed to secure equality of citizenship. If there be partisan Democrats North or South who favor perpetuating the iniquitous political inequality between different sections of the Union to promote party success, the people will soon cease to support them. The good sense of the people will little longer be misled by false cries or false issues, raised to induce them to surrender their just share of political power.

To demand equal political rights for our own constituents raises no race question, does not promote social equality, does not tend to promote negro domination, does not punish disfranchising States, does not stir up war or sectional animosities, or raise the cry of "bloody shirt," or show love for the negro race above the white race, nor that the motive is to punish any State because it permits an elect few to vote the Democratic ticket only. Putting these and other like things forward, which no sane man of ordinary capacity believes true, is a confession that there is no way of fairly meeting the real question.

If the honest enforcement of the Constitution will tend to an enlarged suffrage it will be because the States may prefer to allow its white and colored now disfranchised citizens to vote rather than lose representation in Congress or the electoral college; that is, would prefer to have their own citizens vote if a select few are not permitted to vote for them and have representation based on them.

The latest claim is that the Constitution should not be enforced, though suffrage is denied because these States have only been engaged in "reforming the suffrage." Denying or abridging suffrage as a means of reforming it is, as has already been shown, undemocratic, against the principles on which our Republic was founded, autocratic and monarchial in tendency, but to superadd the right of the few to vote for the disfranchised, ignoring the universal equality of citizenship in the Union of the States, is to establish caste or class distinctions therein not justified on any principle, and which, continuing, will inevitably result in the overthrow of free government. To disfranchise citizens and then exercise all political power over or for them is to allow those not disfranchised a power, even within the State, repugnant to democratic institutions, and to extend such power over citizens of other States creates an oligarchy in the most objectionable form.

In some States peonage of the working man, regardless of race, has already arisen.

Maryland recently tried to inaugurate a scheme of disfranchisement applicable to white and colored alike, but her people called a halt. This nation is awakening to the danger impending, and its people will demand the enforcement of the Constitution and the preservation of their political rights. Political slavery will cease to exist.

It was once believed that in time certain States would so regulate suffrage as to avoid the necessity for enforcing the Constitution relating to representation in Congress, but instead State constitutions and laws have been made and so administered as to, from year to year, deny or abridge suffrage. The future promises no change.

That the South has some good laws, has established schools, and is now prospering is the slogan of some interested persons who desire to continue the unequal Federal voting power. What a plea for even a bad cause! As a premium to certain States and their elect few for not making all vicious laws, for not prohibiting common schools, and for availing themselves of sensible business methods or taking advantage of the general commercial prosperity of the country and for embracing conditions incident to freedom instead of clinging to effete ones of slavery times, it is claimed they should have the right to deny or abridge suffrage, and then, in national affairs, to vote for the disfranchised and enjoy a political power not enjoyed by citizens of other States. Has it come to this, that because certain citizens are not wholly bad they should be made superior to others who go not astray? Other States and their people have long had good laws, good public schools, and have enjoyed prosperity, and they ask no political supremacy, but seek their reward in the consciousness of having done right, and in the consequent good they derive therefrom. Such an excuse for violating the Constitution and usurping undue political power was never before advanced. In the business centers in the South, where there is great prosperity, sound commercial methods and money were imported. So of any general prosperity throughout the South.

In politics and political methods alone the disfranchising States have not advanced. History will show that lawlessness has grown rapidly in regions where election frauds and crimes exist and political rights have been withheld. There criminals are bred and thrown upon society elsewhere. Says one, What will the member from Ohio say on the subject of riots in his own city? I have no defense for lawlessness there or anywhere. There was no race or political war there, or nothing approaching it. The authorities, civil and military, protected the guilty negroes after their arrest, but the bawdy house, where they were harbored, was destroyed. Those caught in the lawless acts were put in prison, and, on trial, convicted and punished by jury and the courts. Can others say so much? The colored people there are, in general, peaceful citizens, with their own churches and Young Men's Christian Association. They send their children to the public schools, and are allowed to work side by side with white citizens in the factories and elsewhere. They sit on the juries with them without question. Neither Democrats nor Republicans assail them on account of their race or color, either in business or politics. Both parties defend and uphold them in the enjoyment of their political and other rights. Colored men guilty of crime are subject to the same condemnation as white men, no more, no less.

But is it not far from a satisfactory reason for not enforcing the Constitution of the United States to say, if even true, that one of the thousands who asks its enforcement resides in a city where a riot occurred?

FOURTEENTH NOT SUPERSEDED BY THE FIFTEENTH AMENDMENT.

The claim that the fifteenth amendment supplanted the fourteenth needs only brief notice. The necessity for and language to be used in the fifteenth amendment was under consideration when the fourteenth was framed. One or more of the States ratified the fourteenth after the fifteenth had become part of the Constitution. The two are not inconsistent. The former, among other things (sec. 1), defined citizenship in the United States, and provided that no State should make or enforce any law abridging the privileges or immunities of citizens of the United States, nor deprive any person of life, liberty, or property without due process of law, nor deny to persons within it the equal protection of the laws; then followed (sec. 2) with the rule of apportionment based on numbers with the provision for reduction of representation, each and all relating to white and colored alike. It would be just as reasonable to contend that the fifteenth took away citizenship as defined in the fourteenth, revoked the inhibition against the right of a State to abridge the privileges and immunities of citizens, or its right to deprive persons of life, liberty, or property without due process of law, or to deny to persons the equal protection of the laws, as to contend that it took away the power of Congress to reduce representation.

The fourteenth amendment defined citizenship because it had never before been defined in the Constitution, and the Dred Scott case (19 How., U. S., 393) held negroes were not citizens. All the parts of the fourteenth applied to and for the benefit of both white and colored people. The fifteenth was adopted for the sole purpose of prohibiting a State from denying the right of citizens to vote "on account of race, color, or previous condition of servitude," but it otherwise left to the States the same right they before enjoyed to regulate suffrage. This amendment also applied to all races. If it had not been so intended, color or previous condition of servitude would have only been mentioned.

It is as important in equalizing voting power among States and districts, as we have seen, that reduction of representation should be made regardless of who are denied suffrage. The fifteenth amendment left the right to regulate suffrage with the States, as though it had not been adopted, save the limitation on account of race, color, or previous condition of servitude; and they have so regarded this right. The sequel has proved abundantly the necessity of the requirement for reduction of representation to equalize Federal voting power and that disfranchisement has gone on notwithstanding the fifteenth amendment, which "does not confer the right of suffrage." (92 S. S. 214, 542.) Nothing in its language justifies the claim that it was intended to repeal the earlier amendment. Repeals by implication never arise save when a later is plainly inconsistent with an earlier enactment. Here there is no inconsistency at all. Repeals by implication are not favored when legislative enactments are involved, and never when constitutional

provisions are involved, save when one can not be enforced without plainly conflicting with another. Constitutions are made more deliberately, as a rule, than statute laws. Constitutions, as well as statutes, are required to be construed to avoid, if possible, repugnancy, and so as to give effect to all their provisions. (Potter's Dwarris, 145.)

Those who framed both amendments did not dream of their conflicting, on the contrary, regarded them as in perfect harmony, as we have seen and shall see.

The history of the amendments is instructive. Each is an evolution. The "Ohio idea" was first advanced, providing that negroes should be counted in making up representation only in States where they were permitted to vote. Then came Mr. Stevens's plan to base it on legal voters alone. Then followed Mr. Conkling's plan to apportion Representatives among States according to number, with the proviso:

That whenever in any State, the elective franchise shall be denied or abridged on account of race or color, all persons of such race or color shall be excluded from the basis of representation.

This being referred to the Joint Committee on Reconstruction, was reported back in a new form, but in substance the same; it passed the House, but, after many attempts so to amend it as to also incorporate what is now the fifteenth amendment, prohibiting disfranchisement on account of race or color, etc., it was altered and passed by both Houses in its present form, the conclusion being then reached, Southern Members aiding, to vest Congress with power to reduce representation where the right to vote was denied or in any way abridged for any cause, whether in consequence of an educational or property qualification, or on account of race, color, or previous condition of servitude. There was almost a general agreement that if inequality in voting power arose between States, Congress should have the power to adjust it.

If we keep steadily in view that the central principle embodied in the second section of the fourteenth amendment was to secure, as nearly as possible in human affairs, universal equal political power, as exercised through the elective franchise in the several States of the Union, we will avoid technical theories.

If the fifteenth amendment had prohibited an educational test or a property qualification of a voter, it would have as much effected the fourteenth as it does in its present form.

The three war amendments were proclaimed and ratified in the order of their numbers, December 18, 1865, July 28, 1868, and March 30, 1870. (Virginia ratified the fourteenth after the fifteenth had been submitted.) And substantially the same Senators and Representatives, after the fifteenth amendment was ratified, gave their understanding of the continuing existence of the fourteenth by passing a law, never repealed, dated February 2, 1872 (now section 22, R. S. U. S.), embodying the language of section 2.

When the fifteenth amendment was adopted and ratified, the necessity and importance of the rule of equalizing the political power of the States and of the voters thereof were great and well understood, and they are now still more apparent than then.

Time and again our Supreme Court has recognized the fourteenth without a suggestion that it had been in any part superseded by the fifteenth. (92 U. S., 542; 100 U. S., 313, 339, 345–9; 103 U. S., 389; 170 U. S., 213, and 118 U. S., 356.)

Justice Strong, speaking for the court, uses this language:

But the Constitution now expressly gives authority for Congressional interference and compulsion in the cases embraced within the fourteenth amendment.

He says further, in speaking of this amendment:

It is these which Congress is empowered to enforce, and to enforce against State action however put forth. Whether that action be executive, legislative, or judicial, such enforcement is no invasion of State sovereignty. No law can be which the people of the States have by the Constitution of the United States empowered Congress to enact. (100 U. S., 246, 248.)

So, to enforce the Constitution is not sectional.

REDUCTION NOT A JUDICIAL FUNCTION.

It is also claimed that notwithstanding section 5 of the fourteenth amendment empowers Congress "to enforce by appropriate legislation the provisions of the article" it is without power to act, because in so acting it would exercise a "judicial function" wholly vested in the Supreme Court and other courts of the United States. (Constitution, Art. III, sec. 1.) No conflict of power between Congress and the courts can possibly arise. Whatever power is imposed on Congress includes the right to find whatever facts are requisite to its enforcement and in doing this it exercises a legislative and not a judicial function.

If a constitutional provision requires Congress to do anything requisite to its enforcement, the fact that another tribunal is usually charged by the same instrument with the power to do the same or a like thing does not take away the constitutional duty or right of Congress to act. The President is very frequently required, both by the Constitution and the laws, to find facts precedent to executive action, and, when found, there can be no review, either as to his finding or as to the action he has based thereon. So, as to the exercise of the legislative powers of Congress, which are plainly vested in it by the Constitution. If it were true, as claimed, that all judicial power was vested in the courts by one section of the Constitution, it is equally true that another and later one gives Congress the exclusive right to do whatever is necessary, whether judicial in its nature or not, to enforce the fourteenth amendment.

What is meant by the "judicial power of the United States" need not be discussed here; it is enough to know that it does not include any Congressional power. That there are difficulties in the way of exercising a power is no argument against its existence. Congress, when it submitted, and the States, when they ratified, the amendment, understood the difficulties in the way of its execution; yet the anticipated necessity for a remedy to preserve the underlying principle of equality among the sovereign people of the States was so great that they enjoined the important duty on Congress alone.

On this question our courts have spoken.

Congress, by virtue of the fifth section of the fourteenth amendment, may enforce the prohibitions whenever they are disregarded by either the legislative, the executive, or the judicial department of the State. (100 U. S., 313, syllabi.)

In the same report (p. 345), answering talk about judicial power in the enforcement of the fourteenth amendment, and referring to the power granted to Congress by the fifth section thereof, and like sections to the other amendments, the court says:

All of the amendments derive much of their force from this latter provision. It is not said the judicial power of the General Government shall extend to enforcing the prohibitions and to protect the rights and immunities guaranteed. * * * It is the power of Congress that has been enlarged. Congress is authorized to enforce the provision by appropriate legislation. Some legislation is contemplated to make the amendments fully effective. Whatever legislation is appropriate * * * is brought within the domain of political power.

CONCLUDING REMARKS.

Some inequality arises out of apportionment by Congress to the States, and in the formation by the States of districts of unequal population, but in neither case is disfranchisement involved. Congress and State legislatures are presumed to act reasonably, thereby avoiding as far as possible any such inequality. Washington regarded the first apportionment act passed by Congress so inequitable as to require him to veto it, and thus came about, under the advice of Jefferson, Randolph, and Madison, the first veto message (April 5, 1792) under the Constitution. (Elliot's Debates, etc., vol. 4, p. 624.) This shows, that from the beginning, equality of representation was regarded as of primary importance.

The impious doctrine of the Old World was that the people were made for the kings; it is none the less impious when some of the people are regarded as made for a self-chosen few who usurp their rights, and asume to exercise them unequally against others as well.

The work of disfranchising is not so elevating in character as to ennoble those engaged in it, and to give them increased governmental Federal power.

That all political power is derived from the consent of the governed has always been the battle-cry of true Jeffersonian Democracy. What is to be said when the voice of the governed is stilled, and those who brought this state of things about assume for themselves more than their natural or equal political power in the Union?

The common cry now is, that through trusts, insurance frauds, unjust transportation rates, and the like, the people are being robbed of their estates. What is left but to rob them of their equal political sovereignty?

Time, more than sufficient, has elapsed to demonstrate that those who arrogate to themselves the right to judge who of the white and colored citizens should or should not vote intend to deny or abridge suffrage to the extreme limit. This calls for the application of the remedy the Constitution wisely provides. This remedy, it is sincerely believed, will not only be in the interest of the States that have not entered upon the work of disfranchising, but will prove to be in the interest of all the States of the Union.

The Democratic party in recent national convention seemed to declare, in good faith, for "equality before the law of all citizens." Why not favor equality "of all citizens" in making the law?

That party then declared: "We deny the right of the Executive to disregard or suspend any constitutional privilege or limitation." Why not deny the right of Congress "to disregard or suspend any constitutional privilege or limitation?"

It also, then, was in favor of guaranteeing to our citizens

when abroad, "native-born or naturalized, and without distinction of race or creed, the equal protection of the laws and the enjoyment of all the rights and privileges open to them under the covenant of our treaties." Why not guarantee to them the same equal rights in the United States?

It also demanded equal rights and self-government for the 6,961,339 Filipinos halfway around the world, which met with a concurring response by its late standard bearer (Mr. Parker), who, in his acceptance speech, asked in addition to have guaranteed to them the rights and privileges of the fourteenth amendment of the Constitution. Why not guarantee to 85,000,000 of our citizens in the States the same equal political and constitutional rights?

I am not now hoping for or expecting absolute equality in representation in our Government, but only such approach to it as may reasonably be attained, taking all the complicated conditions into account. My bill may not be perfect in that it does not even go to the danger line of doing injustice to any State or its people. The Representatives provided for by the bill will each be elected with a much less vote than was cast in 1904 in any State not named, Nevada excepted, and generally with less than one-half such vote. But of paramount importance is the recognition of the principle of equality in representation and among the voters of the Republic.

This Hall is the only place where the people in a representative capacity may be heard. The President and Vice-President are not chosen directly by the people. In twenty-one elections from and including 1824 (first year the vote was recorded) ten times a President has been chosen who had only a minority popular vote—Adams, 1824; Polk, 1844; Taylor, 1848; Buchanan, 1856; Lincoln, 1860; Hayes, 1876; Garfield, 1880; Cleveland, 1884 and 1892, and Harrison in 1888.

The Senate is based on a theory of equality in statehood.

If we maintain inequality in electing Members of this House, we shall have nothing left of true republicanism.

Daily this House rings with vehement speech about equalizing salaries of clerks and employees, especially those of old soldiers who long since furled their war flags and are now toiling—some of them with broken bodies—to earn their bread by the sweat of their furrowed and battle-scarred faces. Why not also equalize representation here and in the electoral college, as the Constitution enjoins us?

Regardless of misrepresentations and personal abuse (prompted partly by ignorance and partly by interest), I shall try to do my duty uninfluenced by them. I have the kindliest feeling for my southern fellow-citizens. I have been received by them with great kindness. I commanded in the recent war with Spain many volunteer military organizations of Southern States. I bear witness to the true spirit of patriotism and devotion to duty, to the restored Union, and to the flag, of the gallant men belonging to them. They, if the occasion had come, would have shown as great heroism as was ever shown by any men summoned to battle, and in achievement would have done honor to the brave men from whose loins they sprung. For the old Confederate soldier I have no feeling but of sympathy, respect, and kindness. No hatred or ill-will rankles in my breast toward the South. Both North and South have paid in blood, tears, and treasure the full penalty for the entailed crime of the ages—slavery. In getting rid of one dire evil, let us not nurse into life another one fraught with equal danger to the Republic.

It is suggested that because there is woman suffrage in some of the States and because some States permit persons not citizens to vote that the constitutional rule of reduction would work unequally. This can not be true, as the rule of reduction is based alone on the denial or abridgment of the right to vote of "male inhabitants * * * 21 years of age, citizens of the United States." Difficulties encountered in exercising a power do not warrant a refusal to exercise it.

It is too much to expect that in one speech all the groundless objections to Congress, or its Members, performing their constitutional duty, can be noticed.

It is wholly foreign to the question of equality of suffrage, through which, alone, equality of American citizenship can be secured and a republican form of government in States maintained, to complain of reconstruction after the civil war; or to say that the right of suffrage was originally left to be regulated by the States; or to say that they still possess that right; or to say that the disfranchising States are now only "reforming the suffrage;" or to say that in some of such States there have been schoolhouses built "upon every hill;" that population is increasing; that illiteracy has declined; that the mileage of railroads has increased; that cotton mills have sprung up, or that banking capital has increased largely, etc. These facts testify of prosperity which could not be attained while slavery existed in the South. They testify to the improved economic conditions of freedom, and do not prove that a voter in one section should have political power not possessed by a voter in other sections of our Union. Nor is it necessary for us to discuss here whether or not the fourteenth amendment "prohibits a just and fair regulation of suffrage." Nobody claims it does; but, when regulated, the amendment forbids those who are to enjoy it from voting for and having representation based on those regarded unfit to exercise the elective franchise. If unfit, this amendment regards them unfit to be counted in apportioning representation in Congress and in the electoral college, and denies those who, by reason of their assumed superior qualifications, do vote the right, in effect, to vote for the disfranchised, thereby gathering to themselves a political power not possessed by voters in States that do not believe that depriving the masses of citizens of the right to freely vote and to have their votes counted is to "reform the suffrage."

I plead for the sacredness of the Constitution and for the enforcement of all its provisions; for that first written charter of national freedom, born amid the throes of kingdoms and empires, to plant, preserve, and perpetuate civil and religious liberty in the world, and designed as a shield for the oppressed and persecuted. It came only after the flames had died out in the crater of a war waged for the equality of man before the law; its price was the blood and treasure of the patriots of the Revolution. It is also the more sacred by reason of the blood spilled and treasure expended in more recent wars for humanity to save it; equality of rights was its central principle. It was made by and for the people. Its preamble reads:

> We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

A perfect union can not be formed, nor justice established, domestic tranquillity insured, common defense provided for, general welfare promoted, and the blessings of liberty to ourselves and our posterity secured by establishing and maintaining an inequality in political power by allowing a few in one State, regardless of conditions or methods, to exercise the elective franchise given to the many in other States of the Union. [Prolonged applause.]

The CHAIRMAN. The time of the gentleman has expired. The committee will informally rise to receive a message from the Senate.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. MAHON having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bill and joint resolution of the following titles:

H. J. Res. 97. Joint resolution authorizing assignment of pay of teachers and other employees of the Bureau of Education in Alaska; and

H. R. 15649. An act extending the time for the construction of the dam across the Mississippi River authorized by the act of Congress approved March 12, 1904.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 10129) to amend section 5501 of the Revised Statutes of the United States, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLARK of Wyoming, Mr. NELSON, and Mr. CULBERSON as the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 4969. An act granting permission to Rear-Admiral C. H. Davis, United States Navy, to accept a silver cup and salver and a silver punch bowl and cups tendered to him by the British and Russian ambassadors, respectively, in the name of their Governments; and

S. 3401. An act for the relief of the executors of the estate of Harold Brown, deceased.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

Mr. CRUMPACKER. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio be permitted to conclude his remarks.

Mr. WILLIAMS. Mr. Chairman, it is the first time I have ever done it, and I hate very much to do it now, but there is but little more than an hour until the House is going to adjourn, and I shall be compelled to object.

Mr. KEIFER. It is the first time that objection has been made, that I know of. I only want about twenty minutes more.

Mr. WILLIAMS. I have no doubt the gentleman could get

through in that time, but there is only an hour left, and the gentleman from Virginia wants ten minutes and that will only leave fifty minutes.

Mr. KEIFER. There will be plenty of time after 3 o'clock.

Mr. WILLIAMS. After that time you can get in. I will be compelled to object.

Mr. KEIFER. I will give notice that the time for unanimous consent has about ceased in this House.

Mr. WILLIAMS. I should be very sorry, Mr. Chairman, if the gentleman should take that view.

Mr. KEIFER. I must take it.

Mr. WILLIAMS. I have explained the matter to the gentleman. The gentleman from Virginia needs time and I need time, and we are going to get about fifty minutes.

Mr. KEIFER. The gentleman has spoken once on this bill.

Mr. WILLIAMS. I do not want to make a speech. I only want to give some advice to the Republican caucus, and if I do not give it to-day it will be too late.

Mr. KEIFER. The gentleman has frequently been giving advice.

Mr. WILLIAMS. I will myself ask to-morrow that the gentleman may conclude his remarks, but I can not do so now.

Mr. KEIFER. Of course I have to yield to the objection. I would have concluded in about fifteen minutes more if I had the time. The gentleman knows that it is much better for me if I could close now and have it altogether, if it is possible.

Mr. WILLIAMS. I understand that, but it is absolutely necessary that we should get in what we have to say now, and I therefore object. I will be very glad to hear the gentleman conclude his remarks to-morrow. I now yield ten minutes to the gentleman from Virginia.

Mr. JONES of Virginia. Mr. Chairman, it is not my purpose to discuss the pending measure. On the contrary, I desire to devote the very few moments yielded me to some brief comment upon the subject of the message of the President of the United States, which has just been read to the House. I regret exceedingly that my time is too limited to permit a thorough discussion of so important a paper. I think I am not mistaken in saying that the cablegram of a day or two ago announcing the massacre by American soldiers of 600 Moros, many of whom were women and children, in the crater at the top of Mount Dajo, on the island of Jolo, shocked the humane and moral sensibilities of every right-thinking American citizen. Making every allowance possible on account of the intimate personal relations which exist between the President and General Wood—the known partiality of President Roosevelt for General Wood—I am still utterly at a loss to understand how the Chief Executive of this great and free Republic could find it in his heart to place his high official approval upon conduct as cruel and as inhuman as that which characterized the atrocities of the Duke of Alva in the Netherlands. A few years ago, when General Smith, known to fame as "Hell Roaring Jake Smith," issued his infamous order that all natives in the island of Samar over the age of 10 years should be treated as belligerents and shot down, the people of every civilized country were horribly shocked; but that abhorrent order, Mr. Chairman, in my estimation, is not to be compared to the massacre of innocents which the crater at the summit of Mount Dajo witnessed, and for which the commanding officer of our forces in the Philippines assumes the responsibility and seeks in this cablegram to justify. In defense of Smith it was urged by his friends that his cruel order was never put into execution, nor intended to be.

Mr. Chairman, the conduct of those who engaged in the slaughter of these women and children, and of those who may be responsible therefor, may receive official indorsement and even commendation, but it will never meet the approval of the American people unless I am woefully mistaken as to what should constitute honorable warfare. I do not believe, in the first place, that the attack made upon Moros who had taken refuge in an almost inaccessible position on a mountain top can be justified. It may have been spectacular; but it certainly showed an amazing disregard of the lives of the men who were ordered to make the assault. According to my information Mount Dajo is not only very difficult of ascent, but it stands apart and alone, and therefore could easily have been surrounded. It would have taken but a short time to have starved out and captured every man of them without the sacrifice of a single American life. But, be that as it may, the hideous fact stands out in bold relief that 600 Moros were killed as against 15 of the attacking forces, and General Wood is driven to admit that among the Moro dead there were many women and children. Not the life of a single miserable woman, nor one of a pitiful innocent child was spared! The whole tribe was exterminated. Does the world's history afford a parallel to this case?

But General Wood, who it seems did not make the ascent of the mountain until the butchery had been ended for the very lack of more victims, tells us that he is convinced there was "no man, woman, or child wantonly killed"—they were all, he says, "unavoidably" killed. The women were killed because they wore trousers, and the children being used as shields by the men naturally suffered a like fate. Then to silence forever any carping critic at home he adds "they apparently desired that none be saved." This is probably the only side of this pitiful story that will ever be given the American people. The lips of every Moro are sealed in death, and we are asked to accept General Wood's statement that the women and children were killed simply because they did not desire to be saved. For one I decline to be satisfied with such an incredible story. Such a monstrous proposition is to my mind simply unbelieveable. And feeling as I do, I am not willing that a single day shall pass by without my registering my emphatic dissent to the conclusions to which the President tells us he has arrived. In my deliberate judgment the killing of 600 men, women, and children in the crater of Mount Dajo by the troops under command of General Wood was a wanton and cruel act of butchery, and one which can not be justified and which the American people will never excuse and never forget.

Mr. Chairman, the Washington Post of this morning contains an editorial which very correctly reflects my sentiments and feelings. It should be given the widest circulation. I ask leave to incorporate it in the RECORD as a part of my remarks.

A WAR FOR CIVILIZATION.

When civilization proceeds "to stagger humanity," it calls in Francisco Pizarro or "Hell-roaring Jake" Smith, Hernando Cortez or Leonard Wood, all experts at the business. It is an old trade. Ahab practiced it on Naboth, the Jezreelite, and the Lord wreaked vengeance on that same plat. The King ordered a Te Deum for Cortez's "victory;" the President congratulates Wood on his "victory."

We have always believed that the American people will put an end to the Philippine question whenever they shall be given a good lick at it unencumbered with any other political question. It is un-American, unrepublican, undemocratic—this thing of holding people in subjection on the other side of the planet. Our country has tolerated it; never approved it.

"Hell-roaring Jake" Smith shocked all Christendom when he made proclamation to kill everybody over 10 years old. If the question could have been made paramount at the succeeding election, we would have been out of the thing by this time. General Wood says the latest butchery of men and women was because they fought so fiercely; and yet they killed but 16 of his men, while he killed 600 of theirs.

The fact is that General Wood is civilizing the Moros on the idea that there are no good Moros but dead ones. That is the way Caius Marius performed when he was down in Jugurtha's country. Lucullus, Pompey the Great, Crassus, Vespasian, Titus, Trajan, and one hundred Cæsars acted on the same principle. We have not improved on it a particle. A Roman proconsul before the birth of Christ acted precisely as General Wood acts nearly two thousand years after Christ expired on the cross for Moro as well as for American.

There is no authority in the Constitution to shoot civilization into savages on the other hemisphere. If it must be done, there are empires and kingdoms over there that believe in it and are accustomed to it. Let them do it. If we can not govern the Moros without murdering women, better that we withdraw and let them govern themselves.

Evidently General Wood is a man after the order of Strafford, and believes in "Thorough." Neither Pizarro nor Cortez could have done it more signally than he. Indeed, General Wood gave us in the shambles what "Hell-roaring Jake" ordered in a proclamation.

The Post does not state the case one atom too strongly. Believe me, this discussion has but begun, and before it is ended I doubt not that even the President himself will conclude that it was a mistaken impulse which prompted his hasty and, as I believe, wholly unwarranted approval of what will go down into history as a wanton and indefensible slaughter of defenseless women and helpless children. Who can believe that there was necessity for this wholesale massacre of women and children? What reasonable human being can believe that the killing of these poor, ignorant creatures could not have been avoided? To me it is unthinkable that the Moros charged the assaulting American columns holding their children before them as shields. Such a story is too preposterous, too monstrous to find credence in any quarter. It will not be accepted by unprejudiced and dispassionate, humane, and Christian people anywhere. From one end of civilization to the other it will be repudiated—throughout the world it will be scornfully rejected.

Mr. Chairman, excuse it as we may, the revolting story of the massacre of Mount Dajo will go down into history as the blackest stain upon the American name. A thousand years of honorable, humane, noble, and Christian conduct on the part of our American soldiery will not suffice to blot out that stain. [Applause on the Democratic side.]

Mr. WILLIAMS. Mr. Chairman, I arose for another purpose, but the remarks of the gentleman from Virginia [Mr. JONES] have suggested to me that I ought to read a little poem prepared by one of the Members of the House and handed to me not long ago. It is entitled "The Charge of the Wood Brigade," or what

the heathen call "The Massacre of Mount Daio." It reads as follows:

THE CHARGE OF THE WOOD BRIGADE; OR WHAT THE HEATHEN CALL "THE MASSACRE OF MOUNT DAJO."

Chased them from everywhere,
Chased them all onward,
Into the crater of death
Drove them—six hundred!
"Forward the Wood brigade;
Spare not a one," he said;
"Shoot all six hundred!"

"Forward the Wood brigade!"
Was there a man afraid?
Not tho' a soldier knew
Heathen had blundered.
Savages can't reply,
Heathen can't reason why
Women and children die;
Forced in the crater of death,
Forced with six hundred.

Cannon to right of them,
Cannon to left of them,
Cannon in front of them,
Volleyed and thundered.
Stormed at with shot and shell,
Women and children fell
Into the jaws of death,
Into the mouth of hell,
All told, six hundred!

Flashed all the sabers there,
Flashed as they turned in air,
Sab'ring the women there,
Charging the children while
All the world wondered.
Stifled by cannon smoke,
Men, women, children choke;
Women and children
Reel'd from the bay'net stroke,
In death not sundered;
Families slaughtered there—
All of six hundred.

Cannon to right of them,
Cannon to left of them,
Cannon in front of them,
Volleyed and thundered.
Stormed at with shot and shell,
While child and mother fell,
They that had loved so well!
Thrust into jaws of death,
Trapped into mouth of hell,
Not a babe left of them—
Left of six hundred.

What shall such blood thirst slake?
Go ask Hell Roaring Jake
Whether Wood blundered.
Honor the charge they made?
Honor the Wood brigade
For that six hundred?

[Applause on the Democratic side.]

I did not arise, Mr. Chairman, for the purpose, however, of speaking about the battle on Mount Dajo. The party of restriction, the G. O. P., the Grand Old Procrastinator, is going to hold a caucus at 3 o'clock. [Laughter and applause on the Democratic side.] This party of restriction, a party of restriction against products and men both, are going to hold a caucus "for the purpose of getting together." They restrict the membership of the caucus and do not permit me to participate in its deliberations. My only opportunity of impressing upon the Republican brethren of the House my advice and their only opportunity to hear advice of a safe and sane sort presents itself now. I was sorry a moment ago to make my first objection to unanimous consent for a Member to continue his remarks, but you will see that if I do not proceed now it will be too late to advise you tomorrow. Whatever errors you are going to commit will have been caucus committed by then, and my only hope is that you shall commit no error. That hope arises from the confident expectation that you will seriously consider the advice I am about to give you and will be guided to some extent by it.

Mr. MILLER. Will the gentleman yield?

Mr. WILLIAMS. Yes.

Mr. MILLER. I want to ask the gentleman if he has any desire to participate in this conference; and if so, if he should receive an invitation he would accept it and be bound by the action of the caucus?

Mr. WILLIAMS. I will, provided that the invitation comes with the further addition and promise that after I get there I shall not be gagged. [Laughter and applause on the Democratic side.] Such is the habit of the Republican party——

Mr. MILLER. I can only speak for myself——

Mr. WILLIAMS (continuing). Such is the habit of the Republican party in gagging philosophy and principles and practice, especially in connection with statehood matters, that I am afraid that after I get there my friend Mr. HAMILTON would move that I go "way back and sit down" and be allowed to say nothing. But for that I would go to the caucus to advise you instead of instructing you here. [Laughter.]

Mr. MILLER. I want to say to the gentleman from Mississippi that as far as I am personally concerned I would be glad to have him not only invited to the caucus, but take part in the proceedings, and I have every reason to believe that he would be bound by the action of that caucus, as he always is on all occasions in a caucus of his own.

Mr. WILLIAMS. A Republican caucus that I attend on my conditions, yes; a Democratic caucus always. Now, Mr. Chairman, to be serious, you gentlemen upon that side of the Chamber are confronted with a naked question which you can not avoid nor evade. The country knows what the question is, and you can not muddy the waters so as to fool the country about what it is. The naked question is, Shall the new State of Oklahoma, consisting of the Territories of Oklahoma and the Indian Territory, be admitted to the Union or not? You can not muddy the waters by any parliamentary device. You can not muddy the waters by any caucus action. You can not muddy the waters by any rule proposed or adopted. A bill has gone from this House to the Senate to admit two States out of four Territories. Two of the Territories, Arizona and New Mexico, making one State, the new State of Arizona, have been stricken from the bill by the Senate. The Senate had its reasons. Were they good? Were they bad? I care not. What is practically left is this naked question: Shall or shall not Oklahoma be admitted? The naked proposition with which the House of Representatives is confronted is, Shall the bill as amended by the Senate, admitting Oklahoma to statehood, pass the House of Representatives or not? The American people know that in the new State of Oklahoma there are nearly 2,000,000 people, coming from every State in the American Union—South, East, North, and West—a magnificent homogeneous population, capable of self-government to the very utmost extent, a people rich in energy, rich in resources, rich in capabilities, rich in all that goes to make up American citizenship, with no trouble about assimilability, no race question presented between Mexicans speaking the Spanish language and Americans speaking the English language, as in the proposed new State of Arizona and New Mexico; with no question of two different populations with divergent ideas, divergent traditions and ideals; no questions of difference about religion or habits of thought as would confront us in the case of making one State of Arizona and New Mexico, but a homogeneous American people nearly 2,000,000 strong.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield for a question?

Mr. WILLIAMS. I do for a question.

Mr. HAMILTON. Does the gentleman from Mississippi [Mr. WILLIAMS] think the difference in language among the people in New Mexico an insuperable difficulty? If so, I desire to call the gentleman's attention to the Swiss Republic as illustrative of how three nationalities have cooperated to make one of the most successful republics of all times, in which the German, Italian, and French languages are the national tongues.

Mr. WILLIAMS. Mr. Chairman, the gentleman knows that I will have to be cut off by this proposed Republican caucus or conference, and I yielded to the gentleman only for a question. I do not think that the difference of language alone would present an insuperable objection. It did not present one in Louisiana, it does not present one in the Swiss Republic, and it has not until lately presented one in Austria-Hungary outside of Hungary itself; but there is not only the difference of language, but of race, in the case of Arizona and New Mexico. Racial characteristics are inherent and inborn, and there is always, where you put two different races together, necessarily a race antagonism. I do not desire to discuss the merits of this question that has been fully invited by us in the House and evaded by you. I desire the country to understand what you are going into caucus about. You are going into caucus for two things—to determine, first, whether you will allow the House of Representatives to vote upon the Senate proposition or not, and, secondly, upon the proposition that I have just outlined, to wit, whether you will admit Oklahoma, regardless of whether Arizona and New Mexico are admitted or not. But the chief thing you are going into conference about is to determine whether you will allow this House to vote, whether you will allow *yourselves* to vote, upon a proposition to be made to this House—a motion to concur in the Senate amendment and admit or refuse statehood to Oklahoma as a naked proposition, stripped of entangling alliance.

Mr. HAMILTON. Does the gentleman not think that we ought to go into conference? Is not that a right that we should permit ourselves?

Mr. WILLIAMS. Mr. Chairman, I am not denying the right. I am trying to tell the country what you are going into caucus to do. That is all. You are going into caucus to know *whether you can trust yourselves to handle yourselves or not.* You are

going into caucus to know whether it is safe as a Republican doctrine to leave the Members of the House of Representatives to determine this question—a House in which you have nearly a two-thirds majority—or whether it shall be determined by some rule from our triumvirate or by some parliamentary device exercised by the one-man power, the Speaker. I have heard a good deal about some parliamentary device which is to keep us from having a vote on this question—this question of admitting nearly two millions of people, who would be entitled to eight Representatives in this House; Representatives as intelligent as those from Connecticut, those from Illinois, or those from Mississippi. How will you stand before the country when you shall say, if you do, that these people, brim full of American energy and progress, shall be excluded from the American Union for at least this Congress longer, because, forsooth, two other Territories, with a different population, about whose qualifications for admission there have been arguments and doubts, can not come in? Most of the men who are standing on that side of the proposition are the men who have argued against the qualifications of Arizona and New Mexico to come into the Union, and now you are about to take the position that because these people in Arizona and New Mexico, about whose qualifications you have expressed doubts, can not come into the Union, that therefore these people in Oklahoma, about whose qualifications there is and has been expressed no doubt, also shall not come into the Union.

Now, Mr. Chairman, it is worse than that. You not only take that position, but you take the position that because these two other Territories do not want to be coupled together in one State therefore you will not let Oklahoma come into the Union.

You deny Arizona and New Mexico the right to come in separately. You decree that they shall stay out or be coupled in statehood. They decline to be coupled. You say, "All right, then Oklahoma shall stay out." How long? Until Arizona and New Mexico consent to statehood marriage. Everybody has heard about some special Speaker's ruling, to the effect that this thing would have to go to committee, where, of course, it would be smothered. I am going to file a brief on the parliamentary situation as a part of my remarks. The authorities are clear that even though there be a Senate amendment upon a House bill (and I deny that there is any in this case), which makes an appropriation of money or property which requires the amendment to go to the Committee of the Whole House, and therefore sends it first to the standing committee, that if there be another amendment from the Senate which does not make any charge upon the Treasury either in money or in land, it is always open to move to concur in that particular amendment whether you move to concur in all the amendments or not.

Mr. HAMILTON rose.

Mr. WILLIAMS. I can not yield for awhile.

Mr. HAMILTON. I simply wanted to say that would not arise until——

Mr. WILLIAMS. I would rather not be interrupted in the middle of a sentence.

Mr. HAMILTON. I started to say that would not arise until after the point of disagreement.

Mr. WILLIAMS. Ah, that is one of the things this caucus will determine——

Mr. HAMILTON. No——

Mr. WILLIAMS. Whether that course is to be pursued or not. That the Speaker of this House has power to send from his desk without consulting this House this Senate bill to your committee no man will question; that he has the right to do it I deny; and I will file a brief that shows he has not the right to do it. It was very carefully prepared by the gentleman from Alabama [Mr. UNDERWOOD] at my request and after consulting all the authorities from the beginning down to now.

Any Member of this House has the right, whether the Speaker has the power to cut him off from the right or not, to move to concur in the particular Senate amendment which cuts Arizona and New Mexico out of the bill, and to move to concur in that particular Senate amendment which requires a referendum to a vote of the people of Arizona and to a vote of the people of New Mexico to decide whether either chooses to come in jointly, even though that right may not exist as to that particular Senate amendment which provides for lieu lands already not granted, but given to be selected from. Not an acre is increased in land. There is not an additional charge upon the Treasury in money or land.

That amendment is merely a provision that in lieu of mining lands Oklahoma may select other lands. It does not make any additional appropriation either of money or land. It does not increase the amount of land one acre. It decreases the value of the land actually as a matter of fact. But even though it might be held that that particular amendment had to go to the committee because of the contention that it altered or changed an appropriation affecting lands, the same thing can not be held of these other two amendments. Now, everybody knows my personal affection for the Speaker of this House, and I am not ashamed of it either. He deserves my personal trust, regard, and affection, but I say with full knowledge of what I am saying now that if that course of sending this matter to committee without consulting the House is pursued it will be the most high-handed piece of political tyranny that ever took place from that Speaker's desk since the American Congress was organized. [Applause on the Democratic side.] And for that reason I do not believe it is going to take place. What is tyranny? It is one-man will—the one-man power checking the public will and thwarting the public power. Here is the entire United States which want Oklahoma admitted. Here is the entire Congress of the United States that wants Oklahoma admitted.

Right now, in order to demonstrate that fact, I am going to ask if there is a single man upon this floor who does not want Oklahoma admitted? If there be one, let him rise in his place. Is there one who does not want Oklahoma admitted? [A pause.] The entire body of the representatives of the people are here, and not one man rises, because there is not one who objects to the admission of Oklahoma, or who, if he objects, dares say so; and yet you are going to make a pretext out of the fact that Arizona and New Mexico have been cut out of this bill by the Senate to send this bill to the committee to be smothered, or to bring in a rule or to do something else to prevent—what? To prevent, first, the admission of Oklahoma, and, secondly and mainly, to prevent this House from having a vote upon the proposition whether this particular amendment from the Senate shall be concurred in; to prevent this House from voting on the naked proposition to admit or exclude Oklahoma. Are you going to vote to exclude Oklahoma? Directly or indirectly? Under a cover of caucus action? By the adoption of a rule? Under the cover of a parliamentary device? By not voting down any possible ruling of the Speaker contrary to express parliamentary law? Will you by caucus action bind your own hands and those of the House?

Now, the object of my conversation with you now is to persuade you not to do any of these things, gentlemen. If you do not do it, it will, of course, be because I have begged you not to do it, and argued with you not to do it. That will be the only reason why you will not do it, when you meet at 3 o'clock. It is necessary to talk to you now, because this will be my last opportunity; and I see looks of gratitude on the faces of many gentlemen on the other side for the advice that many of you now enjoy. [Laughter.] I see that the Speaker, even, is proud of the fact that I have left my side of the Chamber in a nonpartisan spirit to advise the other side of the Chamber to do justice and right, though the heavens fall.

Mr. HAMILTON. Will the gentleman permit me to interrupt him?

Mr. WILLIAMS. Certainly.

Mr. HAMILTON. The gentleman says he loves the Speaker——

Mr. WILLIAMS. Personally, not politically.

Mr. HAMILTON. As we all do. Has he ever known the Speaker of the House to deviate from the rules which govern the House of Representatives?

Mr. WILLIAMS. Well, I believe I can answer that in the Speaker's own language, "Never except when political exigencies require it." [Laughter and applause on the Democratic side.]

Mr. HAMILTON. Have you ever known of such an exigency arising?

Mr. WILLIAMS. No; seriously, I have not; and for that very reason I do not believe he is going to do it in this case, as I said a moment ago.

Now, then, I want to say a few words to some of you over there, although I am not your father confessor. You Republicans from Missouri vote to keep Oklahoma out of the Union simply because the Senate has cut out Arizona and New Mexico, and then go back to your people if you will or dare. The last thing that I respect in the world is a prophet. I am not one. But you know the condition of public sentiment in Missouri about the admission of Oklahoma. As a partisan, if I were actuated only by partisan motives, I should be glad to see you take this course, because it would result in a gain of Democratic Congressmen from the State of Missouri. You gentlemen from Kansas. You mark it. Stand here if you will and vote with your eyes open for any sort of a proposition, whether a rule or a parliamentary device, or the result of a caucus action, or what not, that cuts Oklahoma out of the Union, forsooth, because

New Mexico can not come in coupled with Arizona, that does not want to be married to her, and then go back, and see if perhaps the State of Kansas will not have a lucid interval about the time of the Congressional elections, and see if several Democratic Congressmen will not come here from Kansas, too, or if not, then other Republicans to succeed you.

The whole west of the river has its eyes on this matter, I sympathize with them, because nothing but a river, hardly, separates me from them. Everything west of the river has condemned and reprobated the idea of antagonism to the West that has been indicated by the Republican party all along the line in connection with this question in this House; in the first place, when it refused to make four States and insisted on making two. Why? Because it never wanted the West to have equal or adequate power in the Senate of the United States. The West will understand. Everybody west of the river will know that the Republican party, dominated by its northeastern forces, has been actuated by the idea to continue forever as far as possible the predominancy of the East in the United States Senate. And why should that be done? Away back many years ago somebody tried to scare old Thomas Jefferson with the suggestion that the growth of the West would result in the power of the States on the Atlantic seaboard sinking into insignificance. That farseeing seer, with a look of wisdom, made reply:

What of it? Who will the people of the West be? Our children, our grandchildren, and our great-grandchildren. Why should we be alarmed at the predominancy in the United States, in the Union, any more of our children, our grandchildren, or our great-grandchildren who have gone West, than of those of our children, our grandchildren, our great-grandchildren who have stayed East?

Now, Mr. Chairman, I ask to embody in the RECORD, instead of boring the House by reading it, this brief of the parliamentary status of this question.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to extend his remarks by the insertion of certain matter, which he sends to the Clerk's desk. Is there objection? [After a pause.] The Chair hears none.

The statement is as follows:

STATEMENT OF THE PARLIAMENTARY SITUATION AS TO THE STATEHOOD BILL IN THE HOUSE, WITH SENATE AMENDMENTS.

The Senate has amended the statehood bill admitting Oklahoma and Indian Territory to statehood as one State and Arizona and New Mexico as another State by striking out all of those provisions of the bill that related to the admission of Arizona and New Mexico and amending those provisions of the House bill that related to Oklahoma by providing for the substitution of certain lands in lieu of school lands already allowed by the House bill to be selected by the Territory of Oklahoma, but which can not be taken on account of their being mineral lands. The question raised is whether the bill with these amendments should be referred to the Committee on Territories by the Speaker or whether it is in order to move to take it from the Speaker's table and to concur in the amendments.

As to the disposition of business on the Speaker's table, Rule XXIV, section 2, provides:

"Business on the Speaker's table shall be disposed of as follows: Messages from the Senate shall be referred to the appropriate committees without debate; reports and communications from the heads of Departments and other communications addressed to the House and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner, and with the same right of correction, as public bills presented by Members; *but House bills with Senate amendments which do not require consideration in the Committee of the Whole may be disposed of at once as the House may determine,* as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House and not required to be considered in the Committee of the Whole, be disposed of in the same manner on motion directed to be made by the committee."

Rule XX provides:

"That any amendments of the Senate of any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union; if originating in the House, it would be subject to that point of order."

As to the business that it is necessary to consider in the Committee of the Whole House, Rule XXIII, section 3, provides:

"That all motions, or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, *or bills making appropriations of money or property,* or requiring such appropriation to be made, or authorizing payments out of appropriations already made, *or releasing any liability to the United States for money or property,* or referring any claim to the Court of Claims, *shall first be considered in the Committee of the Whole,* and a point of order under this rule shall be good at any time before the consideration of the bill has commenced."

There are two Senate amendments. As to the amendment of the Senate striking out all that portion of the House bill relating to Arizona and New Mexico, there can be no question that it does not come within the terms of Rule No. 23, as to matter that is required to be considered in the Committee of the Whole House. It has been held in the first session of the Forty-eighth Congress (RECORD, pages 5981 and 5985), "*that the fact that one of several Senate amendments must be considered in the Committee of the Whole does not prevent the House from proceeding with the disposition of those not subject to the point of order;*" but it has also been held in the first session of the Fifty-seventh Congress (RECORD, pages 4585 and 4586), "that Senate amendments referred to the Committee of the Whole must be considered, but not if not referred to the Committee of the Whole, although they may not be within the rule requiring such consideration." It is therefore of importance that we move to concur in the Senate amendment relating to Arizona and New Mexico before the bill is referred, as we no doubt will have a right to do under this ruling, for we can then have a vote in the House with a roll call on the main question, whereas, if the bill goes to the Committee of the Whole, there will be no opportunity to get a roll call on the main question—that is, the striking out of Arizona and New Mexico.

Now, as to the question as to whether the amendment providing for lieu lands in Oklahoma is within the terms of Rule 23, and required to be considered in the Committee of the Whole, there are two decisions that may be quoted as authorizing this reference, but I do not think that they apply. In the first session of the Fifty-first Congress (Journal, page 718; RECORD, page 5842), and the first session of the Fifty-second Congress (Journal, page 237), and the second session of the Fifty-third Congress (Journal, page 15; RECORD, page 36), it was held *that the grant to a railroad of an easement of public lands or streets belonging to the United States requires to be considered in the Committee of the Whole.* Again, in the second session of the Fifty-fourth Congress (RECORD, pages 2215 and 2216), it was held "*that the dedication of public lands to be forever used as a public park was held to be such an appropriation of public property as would come within the rule.*" (Rule 23.) These decisions clearly refer to a grant of property belonging to the United States and original grants, but are differentiated from the case under consideration, which does not make a grant, but merely provides as to the manner of selecting lands heretofore granted. In sustaining the proposition that this amendment does not have to be considered in the Committee of the Whole I find that it has been decided in the second session of the Forty-fifth Congress (Journal, page 782; RECORD, page 2203), that "*A bill changing the manner of expenditure of money already appropriated does not require consideration in the Committee of the Whole.*" *The amendment under consideration does not appropriate public lands or dispose of them, but merely changes the manner of selecting the land already allowed to be selected, and seems to me to be analogous to the above decision.*

Again, it has been held in the first session of the Fifty-first Congress (RECORD, pages 8888, 8882, and 10690) and the first session of the Fifty-sixth Congress (RECORD, page 2455) that "*legislation providing for the adjustment of liabilities to or by the Government, except references to the Court of Claims, does not come under the rule requiring consideration in the Committee of the Whole.*" It seems to me that this decision is also clearly in point, as the amendments above referred to do not make an original grant, but provide for the adjustment or mode of selecting lands that have heretofore been allowed to be selected by the Government. *In other words, it is an adjustment of the liabilities of the Government.*

Again, it has been held in the first session of the Fifty-first Congress (RECORD, page 2165) that "A bill simply granting a right of way through public lands was held not to be subject to the point of order; that it must be considered in the Committee of the Whole." Again, a case somewhat in point was decided at the first session of the Fifty-first Congress (RECORD, page 8483), that "Land belonging to the Indians, having been sold by the Government for the Indians, a bill extending the time of payment by purchasers and authorizing them to purchase additional lands of the same kind are held not to be within the rule requiring consideration in the Committee of the Whole."

As to the priority of motions, it seems to me that at this stage of the proceedings a motion made in the House to refer the Senate amendments to the Committee on Territories would have precedence of a motion to concur, but if the motion to refer was voted down, then it would be in order to vote on the motion to concur. In the second session of the Fifty-fifth Congress (RECORD, pages 839 and 840) it was held that "before the stage of disagreement has been reached, a motion to refer Senate amendments has precedence of a motion to concur."

Another question may arise, and that is, if the Speaker determines to refer the Senate amendments with the bill to the Committee on Territories of his own motion and without submitting the question to the House as to what is the best way to raise the question in the House. It has been held in the first session of the Fifty-first Congress (Journal, pages 758, 767, 770, 772, and RECORD, pages 62081, 63014, 63053, 63054, and 63064) that "*A House bill with Senate amendments having been properly referred from the Speaker's table, it was decided, nevertheless, to be in order for the House to consider an amendment to the Journal striking out the record of such reference.*" Of course if it is in order to strike out the reference to a bill properly referred, it would be in order to strike out the reference to a bill improperly referred, and if the record is stricken out of the Journal, so far as the House is concerned, the bill would be on the Speaker's table subject to the action of the House.

* * * * * * *

Mr. WILLIAMS. Now, Mr. Chairman, I shall ask the official reporters to put in asterisks right here, because I am going to enter upon another subject. The other day while speaking to the House about a bill which I had introduced, to reduce duties, wherever they were over 100 per cent, to 100 per cent, I explained that I could not then find a paper which I wanted. I furnished some of the illustrations of duties over 100 per cent from actual bills that had come in—actual importations—and furnished some other instances from a magazine. I now have the thing that I wanted to get the other day. It is from the Department of Commerce and Labor, Bureau of Statistics, "Quantities and Values of Imported Merchandise entered for Consumption in the United States for the year ending June 30, 1905," prepared by Mr. O. P. Austin, Chief of the Bureau. I need not tell you that he is a sort of Republican statistician. Outside of tobacco and spirituous liquors I find fifty-seven cases of duties above 100 per cent. I have not used any cases of tariff on tobaccos and spirituous liquors, for nearly all of them are above 100 per cent. I have not thought it fair to use them, because they have been levied partially for the purpose of countervailing an internal-revenue tax, and of course there ought to be a tariff equal to and somewhat above the internal-revenue tax. But outside of tobacco and spirituous liquors there are fifty-seven other articles. I did not quote the other day from the wool schedule. There are illustrations from the wool schedule, the carpet schedule, and various others. If the House will permit me, instead of reading these various illustrations I will hand them to the official reporters in order that they may be incorporated as a part of my remarks.

The CHAIRMAN. Is there objection?

Mr. TAWNEY. Mr. Chairman, how much of the book which the gentleman has before him does he intend to publish?

Mr. WILLIAMS. Fifty-seven rates of duties.

The CHAIRMAN. The Chair hears no objection.

The statistics referred to are as follows:

Imported merchandise entered for consumption in the United States, including both entries for immediate consumption and withdrawals from ware house for consumption, with rates and amounts of duty collected during the year ending June 30, 1905.

Articles.	Rates of duty.	Quantities.	Values.	Duties.	Average.	
					Value per unit of quantity.	Ad valorem rate of duty.
Beverages, not elsewhere specified:						*Per cent.*
Cherry juice and other fruit juice, not specially provided for, containing not more than 18 per cent of alcohol (gallons).	60 cents per gallon Duty remitted (Sec. 15, act July 24, 1897).	37,074.28 853.00	$19,411.00 283.00	$22,244.60	$0.523 .332	114.60
Prune juice or prune wine, containing not more than 18 per cent of alcohol (gallons).	60 cents per gallon	51,088.90	26,220.00	30,653.34	.513	116.91
Chemicals, drugs, dyes, and medicines:						
Boracic (pounds)	5 cents per pound	660,150.00	23,626.00	33,007.50	.036	139.71
Tannic or tannin (pounds)	50 cents per pound	7,652.34	3,108.00	3,826.18	.406	123.11
Mineral waters:						
Otherwise than in such bottles, or in bottles containing more than 1 quart (gallons).	24 cents per gallon	11,860.28	2,193.00	2,846.47	.185	129.80
Vanillin (ounces)	80 cents per ounce	1,331.00	423.00	1,064.80	.318	251.73
Cotton duck, not exceeding 3½ square yards to the pound (square yards).	4½ cents per square yard and 10 per cent.	221.00	10.00	10.39	.045	103.9
Dress facings or skirt bindings, not bleached, dyed, colored, stained, painted, or printed (square yards).	9 cents per square yard and 35 per cent.	166.00	9.00	18.09	.054	201.0
Glass bottles, filled, holding less than ½ pint (gross)	50 cents per gross	234.21	115.00	117.10	.491	101.83
Cylinder, crown, and common window glass, unpolished, above 24 by 36 inches and not exceeding 30 by 40 inches (pounds).	3½ cents per pound	663,201.00	19,313.00	22,382.98	.029	115.90
Plate glass, fluted, rolled, ribbed, or rough ground, above 24 by 60 inches (square feet).	35 cents per square foot	9,515.67	2,441.00	3,330.48	.256	133.44
Plate glass, cast, polished, finished or unfinished and unsilvered:						
Above 24 by 30 inches and not exceeding 24 by 60 inches (sq. ft.)	22½ cents per square foot	792,579.50	175,729.00	178,330.47	.222	101.48
Above 24 by 60 inches (square feet)	35 cents per square foot	265,442.69	66,225.00	92,904.93	.249	140.29
Plate glass, cast, polished, unsilvered, when bent, ground, obscured, frosted, sanded, enameled, beveled, etched, embossed, engraved, flashed, stained, colored, painted, or otherwise ornamented or decorated, above 24 by 60 inches (square feet).	35 cents per square foot and 5 per cent.	6,298.00	1,509.00	2,279.75	.24	151.07
Plate glass, cast, polished, silvered, and looking-glass plates, exceeding in size 144 square inches, above 24 by 30 inches and not exceeding 24 by 60 inches (square feet).	25 cents per square foot	484.00	122.00	121.00	.252	99.26
Plate glass, cast, polished, silvered, when bent, ground, obscured, frosted, sanded, enameled, beveled, etched, embossed, engraved, flashed, stained, colored, painted, or otherwise ornamented or decorated, above 24 by 60 inches (square feet).	38 cents per square foot and 5 per cent.	133.00	47.00	52.89	.353	112.53
Lead, and manufactures of—base bullion (pounds)	2½ cents per pound	2,927,891.00	61,892.00	62,217.68	.021	100.53
Marble, sawed or dressed, over 2 inches in thickness (cubic feet)	$1.10 per cubic foot	146.50	150.00	161.15	1.02	107.43
Bay rum or bay water, whether distilled or compounded (proof gallons).	$1.50 per proof gallon	879.25	710.00	1,318.88	.808	185.73
Manufactures of silk:						
Weight not increased beyond original weight of the raw silk (pounds).	$3 per pound	318.29	911.00	954.87	2.86	104.82
Weight not increased beyond original weight of the raw silk—reciprocity treaty with Cuba (pounds).	$3 per pound less 20 per cent.	1.00	2.00	2.40	2.00	120.00
Dyed in the piece, boiled off, or printed, containing more than 45 per cent in weight of silk (pounds).	$3 per pound	375.63	1,121.00	1,126.88	2.98	100.52
Handkerchiefs, etc., hemstitched, or imitation hemstitched, or revered or having drawn threads, or embroidered in any manner, whether with an initial letter, monogram, or otherwise, by hand or machinery, or tamboured, appliquéed, or made or trimmed wholly or in part with lace, or with tucking or insertion—						
Containing more than 45 per cent in weight of silk, weight not increased beyond original weight of the raw silk (pounds).	$3 per pound and 10 per cent.	50.00	71.00	157.10	1.42	221.27
Still wines, in casks or packages other than bottles or jugs—reciprocity treaty with Italy (gallons).	35 cents per gallon	1,021,421.53	316,001.60	357,497.55	.309	113.13
Wool and hair advanced in any manner or by any process of manufacture beyond the washed or scoured condition, not specially provided for:						
Valued above 40 and not above 70 cents per pound (pounds)	44 cents per pound and 50 per cent.	133.00	86.00	101.52	.647	118.05
Valued over 70 cents per pound (pounds)	44 cents per pound and 55 per cent.	1,438.50	1,352.90	1,377.04	.941	101.78
Manufactures composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals:						
Rags, mungo, flocks, noils, shoddy, and waste—						
Shoddy (pounds)	25 cents per pound	50.00	5.00	12.50	.10	250.00
Wastes, top and roving (pounds)	30 cents per pound	20.00	5.00	6.00	.25	120.00
Yarns, made wholly or in part of wool, valued not more than 30 cents per pound (pounds).	27½ cents per pound and 40 per cent.	4,254.00	1,181.00	1,642.26	.278	138.06
Blankets—						
Valued not more than 40 cents per pound (pounds)	22 cents per pound and 30 per cent.	2,022.50	597.46	624.20	.295	104.48
Valued more than 40 and not more than 50 cents per pound (pounds).	33 cents per pound and 35 per cent.	1,649.73	751.50	807.44	.456	107.44
More than 3 yards in length—						
Valued not more than 40 cents per pound (pounds)	33 cents per pound and 50 per cent.	1,679.50	507.00	807.74	.302	159.32
Valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	7,111.50	4,147.00	5,202.56	.583	125.44
Cloths, woolen or worsted—						
Valued not more than 40 cents per pound (pounds)	33 cents per pound and 50 per cent.	8,126.00	2,630.85	3,997.03	.324	151.93
Valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	245,066.76	152,694.30	184,176.51	.623	120.62
Dress goods, women's and children's, coat linings, Italian cloths, and goods of similar description—						
The warp consisting wholly of cotton or other vegetable materials, with the remainder of the fabric composed wholly or in part of wool—						
Valued not exceeding 15 cents per square yard—						
Not above 70 cents per pound (square yards)	7 cents per square yard and 50 per cent.	20,257,891.75	2,449,536.00	2,642,820.45	.121	107.89
Above 70 cents per pound (square yards)	7 cents per square yard and 55 per cent.	1,122,911.50	154,816.00	163,752.66	.138	105.77

No. 15.—*Imported merchandise entered for consumption in the United States, etc.*—Continued.

Articles.	Rates of duty.	Quantities.	Values.	Duties.	Average.	
					Value per unit of quantity.	Ad valorem rate of duty.
Manufactures composed wholly or in part of wool, worsted, the hair of the camel, goat, alpaca, or other animals—Continued.						
Dress goods, women's and children's, coat linings. Italian cloths, and goods of similar description—						
The warp consisting wholly of cotton or other vegetable materials, with the remainder of the fabric composed wholly or in part of wool—						
Weighing over 4 ounces per square yard—						*Per cent.*
Valued not more than 40 cents per pound (pounds)	33 cents per pound and 50 per cent.	659.25	$189.00	$312.05	$0.287	165.11
Valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	1,934.50	1,199.00	1,450.74	.62	121.00
Composed wholly or in part of wool—						
Valued not above 70 cents per pound (square yards)	11 cents per square yard and 50 per cent.	307,773.00	59,253.70	63,481.88	.193	107.14
Valued above 70 cents per pound (square yards)	11 cents per square yard and 55 per cent.	10,300,312.04	2,443,539.22	2,476,980.90	.237	101.36
Weighing over 4 ounces per square yard—						
Valued not more than 40 cents per pound (pounds)	33 cents per pound and 50 per cent.	1,199.00	368.00	579.67	.307	157.52
Valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	479,058.50	333,163.00	377,367.24	.695	113.32
Valued more than 70 cents per pound (pounds)	44 cents per pound and 55 per cent.	1,342,301.94	1,303,972.00	1,307,797.46	.971	100.29
Flannels for underwear—						
Valued more than 40 and not more than 50 cents per pound (pounds).	33 cents per pound and 35 per cent.	172.50	76.25	83.62	.442	109.67
Weighing over 4 ounces per square yard—						
Valued more than 50 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	1,375.50	750.00	980.22	.545	130.70
Valued more than 70 cents per pound (pounds)	44 cents per pound and 55 per cent.	52,062.50	43,856.75	47,028.71	.842	107.20
Knit fabrics (not wearing apparel) valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	41.00	26.60	31.34	.649	117.80
Plushes and other pile fabrics—						
Valued not over 40 cents per pound (pounds)	33 cents per pound and 50 per cent.	80.00	29.00	40.90	.363	141.02
Valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	483.00	236.00	330.52	.489	140.05
Wearing apparel—Clothing, ready-made, and articles of wearing apparel, made up or manufactured wholly or in part, not specially provided for, shawls, knitted or woven (pounds).	44 cents per pound and 60 per cent.	60,105.63	65,761.25	65,903.23	1.09	100.21
All other manufactures wholly or in part of wool—						
Valued not more than 40 cents per pound (pounds)	33 cents per pound and 50 per cent.	36,206.75	12,749.75	18,323.13	.352	143.72
Valued more than 40 and not more than 70 cents per pound (pounds).	44 cents per pound and 50 per cent.	46,736.52	27,165.00	34,146.57	.581	125.70

Mr. WILLIAMS. How much time have I left, Mr. Chairman?

The CHAIRMAN. The gentleman has twenty-three minutes.

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Mr. WILLIAMS. I will ask the Official Reporters to put in another row of asterisks here, because this is another speech. I am making three speeches in one. Some gentlemen say four. The twenty-three minutes which I have will be sufficient to have the Clerk read for the edification of the House a little drama. For the explanation of Members I will say that wherever the word "octroi" is used it means the customs duty paid at the gate of a city. This is a nice little drama especially designed for the reading of protectionists, and is by Mr. Bastiat, the gentleman whose petition I presented to the House yesterday. I will ask the Clerk to read the parts indicated.

The Clerk read as follows:

The three aldermen: A demonstration in four tableaux.

FIRST TABLEAU.

(The scene is in the hotel of Alderman Pierre. The window looks out on a fine park; three persons are seated near a good fire.)

PIERRE. Upon my word, a fire is very comfortable when the stomach is satisfied. It must be agreed that it is a pleasant thing. But, alas! how many worthy people, like the King of Yvetot,

"Blow on their fingers for want of wood."

Unhappy creatures, Heaven inspires me with a charitable thought. You see these fine trees. I will cut them down and distribute the wood among the poor.

PAUL and JEAN. What! Gratis?

PIERRE. Not exactly. There would soon be an end of my good works if I scattered my property thus. I thing that my park is worth 20,000 livres; by cutting it down I shall get much more for it.

PAUL. A mistake. Your wood as it stands is worth more than that in the neighboring forests, for it renders services which that can not give. When cut down, it will, like that, be good for burning only, and will not be worth a sou more per cord.

PIERRE. Oh, Mr. Theorist, you forget that I am a practical man. I supposed that my reputation as a speculator was well enough established to put me above any charge of stupidity. Do you think that I shall amuse myself by selling my wood at the price of other wood?

PAUL. You must.

PIERRE. Simpleton! Suppose I prevent the bringing of any wood to Paris!

PAUL. That will alter the case. But how will you manage it?

PIERRE. This is the whole secret. You know that wood pays an entrance duty of 10 sous per cord. To-morrow I will induce the aldermen to raise this duty to 100, 200, or 300 livres, so high as to keep out every fagot. Well, do you see? If the good people do not want to die of cold, they must come to my wood yard. They will fight for my wood. I shall sell it for its weight in gold, and this well-regulated deed of charity will enable me to do others of the same sort.

PAUL. This is a fine idea, and it suggests an equally good one to me.

JEAN. Well, what is it?

PAUL. How do you find this Normandy butter?

JEAN. Excellent.

PAUL. Well, it seemed passable a moment ago. But do you not think it is a little strong? I want to make a better article at Paris. I will have four or five hundred cows, and I will distribute milk, butter, and cheese to the poor people.

PIERRE and JEAN. What, as a charity?

PAUL. Bah! Let us always put charity in the foreground. It is such a fine thing that its counterfeit is an excellent card. I will give my butter to the people and they will give me their money. Is that called selling?

JEAN. No; according to the bourgeois gentilhomme; but call it what you please, you ruin yourself. Can Paris compete with Normandy in raising cows?

PAUL. I shall save the cost of transportation.

JEAN. Very well; but the Normans are able to beat the Parisians, even if they do have to pay for transportation.

PAUL. Do you call it beating anyone to furnish him things at a low price?

JEAN. It is the time-honored word. You will always be beaten.

PAUL. Yes; like Don Quixote. The blows will fall on Sancho. Jean, my friend, you forgot the octroi.

JEAN. The octroi! What has that to do with your butter?

PAUL. To-morrow I will demand protection, and I will induce the council to prohibit the butter of Normandy and Brittany. The people must do without butter, or buy mine, and that at my price, too!

JEAN. Gentlemen, your philanthrophy carries me along with it. "In time one learns to howl with the wolves." It shall not be said that I am an unworthy alderman. Pierre, this sparkling fire has illumined your soul; Paul, this butter has given an impulse to your understanding, and I perceive that this piece of salt pork stimulates my intelligence. To-morrow I will vote myself, and make others vote, for the exclusion of hogs, dead or alive; this done I will build superb stock yards in the middle of Paris "for the unclean animal forbidden to the Hebrews." I will become swineherd and pork seller, and we shall see how the good people of Paris can help getting their food at my shop.

PIERRE. Gently, my friends; if you thus run up the price of butter and salt meat, you diminish the profit which I expected from my wood.

PAUL. Nor is my speculation so wonderful, if you ruin me with your fuel and your hams.

JEAN. What shall I gain by making you pay an extra price for my sausages, if you overcharge me for pastry and fagots?

PIERRE. Do you not see that we are getting into a quarrel? Let us rather unite. Let us make reciprocal concessions. Besides, it is not well to listen only to miserable self-interest. Humanity is concerned, and must not the warming of the people be secured?

PAUL. That is true, and people must have butter to spread on their bread.

JEAN. Certainly. And they must have a bit of pork for their soup.

ALL TOGETHER. Forward, charity! Long live philanthropy! To-morrow, to-morrow, we will take the octrol by assault.

PIERRE. Ah, I forgot. One word more, which is important. My friends, in this selfish age people are suspicious and the purest intentions are often misconstrued. Paul, you plead for wood; Jean, defend butter; and I will devote myself to domestic swine. It is best to head off invidious suspicions.

PAUL AND JEAN (leaving). Upon my word, what a clever fellow!

SECOND TABLEAU: THE COMMON COUNCIL.

PAUL. My dear colleagues, every day great quantities of wood come into Paris and draw out of it large sums of money. If this goes on we shall all be ruined in three years, and what will become of the poor people? [Bravo!] Let us prohibit foreign wood. I am not speaking for myself, for you could not make a toothpick out of all the wood I own. I am, therefore, perfectly disinterested. [Good! good!] But here is Pierre, who has a park, and he will keep our fellow-citizens from freezing. They will no longer be in a state of dependence on the charcoal dealers of the Yonne. Have you ever thought of the risk we run of dying of cold if the proprietors of these foreign forests should take it into their heads not to bring any more wood to Paris? Let us, therefore, prohibit wood. By this means we shall stop the drain of specie, we shall start the wood-chopping business, and open to our workmen a new source of labor and wages. [Applause.]

JEAN. I second the motion of the honorable member—a proposition so philanthropic and so disinterested, as he remarked. It is time that we should stop this intolerable freedom of entry, which has brought a ruinous competition upon our market, so that there is not a province tolerably well situated for producing some one article which does not inundate us with it, sell it to us at a low price, and depress Parisian labor. It is the business of the State to equalize the conditions of production by wisely graduated duties; to allow the entrance from without of whatever is dearer there than at Paris, and thus relieve us from an unequal contest. How, for instance, can they expect us to make milk and butter in Paris as against Brittainy and Normandy? Think, gentlemen, the Bretons have land cheaper, feed more convenient, and labor more abundant. Does not common sense say that the conditions must be equalized by a protecting duty? I ask that the duty on milk and butter be raised to a thousand per cent, and more if necessary. The breakfasts of the people will cost a little more, but wages will rise. We shall see the building of stables and dairies, a good trade in churns, and the foundation of new industries laid. I myself have not the least interest in this plan. I am not a cowherd, nor do I desire to become one. I am moved by the single desire to be useful to the laboring classes. [Expressions of approbation.]

PIERRE. I am happy to see in this assembly statesmen so pure, enlightened, and devoted to the interests of the people. [Cheers.] I admire their self-denial, and can not do better than follow such noble examples. I support their motion, and I also make one to include the Poitou hogs. It is not that I want to become a swineherd or pork dealer, in which case my conscience would forbid my making this motion; but is it not shameful, gentlemen, that we should be paying tribute to these poor Poitevin peasants who have the audacity to come into our own market, take possession of a business that we could have carried on ourselves, and, after having inundated us with sausages and hams, take from us, perhaps, nothing in return? Anyhow, who says that the balance of trade is not in their favor, and that we are not compelled to pay them a tribute in money? Is it not plain that if this Poitevin industry were planted in Paris it would open new fields to Parisian labor? Moreover, gentlemen, is it not very likely, as Mr. Lestiboudois said, that we buy these Poitevin salted meats not with our income, but our capital? Where will this land us? Let us not allow greedy, avaricious, and perfidious rivals to come here and sell things cheaply, thus making it impossible for us to produce them ourselves. Aldermen, Paris has given us its confidence, and we must show ourselves worthy of it. The people are without labor, and we must create it, and if salted meat costs them a little more, we shall at least have the consciousness that we have sacrificed our interests to those of the masses, as every good alderman ought to do. [Thunders of applause.]

A VOICE. I hear much said of the poor people; but under the pretext of giving them labor you begin by taking away from them that which is worth more than labor itself—wood, butter, and soup.

PIERRE, PAUL, AND JEAN. Vote! vote! Away with your theorists and generalizers! Let us vote. [The three motions are carried.]

THIRD TABLEAU: TWENTY YEARS AFTER.

SON. Father, decide; we must leave Paris. Work is slack and everything is dear.

FATHER. My son, you do not know how hard it is to leave the place where we were born.

SON. The worst of all things is to die there of misery.

FATHER. Go, my son, and seek a more hospitable country. For myself, I will not leave the grave where your mother, sisters, and brothers lie. I am eager to find, at last, near them, the rest which is denied me in this city of desolation.

SON. Courage, dear father, we will find work elsewhere—in Poitou, Normandy, or Brittany. They say that the industry of Paris is gradually transferring itself to those distant countries.

FATHER. It is very natural. Unable to sell us wood and food, they stopped producing more than they needed for themselves, and they devoted their spare time and capital to making those things which we formerly furnished them.

SON. Just as at Paris they quit making handsome furniture and fine clothes, in order to plant trees and raise hogs and cows. Though quite young, I have seen vast storehouses, sumptuous buildings, and quays thronged with life on those banks of the Seine which are now given up to meadows and forests.

FATHER. While the provinces are filling up with cities, Paris becomes country. What a frightful revolution! Three mistaken aldermen, aided by public ignorance, have brought down on us this terrible calamity.

SON. Tell me this story, my father.

FATHER. It is very simple. Under the pretext of establishing three new trades at Paris, and of thus supplying labor to the workmen, these men secured the prohibition of wood, butter, and meats. They assumed the right of supplying their fellow-citizens with them. These articles rose immediately to an exorbitant price. Nobody made enough to buy them, and the few who could procure them by using up all they made were unable to buy anything else; consequently all branches of industry stopped at once—all the more so because the provinces no longer offered a market. Misery, death, and immigration began to depopulate Paris.

SON. When will this stop?

FATHER. When Paris has become a meadow and a forest.

SON. The three aldermen must have made a great fortune.

FATHER. At first they made immense profits, but at length they were involved in the common misery.

SON. How was that possible?

FATHER. You see this ruin; it was a magnificent house surrounded by a fine park. If Paris had kept on advancing, Master Pierre would have got more rent from it annually than the whole thing is now worth to him.

SON. How can that be, since he got rid of competition?

FATHER. Competition in selling has disappeared; but competition in buying also disappears every day, and will keep on disappearing until Paris is an open field, and Master Pierre's woodland will be worth no more than an equal number of acres in the forest of Bondy. Thus, a monopoly, like every species of injustice, brings its own punishment upon itself.

SON. This does not seem very plain to me, but the decay of Paris is undeniable. Is there, then, no means of repealing this unjust measure that Pierre and his colleagues adopted twenty years ago?

FATHER. I will confide my secret to you. I will remain at Paris for this purpose; I will call the people to my aid. It depends on them whether they will replace the octroi on its old basis, and dismiss from it this fatal principle, which is grafted on it, and has grown there like a parasite fungus.

SON. You ought to succeed on the very first day.

FATHER. No; on the contrary, the work is a difficult and laborious one. Pierre, Paul, and Jean understand one another perfectly. They are ready to do anything rather than allow the entrance of wood, butter, and meat into Paris. They even have on their side the people, who clearly see the labor which these three protected branches of business give, who know how many wood choppers and cow drivers it gives employment to, but who can not obtain so clear an idea of the labor that would spring up in the free air of liberty.

SON. If this is all that is needed you will enlighten them.

FATHER. My child, at your age, one doubts at nothing. If I wrote, the people would not read; for all their time is occupied in supporting a wretched existence. If I speak the aldermen will shut my mouth. The people will, therefore, remain long in their fatal error; political parties, which build their hopes on their passions, attempt to play upon their prejudices, rather than dispel them. I shall then have to deal with the powers that be—the people and the parties. I see that a storm will burst on the head of the audacious person who dares to rise against an iniquity which is so firmly rooted in the country.

SON. You will have justice and truth on your side.

FATHER. And they will have force and calumny. If I were only young! But age and suffering have exhausted my strength.

SON. Well, father, devote all that you have left to the service of the country. Begin this work of emancipation, and leave to me for an inheritance the task of finishing it.

FOURTH TABLEAU: THE AGITATION.

JACQUES BONHOMME. Parisians, let us demand the reform of the octroi; let it be put back to what it was. Let every citizen be free to buy wood, butter, and meat where it seems good to him.

The PEOPLE. Hurrah for liberty!

PIERRE. Parisians, do not allow yourselves to be seduced by these words. Of what avail is the freedom of purchasing, if you have not the means, if labor is wanting? Can Paris produce wood as cheaply as the forest of Bondy, or meat at as low price as Poitou, or butter as easily as Normandy? If you open the doors to these rival products, what will become of the woodcutter, pork dealers, and cattle drivers? They can not do without protection.

The PEOPLE. Hurrah for protection!

JACQUES. Protection! How do they protect you, workmen? Do not you compete with one another? Let the wood dealers then suffer competition in their turn. They have no right to raise the price of their wood by law, unless they, also, by law, raise wages. Do you not still love equality?

The PEOPLE. Hurrah for equality!

PIERRE. Do not listen to this factious fellow. We have raised the price of wood, meat, and butter, it is true; but it is in order that we may give good wages to the workmen. We are moved by charity.

The PEOPLE. Hurrah for charity!

JACQUES. Use the octroi, if you can, to raise wages, or do not use it to raise the price of commodities. The Parisians do not ask for charity, but justice.

The PEOPLE. Hurrah for justice!

PIERRE. It is precisely the dearness of products which will, by reflex action, raise wages.

The PEOPLE. Hurrah for dearness!

JACQUES. If butter is dear, it is not because you pay workmen well; it is not even that you may make great profits—it is only because Paris is ill-situated for this business, and because you desired that they should do in the city what ought to be done in the country, and in the country what was done in the city. The people have no more labor, only they labor at something else. They get no more wages, but they do not buy things as cheaply.

The PEOPLE. Hurrah for cheapness!

PIERRE. This person seduces you with his fine words. Let us state the question plainly. Is it not true that if we admit butter, wood, and meat, we shall be inundated with them and die of a plethora. There is, then, no other way in which we can preserve ourselves from this new inundation than to shut the door, and we can keep up the price of things only by causing scarcity artificially.

A VERY FEW VOICES. Hurrah for scarcity!

JACQUES. Let us state the question as it is. Among all the Parisians we can divide only what is in Paris; the less wood, butter, and meat there is, the smaller each one's share will be. There will be less if we exclude than if we admit. Parisians, individual abundance can exist only where there is general abundance.

The PEOPLE. Hurrah for abundance!

PIERRE. No matter what this man says, he can not prove to you that it is to your interest to submit to unbridled competition.

The PEOPLE. Down with competition!

JACQUES. Despite all this man's declamation, he can not make you enjoy the sweets of restriction.

The PEOPLE. Down with restriction!

PIERRE. I declare to you that if the poor dealers in cattle and hogs are deprived of their livelihood; if they are sacrificed to theories, I will not be answerable for public order. Workmen, distrust this man. He is an agent of perfidious Normandy; he is under the pay of foreigners; he is a traitor and must be hanged. [The people keep silent.]

JACQUES. Parisians, all that I say now, I said to you twenty years ago, when it occurred to Pierre to use the octroi for his gain and your loss. I am not an agent of Normandy. Hang me if you will, but this

will not prevent oppression from being oppression. Friends, you must kill neither Jacques nor Pierre, but liberty if it frightens you, or restriction if it hurts you.

The PEOPLE. Let us hang nobody; but let us emancipate everybody.

Mr. LITTAUER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16472—the legislative, executive, and judicial appropriation bill—and had come to no resolution thereon.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on the Judiciary was discharged from the consideration of the bill (H. R. 16730) to prevent the unauthorized wearing or use of badges, name, titles of officers, insignia, ritual, or ceremonies of the Benevolent and Protective Order of Elks of the United States of America, and the same was referred to the Committee on the District of Columbia.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. WEBB to withdraw from the files of the House, without leaving copies, the papers in the case of W. J. Roberts, Fifty-ninth Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. TAYLOR of Alabama, indefinitely, on account of important business.

TOBACCO TRUST AND PAPER TRUST.

Mr. GAINES of Tennessee. Mr. Speaker, I hold in my hand the two opinions delivered by the Supreme Court in the so-called "tobacco trust" and "paper trust" cases. I ask unanimous consent that they may be printed in the RECORD.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to print in the RECORD the opinions of the Supreme Court referred to. Is there objection?

There was no objection.

The opinions are as follows:

Supreme Court of the United States. No. 340. October term, 1905. Edwin F. Hale, appellant, *v.* William Henkel, United States marshal. Appeal from the circuit court of the United States for the southern district of New York. March 12, 1906.

This was an appeal from a final order of the circuit court made June 18, 1905, dismissing a writ of *habeas corpus* and remanding the petitioner Hale to the custody of the marshal.

The proceeding originated in a *subpœna duces tecum*, issued April 28, 1905, commanding Hale to appear before the grand jury at a time and place named to "testify and give evidence in a certain action now pending * * * in the circuit court of the United States for the southern district of New York, between the United States of America and the American Tobacco Company and MacAndrews & Forbes Company on the part of the United States, and that you bring with you and produce at the time and place aforesaid:"

1. All understandings, agreements, arrangements, or contracts, whether evidenced by correspondence, memoranda, formal agreements, or other writings, between MacAndrews & Forbes Company and six other firms and corporations named, from the date of the organization of the said MacAndrews & Forbes Company.

2. All correspondence by letter or telegram between MacAndrews & Forbes Company and six other firms and corporations.

3. All reports made or accounts rendered by these six companies or corporations to the principal company.

4. Any agreements or contracts or arrangements, however evidenced, between MacAndrews & Forbes Company and the Amsterdam Supply Company or the American Tobacco Company or the Continental Company or the Consolidated Tobacco Company.

5. All letters received by the MacAndrews & Forbes Company since the date of its organization from thirteen other companies named, located in different parts of the United States, and also copies of all correspondence with such companies.

Petitioner appeared before the grand jury in obedience to the subpœna, and before being sworn asked to be advised of the nature of the investigation in which he had been summoned; whether under any statute of the United States, and the specific charge, if any had been made, in order that he might learn whether or not the grand jury had any lawful right to make the inquiry, and also that he be furnished with a copy of the complaint, information, or proposed indictment upon which they were acting; that he had been informed that there was no action pending in the circuit court as stated in the subpœna, and that the grand jury was investigating no specific charge against anyone, and he therefore declined to answer: First, because there was no legal warrant for his examination, and, second, because his answers might tend to incriminate him.

After stating his name, residence, and the fact that he was secretary and treasurer of the MacAndrews & Forbes Company, he declined to answer all other questions in regard to the business of the company, its officers, the location of its office, or its agreement or arrangements with other companies. He was thereupon advised by the assistant district attorney that this was a proceeding under the Sherman Act to protect trade and commerce against unlawful restraint and monopolies; that under the act of 1903, amendatory thereof, no person could be prosecuted or subjected to any penalty or forfeiture on account of any matter or thing concerning which he might testify or produce documentary evidence in any prosecution under said act, and that he thereby offered and assured appellant immunity from punishment. The witness still persisted in his refusal to answer all questions.

He also declined to produce the papers and documents called for in the subpœna:

First. Because it would have been a physical impossibility to have gotten them together within the time allowed.

Second. Because he was advised by counsel that he was under no legal obligations to produce anything called for by the subpœna.

Third. Because they might tend to incriminate him.

Whereupon the grand jury reported the matter to the court, and made a presentment that Hale was in contempt, and that the proper proceedings should be taken. Thereupon all the parties appeared before the circuit judge, who directed the witness to answer the questions and produce the papers. Appellant still persisting in his refusal, the circuit judge held him to be in comptempt, and committed him to the custody of the marshal until he should answer the questions and produce the papers. A writ of *habeas corpus* was thereupon sued out, and a hearing had before another judge of the same court, who discharged the writ and remanded the petitioner.

Mr. Justice Brown delivered the opinion of the court:

Two issues are presented by the record in this case, which are so far distinct as to require separate consideration. They depend upon the applicability of different provisions of the Constitution, and, in determining the question of affirmance or reversal, should not be confounded. The first of these involves the immunity of the witness from oral examination; the second, the legality of his action in refusing to produce the documents called for by the *subpœna duces tecum*.

1. The appellant justifies his action in refusing to answer the questions propounded to him first, upon the ground that there was no specific "charge" pending before the grand jury against any particular person; second, that the answers would tend to criminate him.

The first objection requires a definition of the word "charge" as used in this connection, which it is not easy to furnish. An accused person is usually charged with crime by a complaint made before a committing magistrate, which has fully performed its office when the party is committed or held to bail, and is quite unnecessary to the finding of an indictment by a grand jury; or by an information of the district attorney, which is of no legal value in prosecutions for felony; or by a presentment usually made, as in this case, for an offense committed in the presence of the jury; or by an indictment which, as often as not, is drawn after the grand jury has acted upon the testimony. If another kind of charge be contemplated, when and by whom must it be preferred? Must it be in writing; and if so, in what form? Or may it be oral? The suggestion of the witness that he should be furnished with a copy of such charge, if applicable to him is applicable to other witnesses summoned before the grand jury. Indeed, it is a novelty in criminal procedure with which we are wholly unacquainted, and one which might involve a betrayal of the secrets of the grand jury room.

Under the ancient English system criminal prosecutions were instituted at the suit of private prosecutors, to which the King lent his name in the interest of the public peace and good order of society. In such cases the usual practice was to prepare the proposed indictment and lay it before the grand jury for their consideration. There was much propriety in this, as the most valuable function of the grand jury was not only to examine into the commission of crimes, but to stand between the prosecutor and the accused and to determine whether the charge was founded upon credible testimony or was dictated by malice or personal ill will.

We are pointed to no case, however, holding that a grand jury can not proceed without the formality of a written charge. Indeed, the oath administered to the foreman, which has come down to us from the most ancient times and is found in Rex *v.* Shaftsbury (8 Howell's State Trials, 769), indicates that the grand jury was competent to act solely on its own volition. This oath was that "you shall diligently inquire and true presentments make of all such matters, articles, and things as shall be given to you in charge, *as of all other matters and things as shall come to your own knowledge* touching this present service," etc. This oath has remained substantially unchanged to the present day. There was a difference, too, in the nomenclature of the two cases of accusations by private persons and upon their own knowledge. In the former case their action was embodied in an indictment formally laid before them for their consideration; in the latter case, in the form of a presentment. Says Blackstone in his Commentaries, Book IV, page 301:

"A presentment, properly speaking, is a notice taken by a grand jury of any offense from their own knowledge or observation, without any bill of indictment laid before them at the suit of the King, as the presentment of a nuisance, a libel, and the like, upon which the officer of the court must afterwards frame an indictment before the party presented can be put to answer it."

Substantially the same language is used in 1 Chitty Crim. Law, 162.

In United States *v.* Hill (1 Brock., 156), it was indicated by Chief Justice Marshall that a presentment and indictment are to be considered as one act, the second to be considered only as an amendment to the first, and that the usage of this country has been to pass over, unnoticed, presentments on which the attorney does not think it proper to institute proceedings.

In a case arising in Tennessee the grand jury, without the agency of the district attorney, had called witnesses before them, whom they interrogated as to their knowledge concerning the then late Cuban expedition. Mr. Justice Catron sustained the legality of the proceeding and compelled the witnesses to answer. His opinion is reported in Wharton's Criminal Pleading and Practice (8th ed.), section 337. He says: "The grand jury have the undoubted right to send for witnesses and have them sworn to give evidence generally, and to found presentments on the evidence of such witnesses; and the question here is whether a witness thus introduced is legally bound to disclose whether a crime has been committed, and also who committed the crime." His charge contains a thorough discussion of the whole subject.

While presentments have largely fallen into disuse in this country, the practice of grand juries acting upon notice, either of their own knowledge or upon information obtained by them, and incorporating their findings in an indictment, still largely obtains. Whatever doubts there may be with regard to the early English procedure the practice in this country, under the system of public prosecutions carried on by officers of the State appointed for that purpose, has been entirely settled since the adoption of the Constitution. In a lecture delivered by Mr. Justice Wilson of this court, who may be assumed to have known the current practice, before the students of Pennsylvania, he says (Wilson's Works, vol. II, p. 213):

"It has been alleged that grand juries are confined, in their inquiries, to the bills offered to them, to the crimes given them in charge, and to the evidence brought before them by the prosecutor. But these conceptions are much too contracted; they present but a very imperfect

and unsatisfactory view of the duty required from grand jurors, and of the trust reposed in them. They are not appointed for the prosecutor or for the court; they are appointed for the Government and for the people; and of both the Government and people it is surely the concernment that, on one hand, all crimes, whether given or not given in charge, whether described or not described with professional skill, should receive the punishment which the law denounces; and that, on the other hand, innocence, however strongly assailed by accusations drawn up in regular form, and by accusers, marshaled in legal array, should, on full investigation, be secure in that protection which the law engages that she shall enjoy inviolate.

"The oath of a grand juryman—and his oath is the commission under which he acts—assigns no limits, except those marked by diligence itself, to the course of his inquiries: Why, then, should it be circumscribed by more contracted boundaries? Shall diligent inquiry be enjoined? And shall the means and opportunities of inquiry be prohibited or restrained?"

Similar language was used by Judge Addison, president of the court of common pleas, in charging the grand jury at the session of the common pleas court in 1791:

"If the grand jury, of their own knowledge, or the knowledge of any of them, or from the examination of witnesses, know of any offense committed in the county, for which no indictment is preferred to them, it is their duty either to inform the officer who prosecutes for the State of the nature of the offense and desire that an indictment for it be laid before them; or, if they do not, or if no such indictment be given them, it is their duty to give such information of it to the court, stating, without any particular form, the facts and circumstances which constitute the offense. This is called a presentment."

The practice then prevailing with regard to the duty of grand juries shows that a presentment may be based not only upon their own personal knowledge, but from the examination of witnesses.

While no case has arisen in this court in which the question has been distinctly presented, the authorities in the State courts largely preponderate in favor of the theory that the grand jury may act upon information received by them from the examination of witnesses without a formal indictment or other charge previously laid before them. An analysis of cases approving of this method of procedure would unduly burden this opinion, but the following are the leading ones upon the subject: Ward *v.* State, 2 Mo., 120; State *v.* Terry, 30 Mo., 368; Ex parte Brown, 72 Mo., 83; Commonwealth *v.* Smyth, 11 Cushing, 473; State *v.* Walcott, 21 Conn., 272–280; State *v.* Magrath, 44 N. J. L., 227; Thompson & Merriam on Juries, secs. 615–617. In Blaney *v.* Maryland (74 Md., 153) the court said:

"However restricted the functions of the grand juries may be elsewhere, we hold that in this State they have plenary inquisitorial powers, and lawfully themselves, and upon their own motion, may originate charges against offenders, though no preliminary proceedings have been had before a magistrate, and though neither the court nor the State's attorney has laid the matter before them."

The rulings of the inferior Federal courts are to the same effect. Mr. Justice Field, in charging a grand jury in California (2 Sawy., 667), said of the grand jury acting upon their own knowledge:

"Not by rumors or reports, but by knowledge acquired from the evidence before you and from your own observations. Whilst you are inquiring as to one offense, another and a different offense may be proved, or witnesses before you may, in testifying, commit the crime of perjury."

Similar language was used in United States *v* Kimball, 117 Fed. Rep., 156–161; United States *v.* Reed, 2 Blatch., 449; United States *v.* Terry, 39 Fed. Rep., 355. And in Frisbie *v.* United States (157 U. S., 160) it is said by Mr. Justice Brewer:

"But in this country it is for the grand jury to investigate any alleged crime, no matter how or by whom suggested to them, and after determining that the evidence is sufficient to justify putting the suspected party on trial, to direct the preparation of the formal charge or indictment."

There are doubtless a few cases in the State courts which take a contrary view, but they are generally such as deal with the abuses of the system, as the indiscriminate summoning of witnesses with no definite object in view, and in a spirit of meddlesome inquiry. In the most pertinent of these cases (In re Lester, 77 Ga., 143), the mayor of Savannah, who was also ex officio the presiding judge of a court of record, was called upon to bring into the superior court the "information docket" of his court, to be used as evidence by the State in certain cases pending before the grand jury. It was held "that the powers of the body are inquisitorial to a certain extent is undeniable; yet they have to be exercised within well defined limits. * * * The grand jury can find no bill nor make any presentment except upon the testimony of witnesses sworn in a particular case, where the party is charged with a specified offense."

This case is readily distinguishable from the one under consideration, in the fact that the subpœna in this case did specify the action as one between the United States and the American Tobacco Company and the MacAndrews-Forbes Company; and that the Georgia penal code prescribed a form of oath for the grand jury, "that the evidence you shall give the grand jury on this bill of indictment (or presentment, as the case may be, here state the case) shall be the truth," etc. This seems to confine the witness to a charge already laid before the jury.

In Lewis *v.* Board of Commissioners (74 N. C., 194) the English practice, which requires a preliminary investigation where the accused can confront the accuser and witnesses with testimony, was adopted as more consonant to principles of justice and personal liberty. It was further said that none but witnesses have any business before the grand jury, and that the solicitor may not be present, even to examine them. The practice in this particular in the Federal courts has been quite the contrary.

Other cases lay down the principle that it must be made to appear to the grand jury that there is reason to believe that a crime has been committed, and that they have not the power to institute or prosecute an inquiry on the chance that some crime may be discovered. (In Matter of Morse, 18 N. Y. Criminal Rep., 312; State *v.* Adams, 2 Lea, 647, an unimportant case, turning upon a local statute.) In Pennsylvania grand juries are somewhat more restricted in their powers than is usual in other States (McCullough *v.* Commonwealth, 67 Penn. St., 30; Rowand *v.* Commonwealth, 82 Penn. St., 405; Commonwealth *v.* Green, 126 Penn. St., 531), and in Tennessee inquisitorial powers are granted in certain cases and withheld in others. (State *v.* Adams, 70 Tenn., 647; State *v.* Smith, 19 Tenn., 99.)

We deem it entirely clear that under the practice in this country, at least, the examination of witnesses need not be preceded by a presentment or indictment formally drawn up, but that the grand jury may proceed, either upon their own knowledge or upon the examination of witnesses, to inquire for themselves whether a crime cognizable by the court has been committed; that the result of their investigations may be subsequently embodied in an indictment, and that in summoning witnesses it is quite sufficient to apprise them of the names of the parties with respect to whom they will be called to testify, without indicating the nature of the charge against them. So valuable is this inquisitorial power of the grand jury that in States where felonies may be prosecuted by information as well as indictment the power is ordinarily reserved to courts of empaneling grand juries for the investigation of riots, frauds, and nuisances, and other cases where it is impracticable to ascertain in advance the names of the persons implicated. It is impossible to conceive that in such cases the examination of witnesses must be stopped until a basis is laid by an indictment formally preferred, when the very object of the examination is to ascertain who shall be indicted. As criminal prosecutions are instituted by the State through an officer selected for that purpose, he is vested with a certain discretion with respect to the cases he will call to their attention, the number and character of the witnesses, the form in which the indictment shall be drawn, and other details of the proceedings. Doubtless abuses of this power may be imagined, as if the object of the inquiry were merely to pry into the details of domestic or business life. But were such abuses called to the attention of the court it would doubtless be alert to repress them. While the grand jury may not indict upon current rumors or unverified reports, they may act upon knowledge acquired either from their own observations or upon the evidence of witnesses given before them.

2. Appellant also invokes the protection of the fifth amendment to the Constitution, which declares that no person "shall be compelled in any criminal case to be a witness against himself," and in reply to various questions put to him he declined to answer, on the ground that he would thereby incriminate himself.

The answer to this is found in a proviso to the general appropriation act of February 25, 1903 (32 Stat., 854–903), that "no person shall be prosecuted or be subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in any proceeding, suit, or prosecution under said acts," of which the antitrust law is one, providing, however, that "no person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying."

While there may be some doubt whether the examination of witnesses before a grand jury is a suit or prosecution, we have no doubt that it is a "proceeding" within the meaning of this proviso. The word should receive as wide a construction as is necessary to protect the witness in his disclosures, whenever such disclosures are made in pursuance of a judicial inquiry, whether such inquiry be instituted by a grand jury or upon the trial of an indictment found by them. The word "proceeding" is not a techincal one, and is aptly used by courts to designate an inquiriy before a grand jury. It has received this interpretation in a number of cases. (Yates *v.* The Queen, 14 Q. B. D., 648; Hogan *v.* State, 30 Wis., 428.)

The object of the amendment is to establish in express language and upon a firm basis the general principle of English and American jurisprudence, that no one shall be compelled to give testimony which may expose him to prosecution for crime. It is not declared that he may not be compelled to testify to facts which may impair his reputation for probity or even tend to disgrace him, but the line is drawn at testimony that may expose him to prosecution. If the testimony relate to criminal acts long since past, and against the prosecution of which the statute of limitations has run, or for which he has already received a pardon or is guaranteed an immunity, the amendment does not apply.

The interdiction of the fifth amendment operates only where a witness is asked to incriminate himself. In other words, to give testimony which may possibly expose him to a criminal charge. But if the criminality has already been taken away the amendment ceases to apply. The criminality provided against is a present not a past criminality, which lingers only as a memory and involves no present danger of prosecution. To put an extreme case, a man in his boyhood or youth may have committed acts which the law pronounces criminal, but it would never be asserted that he would thereby be made a criminal for life. It is here that the law steps in and says that if the offense be outlawed or pardoned, or its criminality has been removed by statute, the amendment ceases to apply. The extent of this immunity was fully considered by this court in Counselman *v.* Hitchcock (142 U. S., 547), in which the immunity offered by Revised Statutes, section 860, was declared to be insufficient. In consequence of this decision an act was passed applicable to testimony before the Interstate Commerce Commission in almost the exact language of the act of February 25, 1903, above quoted. This act was declared by this court in Brown *v.* Walker (161 U. S., 591) to afford absolute immunity against prosecution for the offense to which the question related and deprived the witness of his constitutional right to refuse to answer. Indeed, the act was passed apparently to meet the declaration in Counselman *v.* Hitchcock (586), that "a statutory enactment to be valid must afford absolute immunity against future prosecution for the offense to which the question relates." If the constitutional amendment were unaffected by the immunity statute, it would put it within the power of the witness to be his own judge as to what would tend to incriminate him, and would justify him in refusing to answer almost any question in a criminal case, unless it clearly appeared that the immunity was not set up in good faith.

We need not restate the reasons in Brown *v.* Walker, both in the opinion of the court and in the dissenting opinion, wherein all the prior authorities were reviewed and a conclusion reached by a majority of the court which fully covers the case under consideration.

The suggestion that a person who has testified compulsorily before a grand jury may not be able, if subsequently indicted for some matter concerning which he testified, to procure the evidence necessary to maintain his plea, is more fanciful than real. He would have not only his own oath in support of his immunity, but the notes often, though not always, taken of the testimony before the grand jury, as well as the testimony of the prosecuting officer, and of every member of the jury present. It is scarcely possible that all of them would have forgotten the general nature of his incriminating testimony or that any serious conflict would arise therefrom. In any event, it is a question relating to the weight of the testimony, which could scarcely be considered in determining the effect of the immunity statute. The difficulty of maintaining a case upon the available evidence is a danger which the law does not recognize. In prosecuting a case, or in setting up a defense, the law takes no account of the practical difficulty which either party may have in procuring his testimony. It judges of the law by the facts which each party claims, and not by what he may ultimately establish.

The further suggestion that the statute offers no immunity from prosecution in the State courts was also fully considered in Brown *v.* Walker and held to be no answer. The converse of this was also decided in Jack *v.* Kansas (199 U. S., 372), namely, that the fact that an immunity granted to a witness under a State statute would not prevent a prosecution of such witness for a violation of a Federal statute, did not invalidate such statute under the fourteenth amendment. It was held both by this court and by the supreme court of Kansas that the possibility that information given by the witness might be used under the Federal act did not operate as a reason for permitting the witness to refuse to answer, and that a danger so unsubstantial and remote did not impair the legal immunity. Indeed, if the argument were a sound one it might be carried still further and held to apply not only to State prosecutions within the same jurisdiction, but to prosecutions under the criminal laws of other States to which the witness might have subjected himself. The question has been fully considered in England, and the conclusion reached that the only danger to be considered is one arising within the same jurisdiction and under the same sovereignty. (Queen *v.* Boyes, 1 B. & S., 311; King of Sicilies *v.* Wilcox, 7 State Trials (N. S.), 1049, 1068; State *v.* March, 1 Jones (Ga.), 526; State *v.* Thomas, 98 N. C., 599.) The entire question of immunity is also exhaustively treated in Wigmore on Evidence, sections 2255–2259.

The case of United States *v.* Saline Bank (1 Pet., 100) is not in conflict with this. That was a bill for discovery, filed by the United States against the cashier of the Saline Bank, in the district court of the Virginia district, who pleaded that the emission of certain unlawful bills took place, within the State of Virginia, by the law whereof penalties were inflicted for such emissions. It was held that defendants were not bound to answer and subject them to those penalties. It is sufficient to say that the prosecution was under a State law which imposed the penalty, and that the Federal court was simply administering the State law, and no question arose as to a prosecution under another jurisdiction.

But it is further insisted that while the immunity statute may protect individual witnesses it would not protect the corporation of which appellant was the agent and representative. This is true, but the answer is that it was not designed to do so. The right of a person under the fifth amendment to refuse to incriminate himself is purely a personal privilege of the witness. It was never intended to permit him to plead the fact that some third person might be incriminated by his testimony, even though he were the agent of such person. A privilege so extensive might be used to put a stop to the examination of every witness who was called upon to testify before the grand jury with regard to the doings or business of his principal, whether such principal were an individual or a corporation. The question whether a corporation is a "person" within the meaning of this amendment really does not arise, except perhaps where a corporation is called upon to answer a bill of discovery, since it can only be heard by oral evidence in the person of some one of its agents or employees. The amendment is limited to a person who shall be compelled in any criminal case to be a witness against *himself*, and if he can not set up the privilege of a third person, he certainly can not set up the privilege of a corporation. As the combination or conspiracies provided against by the Sherman antitrust act can ordinarily be proved only by the testimony of parties thereto, in the person of their agents or employees, the privilege claimed would practically nullify the whole act of Congress. Of what use would it be for the legislature to declare these combinations unlawful if the judicial power may close the door of access to every available source of information upon the subject? Indeed, so strict is the rule that the privilege is a personal one that it has been held in some cases that counsel will not be allowed to make the objection. We hold that the questions should have been answered.

3. The second branch of the case relates to the nonproduction by the witness of the books and papers called for by the *subpœna duces tecum*. The witness put his refusal on the ground, first, that it was impossible for him to collect them within the time allowed; second, because he was advised by counsel that under the circumstances he was under no obligation to produce them; and finally, because they might tend to incriminate him.

Had the witness relied solely upon the first ground, doubtless the court would have given him the necessary time. The last ground we have already held untenable. While the second ground does not set forth with technical accuracy the real reason for declining to produce them, the witness could not be expected to speak with legal exactness, and we think is entitled to assert that the subpœna was an infringement upon the fourth amendment to the Constitution, which declares that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The construction of this amendment was exhaustively considered in the case of Boyd *v.* United States (116 U. S., 616), which was an information *in rem* against certain cases of plate glass, alleged to have been imported in fraud of the revenue acts. On the trial it became important to show the quantity and value of the glass contained in a number of cases previously imported; and the district judge, under section 5 of the act of June 22, 1874, directed a notice to be given to the claimants, requiring them to produce the invoice of these cases under penalty that the allegations respecting their contents should be taken as confessed. We held (p. 622) "that a compulsory production of a man's private papers to establish a criminal charge against him, or to forfeit his property, is within the scope of the fourth amendment, in all cases in which a search and seizure would be," and that the order in question was an unreasonable search and seizure within that amendment.

The history of this provision of the Constitution and its connections with the former practice of general warrants, or writs of assistance, was given at great length, and the conclusion reached that the compulsory extortion of a man's own testimony, or of his private papers, to connect him with a crime or a forfeiture of his goods, is illegal (p. 634), "is compelling a man to be a witness against himself, within the meaning of the fifth amendment, and is the equivalent of a search and seizure—and an unreasonable search and seizure—within the fourth amendment.

Subsequent cases treat the fourth and fifth amendments as quite distinct, having different histories, and performing separate functions. Thus in the case of Interstate Commerce Commission *v.* Brimson (154 U. S., 447), the constitutionality of the interstate-commerce act, so far as it authorized the circuit courts to use their processes in aid of inquiries before the Commission, was sustained, the court observing in that connection:

"It was clearly competent for Congress, to that end, to invest the Commission with authority to require the attendance and testimony of witnesses, and the production of books, papers, tariffs, contracts, agreements, and documents relating to any matter legally committed to that body for investigation. We do not understand that any of these propositions are disputed in this case."

The case of Adams *v.* United States (192 U. S., 585), which was a writ of error to the supreme court of the State of New York, involving the seizure of certain gambling paraphernalia, was treated as involving the construction of the fourth and fifth amendments to the Federal Constitution. It was held, in substance, that the fact that papers pertinent to the issue may have been illegally taken from the possession of the party against whom they are offered, was not a valid objection to their admissibility; that the admission, as evidence in a criminal trial, of papers found in the execution of a valid search warrant prior to the indictment was not an infringement of the fifth amendment, and that by the introduction of such evidence defendant was not compelled to incriminate himself. The substance of the opinion is contained in the following paragraph. It was contended that "If a search warrant is issued for stolen property and burglars' tools be discovered and seized, they are to be excluded from testimony by force of these amendments. We think they were never intended to have that effect, but are rather designed to protect against compulsory testimony from a defendant against himself in a criminal trial, and to punish wrongful invasion of the home of the citizen or the unwarranted seizure of his papers and property, and to render invalid legislation or judicial procedure having such effect."

The Boyd case must also be read in connection with the still later case of Interstate Commerce Commission *v.* Baird (194 U. S., 25), which arose upon the petition of the Commission for orders requiring the testimony of witnesses and the production of certain books, papers, and documents. The case grew out of a complaint against certain railway companies that they charged unreasonable and unjust rates for the transportation of anthracite coal. Objection was made to the production of certain contracts between these companies upon the ground that it would compel the witnesses to furnish evidence against themselves, in violation of the fifth amendment, and would also subject the parties to unreasonable searches and seizures. It was held that the circuit court erred in holding the contracts to be irrelevant and in refusing to order their production as evidence by the witnesses who were parties to the appeal. In delivering the opinion of the court the Boyd case was again considered in connection with the fourth and fifth amendments, and the remark made by Mr. Justice Day that the immunity statute of 1893 "protects the witness from such use of the testimony given as will result in his punishment for crime or the forfeiture of his estate."

Having already held that by reason of the immunity act of 1903 the witness could not avail himself of the fifth amendment, it follows that he can not set up that amendment as against the production of the books and papers, since in respect to these he would also be protected by the immunity act. We think it quite clear that the search and seizure clause of the fourth amendment was not intended to interfere with the power of courts to compel, through a *subpœna duces tecum*, the production, upon a trial in court, of documentary evidence. As remarked in Summers *v.* Mosely (2 Cr. & M., 477), it would be "utterly impossible to carry on the administration of justice" without this writ. The following authorities are conclusive upon this question: Amey *v.* Long, 9 East, 473; Bull *v.* Loveland, 10 Pick., 9; United States Express Co. *v.* Henderson, 69 Iowa, 40; Greenleaf on Evidence, 469*a*; Wigmore on Evidence, section 2264.

If, whenever an officer or employee of a corporation were summoned before a grand jury as a witness he could refuse to produce the books and documents of such corporation, upon the ground that they would incriminate the corporation itself, it would result in the failure of a large number of cases where the illegal combination was determinable only upon the examination of such papers. Conceding that the witness was an officer of the corporation under investigation, and that he was entitled to assert the rights of the corporation with respect to the production of its books and papers, we are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.

Upon the other hand the corporation is a creature of the State. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the State and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a State, having chartered a corporation, to make use of certain franchises, could not in the exercise of its sovereignty inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation, which is charged with a criminal violation of the statute may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges.

It is true that the corporation in this case was chartered under the laws of New Jersey, and that it receives its franchise from the legislature of the State; but such franchises, so far as they involve questions of interstate commerce, must also be exercised in subordination to the power of Congress to regulate such commerce, and in respect to this the General Government may also assert a sovereign authority to ascertain whether such franchises have been exercised in a lawful manner, with a due regard to its own laws. Being subject to

this dual sovereignty the General Government possesses the same right to see that its own laws are respected as the State would have with respect to the special franchises vested in it by the laws of the State. The powers of the General Government in this particular in the vindication of its own laws are the same as if the corporation had been created by an act of Congress. It is not intended to intimate, however, that it has a general visitatorial power over State corporations.

4. Although, for the reasons above stated, we are of the opinion that an officer of a corporation which is charged with a violation of a statute of the State of its creation, or of an act of Congress passed in the exercise of its constitutional powers, can not refuse to produce the books and papers of such corporation, we do not wish to be understood as holding that a corporation is not entitled to immunity, under the fourth amendment, against *unreasonable* searches and seizures. A corporation is, after all, but an association of individuals under an assumed name and with a distinct legal entity. In organizing itself as a collective body it waives no constitutional immunities appropriate to such body. Its property can not be taken without compensation. It can only be proceeded against by due process of law, and is protected, under the fourteenth amendment, against unlawful discrimination. (Gulf, etc., Railroad Company *v.* Ellis, 165 U. S., 150, 154, and cases cited.) Corporations are a necessary feature of modern business activity, and their aggregated capital has become the source of nearly all great enterprises.

We are also of opinion that an order for the production of books and papers may constitute an unreasonable search and seizure within the fourth amendment. While a search ordinarily implies a quest by an officer of the law, and a seizure contemplates a forcible dispossession of the owner, still, as was held in the Boyd case, the substance of the offense is the compulsory production of private papers, whether under a search warrant or a *subpœna duces tecum*, against which the person, be he individual or corporation, is entitled to protection. Applying the test of reasonableness to the present case, we think the *subpœna duces tecum* is far too sweeping in its terms to be regarded as reasonable. It does not require the production of a single contract, or of contracts with a particular corporation, or a limited number of documents, but all understandings, contracts, or correspondence between the MacAndrews & Forbes Company and no less than six different companies, as well as all reports made and accounts rendered by such companies from the date of the organization of the MacAndrews & Forbes Company, as well as all letters received by that company since its organization from more than a dozen different companies, situated in seven different States in the Union.

If the writ had required the production of all the books, papers, and documents found in the office of the MacAndrews & Forbes Company, it would scarcely be more universal in its operation, or more completely put a stop to the business of that company. Indeed, it is difficult to say how its business could be carried on after it had been denuded of this mass of material, which is not shown to be necessary in the prosecution of this case, and is clearly in violation of the general principle of law with regard to the particularity required in the description of documents necessary to a search warrant or subpœna. Doubtless many, if not all, of these documents may ultimately be required, but some necessity should be shown, either from an examination of the witnesses orally, or from the known transactions of these companies with the other companies implicated, or some evidence of their materiality produced, to justify an order for the production of such a mass of papers. A general subpœna of this description is equally indefensible as a search warrant would be if couched in similar terms. (Ex parte Brown, 72 Mo., 83; Shaftsbury *v.* Arrowsmith, 4 Ves., 66; Lee *v.* Angas, L. R. 2 Eq., 59.)

Of course, in view of the power of Congress over interstate commerce, to which we have adverted, we do not wish to be understood as holding that an examination of the books of a corporation, if duly authorized by act of Congress, would constitute an unreasonable search and seizure within the fourth amendment.

But this objection to the subpœna does not go to the validity of the order remanding the petitioner, which is therefore affirmed.

True copy. Test:

_____,

Clerk Supreme Court United States.

Supreme Court of the United States. No. 341, October term, 1905. William H. McAlister, appellant, *v.* William Henkel, United States marshal. Appeal from the circuit court of the United States for the southern district of New York. March 12, 1906.

Mr. Justice Brown delivered the opinion of the court:

This case involves many of the questions already passed upon in the opinion in Hale *v.* Henkel, differing from that case, however, in two important particulars: First, in the fact that there was a complaint and charge made on behalf of the United States against the American Tobacco Company and the Imperial Tobacco Company under the so-called "Sherman Act," and, second, that the subpœna pointed out the particular writings sought for (three agreements), giving in each case the date, the names of the parties, and, in one instance, a suggestion of the contents.

The witness McAlister, who was secretary and a director of the American Tobacco Company, refused to answer or produce the documents for practically the same reasons assigned by the appellant Hale, demanding to be advised what the suit or proceeding was, and to be furnished with a copy of the proposed indictment. A copy of one of the agreements with three English companies and certified by the consul-general of the United States is contained in the record.

For reasons already partly set forth, we think that the immunity provided by the fifth amendment against self-incrimination is personal to the witness himself, and that he can not set up the privilege of another person or of a corporation as an excuse for a refusal to answer—in other words, the privilege is that of the witness himself and not that of the party on trial. The authorities are practically uniform on this point: Commonwealth *v.* Shaw (4 Cush., 594); State *v.* Wentworth (65 Maine, 234, 241); Reynolds *v.* Reynolds (15 Cox Criminal Cases, 108, 115). In New York Life Insurance Co. *v.* People (195 Ill., 430) the privilege was claimed by a corporation, but the agent of an insurance company was permitted to testify in a suit for the recovery of a statutory penalty to facts showing the performance by the corporation of the act prohibited. An elaborate history of this privilege and its limitations is given by Professor Wigmore in his recent work on Evidence, sections 2250 to 2259. Indeed, the authorities are numerous to the effect that an officer of a corporation can not set up the privilege of a corporation as against his testimony or the production of their books.

The questions are the same as those involved in the Hale case, without the objectionable feature of the subpœna, and the order of the circuit court is therefore affirmed.

True copy. Test:

_____,

Clerk Supreme Court United States.

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. 4969. An act granting permission to Rear-Admiral C. H. Davis, United States Navy, to accept a silver cup and salver and a silver punch bowl and cups tendered to him by the British and Russian ambassadors, respectively, in the name of their Governments—to the Committee on Foreign Affairs.

S. 3401. An act for the relief of the executors of the estate of Harold Brown, deceased—to the Committee on Claims.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 51. An act to create a juvenile court in and for the District of Columbia.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. J. Res. 83. Joint resolution for a report, etc., upon the preservation of Niagara Falls;

H. R. 345. An act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof;

H. R. 8107. An act extending the public-land laws to certain lands in Wyoming;

H. R. 13398. An act to amend section 4400 of the Revised Statutes, relating to inspection of steam vessels;

H. R. 15263. An act to authorize William Smith and associates to bridge the Tug Fork of the Big Sandy River, near Williamson, W. Va., where the same forms the boundary line between the States of West Virginia and Kentucky;

H. R. 8103. An act to authorize the construction of a bridge between Fort Snelling Reservation and St. Paul, Minn.;

H. R. 58. An act to prevent the unlawful wearing of the badge or insignia of the Grand Army of the Republic or other soldier organizations; and

H. R. 122. An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes.

Mr. LITTAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 2 o'clock and 50 minutes p. m.) the House adjourned until Friday, March 16, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the acting secretary of the Smithsonian Institution submitting an estimate of appropriation for the work of the International Catalogue of Scientific Literature—to the Committee on Appropriations, and ordered to be printed.

A letter from the Director of the Geological Survey submitting a report on the subject of a building for the Survey—to the Committee on Public Buildings and Grounds, 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. HOGG, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 15848) authorizing the sale of timber on the Jicarilla Apache Indian Reservation for the benefit of the Indians belonging thereto, reported the same with amendment, accompanied by a report (No. 2331); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BURKE of South Dakota, from the Committee on In-

dian Affairs, to which was referred the bill of the House (H. R. 9306) to authorize the sale of a portion of the Lower Brule Indian Reservation, in South Dakota, and for other purposes, reported the same with amendment, accompanied by a report (No. 2333); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STERLING, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 239) relating to liability of common carriers by railroads in the District of Columbia and Territories and common carriers by railroads engaged in commerce between the States and between the States and foreign nations to their employees, reported the same with amendment, accompanied by a report (No. 2335); which said bill and report were referred to the House Calendar.

Mr. CAPRON, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 71) to provide a temporary home for ex-volunteer Union soldiers and sailors in the District of Columbia, reported the same with amendment, accompanied by a report (No. 2336); 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. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4364) granting an increase of pension to George W. Neece, reported the same with amendment, accompanied by a report (No. 2288); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 5488) granting a pension to Margaret E. Foster, reported the same with amendment, accompanied by a report (No. 2289); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 7232) granting a pension to Alba B. Bean, reported the same with amendment, accompanied by a report (No. 2290); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8319) granting an increase of pension to John Gardner Stocks, reported the same with amendment, accompanied by a report (No. 2291); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8475) granting a pension to John F. Tathem, reported the same with amendment, accompanied by a report (No. 2292); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8687) granting a pension to William I. Lusch, reported the same with amendment, accompanied by a report (No. 2293); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8869) granting an increase of pension to Nathan Coward, reported the same with amendment, accompanied by a report (No. 2294); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 9270) granting an increase of pension to Wiley B. Johnson, reported the same with amendment, accompanied by a report (No. 2295); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9271) granting an increase of pension to Joseph Henry Martin, reported the same with amendment, accompanied by a report (No. 2296); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 10424) granting a pension to Smith Thompson, reported the same with amendment, accompanied by a report (No. 2297); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 10449) granting an increase of pension to George B. D. Alexander, reported the same with amendment, accompanied by a report (No. 2298); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10451) granting an increase of pension to Robert M. White, reported the same with amendment, accompanied by a report (No. 2299); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10452) granting an increase of pension to Richard C. Daly, reported the same with amendment, accompanied by a report (No. 2300); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10830) granting an increase of pension to Dudley Portwood, reported the same with amendment, accompanied by a report (No. 2301); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10831) granting an increase of pension to Levi C. Bishop, reported the same with amendment, accompanied by a report (No. 2302); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11046) granting an increase of pension to Helen G. Heiner, reported the same with amendment, accompanied by a report (No. 2303); which said bill and report were referred to the Private Calendar.

Mr. MACON, from the Committee on Pensions, to which was referred the bill of the House (H. R. 11331) granting an increase of pension to Thomas Rowan, reported the same with amendment, accompanied by a report (No. 2304); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11332) granting an increase of pension to William F. Kenner, reported the same without amendment, accompanied by a report (No. 2305); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12556) granting an increase of pension to Joseph W. Coppage, reported the same with amendment, accompanied by a report (No. 2306); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12059) granting an increase of pension to Mildred W. Mitchell, reported the same with amendment, accompanied by a report (No. 2307); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 13504) granting an increase of pension to Elizabeth Thompson, reported the same with amendment, accompanied by a report (No. 2308); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14566) granting an increase of pension to Robert E. McKiernan, reported the same without amendment, accompanied by a report (No. 2309); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14677) granting a pension to Reuben R. Ballenger, reported the same with amendment, accompanied by a report (No. 2310); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14915) granting an increase of pension to Andrew W. Tracy, reported the same with amendment, accompanied by a report (No. 2311); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14920) granting an increase of pension to Winfield S. Bruce, reported the same with amendment, accompanied by a report (No. 2312); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15277) granting an increase of pension to George W. Pierce, reported the same without amendment, accompanied by a report (No. 2313); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15306) granting an increase of pension to Asa Wall, reported the same with amendment, accompanied by a report (No. 2314); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15415) granting an increase of pension to Ann R. Nelson, reported the same with amendment, accompanied by a report (No. 2315); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15621) granting an increase of pension to Caleb M. Tarter, reported the same with amendment, accompanied by a report (No. 2316); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15687) granting an increase of pension to William F. M. Reil, reported the same with amendment, accompanied by a report (No. 2317); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15701) granting an increase of pension to William Brown, reported the same with amendment, accompanied by a report (No. 2318); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15867) granting an increase of pension to Annie M. Stevens, reported the same with amendment, accompanied by a report (No. 2319); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15894) granting an increase of pension to Alma L. Wells, reported the same with amendment, accompanied by a report (No. 2320); which said bill and report were referred to the Private Calendar.

Mr. DICKSON of Illinois, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15907) granting an increase of pension to Louis De Laittre, reported the same with amendment, accompanied by a report (No. 2321); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16023) granting an increase of pension to Sheldon B. Fargo, reported the same with amendment, accompanied by a report (No. 2322); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16182) granting an increase of pension to S. F. Williams, reported the same with amendment, accompanied by a report (No. 2323); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16215) granting an increase of pension to Mary Dagenfield, reported the same with amendment, accompanied by a report (No. 2324); which said bill and report were referred to the Private Calendar.

Mr. BENNETT of Kentucky, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16250) granting an increase of pension to A. J. Mowery, reported the same with amendment, accompanied by a report (No. 2325); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16428) granting an increase of pension to Edwin Hicks, reported the same with amendment, accompanied by a report (No. 2326); which said bill and report were referred to the Private Calendar.

Mr. AMES, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16504) granting an increase of pension to Thomas W. Barnum, reported the same with amendment, accompanied by a report (No. 2327); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16514) granting an increase of pension to John W. Barton, reported the same without amendment, accompanied by a report (No. 2328); which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL of Kansas, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16520) granting an increase of pension to Edward C. Farrell, reported the same with amendment, accompanied by a report (No. 2329); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 3273) granting an increase of pension to Andrew J. Levi, reported the same without amendment, accompanied by a report (No. 2330); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. WILEY of Alabama, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 7611) to remove the charge of desertion from the military record of Roswell W. Gould, reported the same adversely, accompanied by a report (No. 2334); which said bill 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. VOLSTEAD: A bill (H. R. 16794) to provide for the disposal of timber on certain public lands—to the Committee on the Public Lands.

By Mr. FULKERSON: A bill (H. R. 16795) to increase the pensions of Mexican war survivors—to the Committee on Pensions.

By Mr. GILL: A bill (H. R. 16796) to provide for the retirement of certain letter carriers and regulating the pay of same—to the Committee on the Post-Office and Post-Roads.

By Mr. McGUIRE (by request): A bill (H. R. 16797) establishing an additional recording district in Indian Territory—to the Committee on the Judiciary.

By Mr. CALDER: A bill (H. R. 16798) repealing a provision of section 13 of an act approved March 3, 1899, entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States"—to the Committee on Naval Affairs.

By Mr. HEARST: A bill (H. R. 16799) to increase the salaries of the Chief Justice and the associate justices of the Supreme Court—to the Committee on the Judiciary.

By Mr. WANGER: A bill (H. R. 16800) to establish additional aids to navigation in Delaware Bay and River—to the Committee on Interstate and Foreign Commerce.

By Mr. PAGE: A bill (H. R. 16801) authorizing a public building at Lexington, N. C.—to the Committee on Public Buildings and Grounds.

By Mr. UNDERWOOD: A bill (H. R. 16802) to fix the regular terms of the circuit and district courts of the United States for the southern division of the northern district of Alabama, and for other purposes—to the Committee on the Judiciary.

By Mr. THOMAS of North Carolina: A bill (H. R. 16803) for the survey of Northeast Cape Fear River, North Carolina—to the Committee on Rivers and Harbors.

By Mr. SMALL: A bill (H. R. 16804) providing for the use of $3,000,000 of the money that would otherwise become a part of the reclamation fund for the drainage of certain lands in North Carolina and Virginia, and for other purposes—to the Committee on the Public Lands.

By Mr. ELLERBE: A bill (H. R. 16805) to build a road to the national military cemetery at Florence, S. C.—to the Committee on Military Affairs.

By Mr. HARDWICK: A resolution (H. Res. 366) instructing the Committee on Election of President, Vice-President, and Representatives in Congress to make investigations as to contributions in the national election of 1904—to the Committee on Rules.

By the SPEAKER: A memorial of the general court of Massachusetts, favoring the consolidation of third and fourth class rates of postage—to the Committee on the Post-Office and Post-Roads.

By Mr. WEEKS: A memorial of the legislature of Massachusetts, requesting Congress to consolidate the present third and fourth class rates of postage—to the Committee on the Post-Office and Post-Roads.

By Mr. SULLIVAN of Massachusetts: A memorial of the Commonwealth of Massachusetts, requesting Congress to consolidate the present third and fourth class rates of postage—to the Committee on the Post-Office and Post-Roads.

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. ADAMS of Pennsylvania: A bill (H. R. 16806) granting an increase of pension to Henry Brenizer—to the Committee on Invalid Pensions.

By Mr. ADAMS of Wisconsin: A bill (H. R. 16807) granting an increase of pension to Isabella Ellis—to the Committee on Invalid Pensions.

By Mr. BONYNGE: A bill (H. R. 16808) granting a pension to Sadie M. Likens—to the Committee on Invalid Pensions.

By Mr. BUCKMAN: A bill (H. R. 16809) granting an increase of pension to Conrad Ditmore—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 16810) granting a pension to Henry C. Jackson—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 16811) granting a pension to Susan T. Sailor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16812) granting an increase of pension to Dudley McKibben—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 16813) granting an increase of pension to Charles W. Brumm—to the Committee on Invalid Pensions.

By Mr. CONNER: A bill (H. R. 16814) granting a pension to Mary J. Williams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16815) granting an increase of pension to Sophia Griggs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16816) granting an increase of pension to Charles M. Curtis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16817) granting an increase of pension to Samuel Wise—to the Committee on Invalid Pensions.

By Mr. DE ARMOND (by request): A bill (H. R. 16818) granting an increase of pension to David R. Walden—to the Committee on Invalid Pensions.

By Mr DICKSON of Illinois: A bill (H. R. 16819) granting a pension to John V. Sumner—to the Committee on Pensions.

Also, a bill (H. R. 16820) granting an increase of pension to Rolandus O. Longenecker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16821) granting an increase of pension to Silas Perry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16822) granting an increase of pension to Henry Bibb—to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 16823) for the relief of the estate of Josiah Jennison, deceased—to the Committee on War Claims.

Also, a bill (H. R. 16824) granting an increase of pension to James Waskom—to the Committee on Pensions.

Also, a bill (H. R. 16825) to correct the military record of John L. Wilson—to the Committee on Military Affairs.

By Mr. FOSTER of Vermont: A bill (H. R. 16826) to authorize the President of the United States to appoint Maj. Gen. Oliver O. Howard, United States Army, retired, to be Lieutenant-General, United States Army—to the Committee on Military Affairs.

By Mr. GILBERT of Indiana: A bill (H. R. 16827) granting an increase of pension to Nancy A. McMurray—to the Committee on Invalid Pensions.

By Mr. HARDWICK: A bill (H. R. 16828) granting an increase of pension to Georgia Ann Hughes—to the Committee on Pensions.

By Mr. HILL of Mississippi: A bill (H. R. 16829) granting a pension to Narcissa G. Short—to the Committee on Pensions.

By Mr. LESTER: A bill (H. R. 16830) for the relief of July Anderson—to the Committee on War Claims.

Also, a bill (H. R. 16831) for the relief of Plymouth Frazier, jr.—to the Committee on War Claims.

Also, a bill (H. R. 16832) for the relief of Plymouth Frazier—to the Committee on War Claims.

By Mr. LIVINGSTON: A bill (H. R. 16833) granting an increase of pension to Tenora M. Flake—to the Committee on Pensions.

By Mr. LOUD: A bill (H. R. 16834) granting an increase of pension to Allan S. Rose—to the Committee on Pensions.

Also, a bill (H. R. 16835) granting an increase of pension to Daniel G. Smith—to the Committee on Pensions.

By Mr. McCREARY of Pennsylvania: A bill (H. R. 16836) granting an increase of pension to David C. Winebrener—to the Committee on Invalid Pensions.

By Mr. MAHON: A bill (H. R. 16837) granting an increase of pension to John Rourke—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 16838) granting an increase of pension to Elizabeth Whitty—to the Committee on Invalid Pensions.

By Mr. OVERSTREET: A bill (H. R. 16839) granting an increase of pension to Benjamin F. Johnson—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Kentucky: A bill (H. R. 16840) granting a pension to Lue Grundy—to the Committee on Invalid Pensions.

By Mr. SHARTEL: A bill (H. R. 16841) granting an increase of pension to Thomas J. Griffin—to the Committee on Invalid Pensions.

By Mr. SOUTHARD: A bill (H. R. 16842) granting an increase of pension to Thomas H. Thornburgh—to the Committee on Invalid Pensions.

By Mr. THOMAS of North Carolina: A bill (H. R. 16843) for the relief of the heirs of John B. Wolf, deceased—to the Committee on War Claims.

By Mr. VAN WINKLE: A bill (H. R. 16844) granting a pension to Ellen Ramsey—to the Committee on Invalid Pensions.

By Mr. WATSON: A bill (H. R. 16845) granting a pension to Martha J. Pleak—to the Commitee on Invalid Pensions.

Also, a bill (H. R. 16846) granting a pension to Ann Graham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16847) granting an increase of pension to Reuben Smalley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16848) granting an increase of pension to John Mausner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16849) granting an increase of pension to Warren Johnson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16850) granting an increase of pension to John Virden—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16851) granting an increase of pension to Joseph A. Ellis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16852) granting an increase of pension to John W. Kennedy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16853) granting an increase of pension to William Hare—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16854) granting an increase of pension to David P. Demree—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16855) granting an increase of pension to Col. Milton H. Peden—to the Committee on Invalid Pensions.

Also, a bill (H. R 16856) granting an increase of pension to Joseph McBride—to the Committee on Invalid Pensions

By Mr. WEISSE: A bill (H. R. 16857) granting an increase of pension to Jeremiah Y. Antrim—to the Committee on Invalid Pensions.

By Mr. WELBORN: A bill (H. R. 16858) granting a pension to E. J. White—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16859) granting a pension to John P. Maw—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16860) granting a pension to James T. Calvin—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 6150) for the relief of the heirs of William H. Blades—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 11721) for the relief of the estate of Wiley J. Davis—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 16757) for the relief of Jordan H. Moore—Committee on Invalid Pensions discharged, and referred to the Committee on Claims.

A bill (H. R. 13734) for the relief of Harriet Kyler—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 13733) for the relief of B. F. Jamison—Committee on Claims discharged, and referred to the Committee on War Claims.

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 the SPEAKER: Petition of citizens of Waldron, Ill., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ADAMS of Pennsylvania: Petition of Loyal Council, No. 94, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of George G. Mead Post, Grand Army of the Republic, No. 1, for bill H. R. 3814—to the Committee on Invalid Pensions.

By Mr. ALEXANDER: Petition of the Musicians' Protective Association of Buffalo, N. Y., for bill H. R. 8748—to the Committee on Naval Affairs.

By Mr. ALLEN of Maine: Petition of Elmer H. Sibley and 93 others, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. ANDRUS: Petition of the Register, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. BARCHFELD: Petition of the Pennsylvania Federation of Women, relative to forest reserves in the White Mountains, etc., and for the Morris law—to the Committee on Agriculture.

Also, petition of the State Federation of Pennsylvania Women, for preservation of Niagara Falls—to the Committee on Rivers and Harbors.

Also, paper to accompany bill for relief of Richard Callaghan—to the Committee on Invalid Pensions.

Also, petition of the Fred S. Clark Company, of Cleveland, Ohio, relative to the New York and New Haven Railway discriminating in the matter of rates—to the Committee on Interstate and Foreign Commerce.

By Mr. BENNET of New York: Paper to accompany bill for relief of William J. Girvan—to the Committee on Invalid Pensions.

Also, petition of veterans of the Mexican war, for more adequate pensions—to the Committee on Pensions.

By Mr. BENNETT of Kentucky: Petition of Ornan Bogg et al., for bill H. R. 2606—to the Committee on Invalid Pensions.

Also, petition of A. M. Zigler and citizens, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of John W. Fultzer—to the Committee on War Claims.

Also, paper to accompany bill for relief of W. S. Adams—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of W. D. Jones—to the Committee on War Claims.

Also, paper to accompany bill for relief of Nimrod Pratt—to the Committee on War Claims.

Also, paper to accompany bill for relief of William H. Pope—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of T. K. Ball—to the Committee on War Claims.

Also, paper to accompany bill for relief of A. J. Henshaw—to the Committee on Military Affairs.

Also, papers to accompany bills for relief of Joseph Seagrave, Thomas Columbia, Travis Stull, Frances M. McGuire, and Robert Ross—to the Committee on Military Affairs.

By Mr. BONYNGE: Petitions of Mrs. Mercer, of the Methodist Episcopal Missionary Society, and the Presbyterian Missionary Society, against liquor selling in any building of the United States Government and against opium selling under the same jurisdiction—to the Committee on Alcoholic Liquor Traffic.

Also, petition of citizens of Laird, Colo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BUCKMAN: Petition of citizens of Batavia, Todd County, Minn., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BURKE of Pennsylvania: Petition of the California Fruit Growers' Exchange, relative to railway rates, private cars, etc.—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Fred G. Clarke Company, of Cleveland, Ohio, relative to the New York and New Haven Railway Company discriminating in rates—to the Committee on Interstate and Foreign Commerce.

By Mr. BURLEIGH: Paper to accompany bill for relief of Hartley B. Cox—to the Committee on Invalid Pensions.

Also, petition of citizens of Maine, for the Granger good-roads bill—to the Committee on Agriculture.

By Mr. BURTON of Ohio: Petition of citizens of Cleveland, Ohio, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. BUTLER of Tennessee: Paper to accompany bill for relief of Martha J. Netherton (previously referred to the Committee on Invalid Pensions)—to the Committee on Military Affairs.

By Mr. CHANEY: Paper to accompany bill for relief of Hiran E. Crouch—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: Petition of Local Union No. 42, of Racine, Wis., American Federation of Musicians, for bill H. R. 8748—to the Committee on Naval Affairs.

By Mr. DAVIS of Minnesota: Petition of the International Association of Machinists, for bills H. R. 10069 and S. 2633—to the Committee on Naval Affairs.

Also, petition of the Minnesota Editorial Association, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. DAWSON: Petition of J. I. Grieser and 53 others, against bill H. R. 7067—to the Committee on Indian Affairs.

By Mr. DE ARMOND: Petition of the Oklahoma Enterprise, against the tariff on linotype machines—to the Committee on Ways and Means.

By Mr. DICKSON of Illinois: Petition of citizens of Fayette County, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DIXON of Indiana: Petition of Elmer G. Tufts, of the National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of John C. Hall et al., for an experimental parcels post—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Indiana, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ELLERBE: Paper to accompany bill for relief of heirs of Lucy Breeden—to the Committee on War Claims.

By Mr. FLOYD: Paper to accompany bill for relief of George W. Glenn—to the Committee on Military Affairs.

By Mr. FOSTER of Vermont: Petition of Willis N. Cady, of the National Grange, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. GARRETT: Paper to accompany bill for relief of P. W. Cook (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

Also, paper to accompany bill for relief of Tennie L. Smith—to the Committee on Invalid Pensions.

By Mr. GILL: Petition of citizens of Maryland, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Mr. GILLETT of Massachusetts: Petition of Horace Mann, of Athol, Mass., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. GRAHAM: Paper to accompany bill for relief of Samuel B. McLean—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of James A. Duff—to the Committee on Invalid Pensions.

Also, petition of the Fred G. Clark Company, of Cleveland, Ohio, relative to discrimination in railway freight rates by the New York, New Haven and Hartford Railway Company—to the Committee on Interstate and Foreign Commerce.

Also, petition of the California Fruit Growers' Exchange, relative to private car lines, railway rates, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: Petition of the Central Federated Union of New York City, for two battle ships for construction at the Brooklyn Navy-Yard—to the Committee on Naval Affairs.

By Mr. GRONNA: Petition of Aug. Peterson, of Harvey, N. Dak., for bills H. R. 14846 and 8793—to the Committee on Banking and Currency.

Also, petition of C. L. Timmerman, of Mandan, N. Dak., for bill H. R. 8973—to the Committee on Banking and Currency.

Also, petition of the board of county commissioners of Dickey County, N. Dak., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAMILTON: Petition of citizens of Barry County, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Allegan County, Mich., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of citizens of Van Buren County, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HARDWICK: Paper to accompany bill for relief of Georgia Ann Hughes—to the Committee on Pensions.

By Mr. HASKINS: Petition of the Connecticut Valley Pomona Grange, of South Woodstock, Vt., and Eureka Grange, No. 296, of Coventry, Vt., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. HAYES: Petition of the Japanese and Korean Exclusion League for retention of the Chinese law—to the Committee on Foreign Affairs.

By Mr. HIGGINS: Petitions of the Union for Home Work, the Good Will Club, the Motherhood Club, the College Club, the Civic Club, the Educational Club, the Social Settlement Club, the Twentieth Century Club, and the West Side Workingmen's Club, of Hartford, Conn., for regulation of child labor in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Chamber of Commerce of New Haven, Conn., for a staff of commercial attachés in the consular service—to the Committee on Foreign Affairs.

Also, petition of the Chamber of Commerce of New Haven, Conn., for reform in the consular service—to the Committee on Foreign Affairs.

Also, petition of the Chamber of Commerce of New Haven, Conn., for a forest reservation in the White Mountains—to the Committee on Agriculture.

By Mr. HOAR: Petition of P. P. Lane et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. HOPKINS: Paper to accompany bill for relief of R. L. Davis—to the Committee on Pensions.

By Mr. HOWELL of Utah: Petition of citizens of New York

and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. HUFF: Petition of Loyal Council, No. 314, Junior Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of J. B. Saams Camp, No. 148, Sons of Veterans, Pennsylvania Division, against bill H. R. 8131—to the Committee on Military Affairs.

Also, petition of D. K. Artman, of Connellsville, Pa., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of William Conner (previously referred to the Committee on Invalid Pensions)—to the Committee on Military Affairs.

By Mr. JENKINS: Petition of citizens of Ladysmith, Wis., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LITTLEFIELD: Petition of citizens of Bath, Me., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LIVINGSTON: Petition of the Atlanta Chamber of Commerce, for an appropriation for continuance of fast mails—to the Committee on the Post-Office and Post-Roads.

By Mr. LONGWORTH: Petition of citizens of Ohio and late teamsters in the service of the United States during the civil war, relative to pensions—to the Committee on Invalid Pensions.

By Mr. LORIMER: Petition of D. E. Humphrey, of Chicago, for the Senate statehood bill—to the Committee on the Territories.

By Mr. McMORRAN: Petition of citizens of Lapeer and Detroit, Mich., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. NEEDHAM: Petition of R. C. Kells, of the Chamber of Commerce of Sutter County, Cal., for an appropriation to stop the pear blight—to the Committee on Agriculture.

Also, petition of A. E. Yoell, for retention of the present Chinese law—to the Committee on Foreign Affairs.

By Mr. NORRIS: Petition of citizens of Culbertson, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Nebraska Cement Users' Association, relative to the proper use of cement as established by Government investigation—to the Committee on Appropriations.

Also, petition of the George H. Lee Company, of Omaha, Nebr., against the Gilbert bill—to the Committee on the Judiciary.

By Mr. OVERSTREET: Paper to accompany bill for relief of Benjamin F. Johnson—to the Committee on Invalid Pensions.

Also, petition of citizens of Indianapolis, Ind., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Wood-Weaver Printing Company, of Indianapolis, against the Little and Gilbert bills—to the Committee on the Judiciary.

Also, petition of E. D. Classon, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. PAYNE: Petition of citizens of Osceola County, for bills H. R. 8104 and 8105—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of William Barber—to the Committee on Invalid Pensions.

By Mr. POLLARD: Petition of citizens of College View, Nebr., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. POWERS: Petition of the Savings Bank Association of Maine, against bill H. R. 48—to the Committee on the Post-Office and Post-Roads.

By Mr. RICHARDSON of Alabama: Paper to accompany bill for relief of estate of Susan W. Shackelford—to the Committee on War Claims.

Also, petition of citizens of Huntsville, Ala., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. RIVES: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. ROBERTS: Petition of citizens of Melrose, Mass., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SHACKLEFORD: Petition of citizens of Boone County, Mo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SMITH of Illinois: Petition of citizens of Herrin, Ill., relative to bill H. R. 3122—to the Committee on the District of Columbia.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of James Hoover—to the Committee on Invalid Pensions.

By Mr. SMITH of Texas: Petition of citizens of Buffalo Gap, Tex., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. WM. ALDEN SMITH: Petitions of citizens of Michigan, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. SULLIVAN of Massachusetts: Petition of the Warren Avenue Baptist Church, of Boston, against conditions in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. THOMAS of North Carolina: Paper to accompany bill for survey of Northeast River, North Carolina, from Hallsville to Goshen—to the Committee on Rivers and Harbors.

By Mr. VAN WINKLE: Paper to accompany bill for relief of Catharine Dooley—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Katharine Encke—to the Committee on Invalid Pensions.

By Mr. VREELAND: Petition of citizens of Ellicottville, N. Y., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Ellenburg Center, N. Y., for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

Also, petition of E. P. Fenner, of Pleasant Valley, N. Y., for the pure-food law—to the Committee on Interstate and Foreign Commerce.

By Mr. WADSWORTH: Petition of the Independent Order of Good Templars of Jeddo, for repeal of revenue tax on denaturized alcohol—to the Committee on Ways and Means.

By Mr. WEEMS: Paper to accompany bill for relief of Charles Williams—to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: Petition of Local Union No. 45, Sanitary Pressers, of Trenton, N. J., against coming of Chinese—to the Committee on Foreign Affairs.

Also, paper to accompany bill for relief of William Kelly—to the Committee on Invalid Pensions.

Also, petition of citizens of Trenton, N. J., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March 16, 1906.*

The House met at 12 o'clock noon.

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

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

REGULATION OF CONSTRUCTION OF BRIDGES OVER NAVIGABLE WATERS.

The SPEAKER laid before the House the bill (H. R. 6009) to regulate the construction of bridges over navigable waters, with Senate amendments.

The Senate amendments were read.

Mr. MANN. Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I move to concur in the Senate amendments.

The SPEAKER. The gentleman from Illinois moves to concur in the Senate amendments.

The question was taken; and the motion was agreed to.

LEASING LANDS TO THE P. F. U. RUBBER COMPANY IN LA PLATA COUNTY, COLO.

Mr. BROOKS of Colorado. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16381) which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 16381) leasing and demising certain lands in La Plata County, Colo., to the P. F. U. Rubber Company.

Whereas all the present commercial sources of supply for caoutchouc, or india-rubber gum, are wholly without the boundaries of the United States and wholly within the Tropics; and

Whereas the multifold uses of rubber make its economical production a matter of national necessity; and

Whereas within the past two years it has been discovered that a hitherto worthless weed growing in the higher altitudes of the Rocky Mountain States may, with proper treatment, yield a rubber gum of good quality; and

Whereas the P. F. U. Rubber Company has erected a factory at Durango, in the State of Colorado, for treating this weed and extracting the gum, and has, after an exhaustive search extending over several States and Territories, determined that the plant has reached its highest development (so far as the percentage and quality of its gum is concerned) in the specimens found on the tract of desert land described below: Therefore

Be it enacted, etc., That the following-described tract of land, situated in the county of La Plata, in the State of Colorado, to wit, the fractional section 3 U; lots 1, 2, and 3 of fractional section 4 U; east half and east half of west half of section 9 U; west half and west half