

By Mr. HAYES: Petition of Amalgamated Association of Street Railway Employees of America, of San Jose, Cal., protesting method of arrest and extradition of Charles Moyer, W. D. Haywood, and G. A. Pettibone—to the Committee on the Judiciary.

Also, petition of San Francisco Labor Council, for passage of the anti-injunction bill (H. R. 18752)—to the Committee on the Judiciary.

By Mr. HOWARD: Paper to accompany bill for relief of heirs of John Billups—to the Committee on War Claims.

By Mr. LACEY: Protest of employees of Iowa Central Railway Company, against adoption of conference report on railway rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. LEE: Paper to accompany bill for relief of trustees of Pine Chapel Methodist Episcopal Church South, of Gordon County, Ga.—to the Committee on War Claims.

By Mr. LINDSAY: Petition of R. J. Caldwell, New York, for a clause in the meat-inspection bill providing for the injection of kerosene into condemned carcasses—to the Committee on Agriculture.

Also, petition of 42,000 women, delegation of Federation of Women's Clubs, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Rev. Reise F. Alsop, Rev. Louis Oscar Rotenbach, Rev. Walter F. Prince, Rev. Cleland B. McAfee, and Rev. W. J. Hutchins, for the Tirrell bill, relative to sale of intoxicating liquors in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. LORIMER: Protest of 400 members of Division No. 456, Brotherhood of Railway Trainmen, against adoption of railway rate bill prohibiting passes—to the Committee on Interstate and Foreign Commerce.

Also, petition of Harry W. Harder, master of Lodge No. 237, against antipass amendment to rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. McCARTHY: Petition of E. A. Gerrard and J. H. Lohmann, for amendment of postal laws and regulations making legal all newspaper subscriptions—to the Committee on the Post-Office and Post-Roads.

By Mr. McKINLEY of Illinois: Petitions of G. E. Robinson, Mattoon, Ill.; C. W. Smuggs, J. W. Brant, S. G. Brecount, E. J. Wilkins, J. F. Ryall, John Rodems, Walter Romick, J. R. Dempster, D. R. Talbott, J. N. Edwards, S. E. Callahan, George Schilling, L. E. Fulmar, J. W. Braddock, J. B. Fosnaught, E. E. Fair, T. C. Russell, Decatur, Ill., against passage of conference amendment to rate bill prohibiting issuance of passes to railway employees—to the Committee on Interstate and Foreign Commerce.

By Mr. OTJEN: Petition of convention of Congregationalist churches held at Racine, for Sunday closing of Jamestown Exposition—to the Committee on Industrial Arts and Expositions.

By Mr. PAYNE: Paper to accompany bill for relief of Charles Van Ostrand—to the Committee on Invalid Pensions.

By Mr. REYNOLDS: Petition of 600 citizens of Tyrone, Pa., for law prohibiting sale of intoxicants in all public buildings of United States—to the Committee on Alcoholic Liquor Traffic.

By Mr. SHACKLEFORD: Paper to accompany bill for relief of Hiram M. Smith—to the Committee on Invalid Pensions.

By Mr. SHEPPARD: Petition of W. T. Gass and R. P. West, for amendment to post-office laws and regulations making legal all paid newspaper subscriptions—to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of John D. McLain—to the Committee on War Claims.

By Mr. SULZER: Petition of Clayton F. Summy Company, against amendment to copyright law permitting rental of work copyrighted—to the Committee on Patents.

## SENATE.

WEDNESDAY, June 6, 1906.

Prayer by Rev. ULYSSES G. B. PIERCE, of the city of Washington.

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

The VICE-PRESIDENT. The Journal stands approved.

HOOR OF MEETING TO-MORROW.

Mr. HALE. Mr. President, in view of the funeral of the late Senator from Maryland to-morrow, I move that when the Senate adjourns to-day it be to meet at 2 o'clock to-morrow.

The motion was agreed to.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 4546. An act ceding to the city of Canon City, Colo., certain lands for park purposes;

H. R. 11543. An act to correct the military record of Benjamin F. Graham;

H. R. 13917. An act to remove the charge of desertion from the military record of Robert W. Liggett; and

H. R. 15332. An act to incorporate the National Society of the Sons of the American Revolution.

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

S. 2418. An act to enable the Indians allotted lands in severally within the boundaries of drainage district No. 1, in Richardson County, Nebr., to protect their lands from overflow, and for the segregation of such of said Indians from their tribal relations as may be expedient, and for other purposes;

S. 4806. An act to regulate the landing, delivery, cure, and sale of sponges;

S. 4862. An act allowing settlers with permanent improvements on the town sites of Heyburn and Rupert, in Idaho, to buy lots on which said improvements are located at an appraised price for cash; and

S. 5357. An act permitting the building of a dam across the Mississippi River above the village of Monticello, Wright County, Minn.

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

H. R. 7099. An act to amend section 2871 of the Revised Statutes;

H. R. 14975. An act amending chapter 863, volume 31, of the Statutes at Large;

H. R. 15096. An act to appoint a solicitor for the customs department of the Treasury;

H. R. 15442. An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States;

H. R. 16290. An act to postpone until 1937 the maturity of \$250,000 of 4 per centum United States bonds held in trust for the benefit of the American Printing House for the Blind;

H. R. 16386. An act to fix the time of holding the circuit and district courts for the northern district of West Virginia;

H. R. 16785. An act giving preference right to actual settlers on pasture reserve No. 3 to purchase land leased to them for agricultural purposes in Comanche County, Okla.;

H. R. 16946. An act releasing the right, title, and interest of the United States to the piece or parcel of land known as the Cuartel lot to the city of Monterey, Cal.;

H. R. 17455. An act permitting the building of a dam across the Mississippi River at or near the village of Clearwater, Wright County, Minn.;

H. R. 17510. An act to provide for a reconnaissance and preliminary survey of a land route for a mail and pack trail from the navigable waters of the Tanana River to the Seward Peninsula in Alaska, and for other purposes;

H. R. 17881. An act permitting the building of a dam across the Crow Wing River between the counties of Morrison and Cass, State of Minnesota;

H. R. 18668. An act ratifying and confirming soldiers' additional homestead entries heretofore made and allowed upon lands embraced in what was formerly the Columbia Indian Reservation, in the State of Washington;

H. R. 18854. An act providing for sittings of the United States circuit and district courts of the southern district of Ohio at the city of Dayton, in said district;

H. R. 19150. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee, in the southern division of the eastern district of Tennessee at Chattanooga, and the northeastern division of the eastern district of Tennessee at Greeneville, and for other purposes;

H. R. 19522. An act establishing regular terms of the United States circuit and district courts of the northern district of California at Eureka, Cal.;

H. R. 19606. An act to pay certain claims of citizens of foreign countries against the United States, and to satisfy certain conventional obligations of the United States;

H. R. 19815. An act to authorize the Georgia, Florida and Alabama Railway Company to construct a bridge across the Chattahoochee River between Columbus, Ga., and Franklin, Ga.;

H. R. 19816. An act to authorize the Georgia, Florida and Alabama Railway Company to construct three railroad bridges across the Chattahoochee River, one at or near the city of Eufaula, Ala., and two between said city of Eufaula and the city of Columbus, Ga.; and

H. J. Res. 153. Joint resolution directing the Interstate Commerce Commission to investigate and report on block-signal systems and appliances for the automatic control of railway trains.

The message also announced that the House returned to the Senate, in compliance with its request, the bill (H. R. 18236) granting an increase of pension to Thomas Garratt.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

- H. R. 612. An act granting an increase of pension to George W. Kohler;  
 H. R. 1034. An act granting an increase of pension to John Logan;  
 H. R. 1178. An act granting an increase of pension to Herman Buckthal;  
 H. R. 1247. An act granting an increase of pension to Columbus Botts;  
 H. R. 1438. An act granting an increase of pension to Oliver T. Smith;  
 H. R. 1614. An act granting an increase of pension to Jacob H. Lynch;  
 H. R. 1650. An act granting an increase of pension to Frank B. Watkins;  
 H. R. 1736. An act granting an increase of pension to Charles A. Walker;  
 H. R. 1788. An act granting an increase of pension to William D. Christy;  
 H. R. 1982. An act granting a pension to Ada Collins;  
 H. R. 2092. An act granting an increase of pension to Franklin M. Hill;  
 H. R. 2237. An act granting an increase of pension to Martin Pool;  
 H. R. 2247. An act granting an increase of pension to Anthony Sanspeur;  
 H. R. 2265. An act granting an increase of pension to Hudson J. Van Scoter;  
 H. R. 2785. An act granting an increase of pension to Margaret Bonyngé;  
 H. R. 3243. An act granting an increase of pension to John H. Anderson;  
 H. R. 3351. An act granting an increase of pension to George King;  
 H. R. 3488. An act granting an increase of pension to Egbert J. Olds;  
 H. R. 3495. An act granting an increase of pension to Charles F. Tower;  
 H. R. 3572. An act granting an increase of pension to William L. Riley;  
 H. R. 3588. An act granting an increase of pension to William H. Riggin;  
 H. R. 4161. An act granting an increase of pension to Robert Beatty;  
 H. R. 4241. An act granting an increase of pension to David B. Coleman;  
 H. R. 4597. An act granting an increase of pension to Martin Ellison;  
 H. R. 4715. An act granting an increase of pension to John H. Whiting;  
 H. R. 4956. An act granting an increase of pension to James C. Bryant;  
 H. R. 5040. An act granting an increase of pension to Joseph Montgomery;  
 H. R. 5560. An act granting an increase of pension to Henry Chubb;  
 H. R. 5911. An act granting a pension to Edward D. Lockwood, alias George E. McDaniel;  
 H. R. 6059. An act granting an increase of pension to Elias Hanes;  
 H. R. 6067. An act to change the records of the War Department relative to Levi A. Meacham;  
 H. R. 6120. An act granting a pension to Harriet M. Smithers;  
 H. R. 6205. An act granting an increase of pension to Lucy E. Engler;  
 H. R. 6208. An act granting an increase of pension to William D. Conner;  
 H. R. 6422. An act granting an increase of pension to Anthony Van Slyke;  
 H. R. 6505. An act granting an increase of pension to Mary C. Chapman;  
 H. R. 6533. An act granting a pension to Horace Salter;  
 H. R. 6596. An act granting an increase of pension to Alex O. Huffman;  
 H. R. 6774. An act granting an increase of pension to John Platt;  
 H. R. 6878. An act granting a pension to Lucy Brown;  
 H. R. 7147. An act granting an increase of pension to Bronson Rothrock;  
 H. R. 7244. An act granting an increase of pension to Christopher S. Guthrie;  
 H. R. 7402. An act granting an increase of pension to Edwin M. Todd;  
 H. R. 7535. An act granting an increase of pension to John L. Moore;  
 H. R. 7836. An act granting an increase of pension to Alexander G. Patton;  
 H. R. 8155. An act granting an increase of pension to Henry E. Seelye;  
 H. R. 8232. An act granting an increase of pension to James M. Jared;  
 H. R. 8722. An act granting an increase of pension to Arthur M. Lee;  
 H. R. 8736. An act granting an increase of pension to Lowell M. Maxham;  
 H. R. 8795. An act granting an increase of pension to Orrin A. A. Gardner;  
 H. R. 8817. An act granting an increase of pension to Calvin M. Latham;  
 H. R. 8852. An act granting an increase of pension to Frederick W. Clark;  
 H. R. 9243. An act granting an increase of pension to Joseph A. Barnard;  
 H. R. 9531. An act granting an increase of pension to Eliza Rogers;  
 H. R. 9609. An act granting an increase of pension to Jesse M. Auchmuty;  
 H. R. 9828. An act granting an increase of pension to John Broughton;  
 H. R. 9844. An act granting an increase of pension to John J. Erick;  
 H. R. 9862. An act granting an increase of pension to William B. Warren;  
 H. R. 10794. An act granting an increase of pension to Jacob Schultz;  
 H. R. 10828. An act granting an increase of pension to Michael Lennon;  
 H. R. 10865. An act granting an increase of pension to Alexander Caldwell;  
 H. R. 11057. An act granting an increase of pension to Lewis J. Post;  
 H. R. 11152. An act granting an increase of pension to Theodore S. Currier;  
 H. R. 11161. An act granting an increase of pension to Michael Aaron;  
 H. R. 11260. An act granting an increase of pension to James H. Van Camp;  
 H. R. 11457. An act granting an increase of pension to Cyrus Vanmatre;  
 H. R. 11855. An act granting an increase of pension to Mary Ann Shelly;  
 H. R. 12184. An act granting an increase of pension to Joseph Sprauer;  
 H. R. 12330. An act granting an increase of pension to Hester A. Van Derslice;  
 H. R. 12336. An act granting an increase of pension to Margaret A. Montgomery;  
 H. R. 12418. An act granting an increase of pension to Thomas P. Crandall;  
 H. R. 12879. An act granting an increase of pension to Catharine Myers;  
 H. R. 12971. An act granting an increase of pension to Matthew H. Brandon;  
 H. R. 13069. An act granting an increase of pension to Friend S. Esmond;  
 H. R. 13149. An act granting an increase of pension to Ida L. Martin;  
 H. R. 13245. An act to correct the military record of Henry Gude;  
 H. R. 13443. An act granting an increase of pension to James E. Hammontree;  
 H. R. 13594. An act granting an increase of pension to Jonathan Snook;

- H. R. 13735. An act for the relief of John Purkaplle;  
H. R. 13824. An act granting a pension to Noah Myers;  
H. R. 13993. An act granting an increase of pension to Joseph Watson;  
H. R. 14184. An act to extend the irrigation act to the State of Texas;  
H. R. 14264. An act granting an increase of pension to John H. Eversole;  
H. R. 14661. An act granting an increase of pension to John B. Bussell;  
H. R. 14678. An act granting a pension to James A. Boggs;  
H. R. 14702. An act granting an increase of pension to Christian Schlosser;  
H. R. 14729. An act granting an increase of pension to David Ford;  
H. R. 15056. An act granting an increase of pension to James Ramsey;  
H. R. 15104. An act granting an increase of pension to Thomas E. Owens;  
H. R. 15126. An act granting an increase of pension to William K. Trabue;  
H. R. 15288. An act granting an increase of pension to Benjamin F. Finical;  
H. R. 15613. An act granting an increase of pension to William W. Combs;  
H. R. 16005. An act granting an increase of pension to Hezekiah J. Reynolds;  
H. R. 16073. An act granting an increase of pension to John Ginther;  
H. R. 16109. An act granting an increase of pension to Jacob Cline;  
H. R. 16252. An act granting an increase of pension to Adam Dixon;  
H. R. 16272. An act granting a pension to William D. Willis;  
H. R. 16441. An act granting an increase of pension to Joseph J. Goode;  
H. R. 16492. An act granting an increase of pension to Joseph M. Logan;  
H. R. 16496. An act granting an increase of pension to Thomas Dailey;  
H. R. 16525. An act granting an increase of pension to Mary Amanda Nash;  
H. R. 16565. An act granting an increase of pension to George H. Gordon, alias Gorton;  
H. R. 16595. An act granting a pension to James R. Hicks;  
H. R. 16662. An act granting an increase of pension to Van Buren Beam;  
H. R. 16682. An act granting an increase of pension to William Hammond;  
H. R. 16812. An act granting an increase of pension to Dudley McKibben;  
H. R. 16842. An act granting an increase of pension to Thomas H. Thornburgh;  
H. R. 16915. An act granting an increase of pension to Orange Bugbee;  
H. R. 16918. An act granting a pension to Matilda J. Williams;  
H. R. 16977. An act granting an increase of pension to Isabel Newlin;  
H. R. 16998. An act granting an increase of pension to Elijah Curtis;  
H. R. 17170. An act granting an increase of pension to Jackson D. Turley;  
H. R. 17171. An act granting an increase of pension to David H. Parker;  
H. R. 17210. An act granting an increase of pension to Daniel M. Vertner;  
H. R. 17309. An act granting an increase of pension to John W. Chase;  
H. R. 17340. An act granting a pension to Julia Walz;  
H. R. 17346. An act granting an increase of pension to Newton S. Davis;  
H. R. 17374. An act granting an increase of pension to Isom Wilkerson;  
H. R. 17388. An act granting an increase of pension to Patrick McCarthy;  
H. R. 17390. An act granting an increase of pension to Mary Sheehan;  
H. R. 17445. An act granting an increase of pension to William H. Farrell;  
H. R. 17466. An act granting an increase of pension to James P. Hall;  
H. R. 17476. An act granting an increase of pension to Henry Ballard;
- H. R. 17542. An act granting an increase of pension to John Cain;  
H. R. 17590. An act granting an increase of pension to Jacob Woodruff;  
H. R. 17637. An act granting an increase of pension to Gardner K. Haskell;  
H. R. 17678. An act granting an increase of pension to Alexander Moore;  
H. R. 17772. An act granting an increase of pension to John W. Henry;  
H. R. 17825. An act granting an increase of pension to Bolivar Ward;  
H. R. 17872. An act granting an increase of pension to Allen D. Metcalfe;  
H. R. 17891. An act granting an increase of pension to Eliza M. Buice;  
H. R. 17920. An act granting an increase of pension to Sallie E. Blanding;  
H. R. 17922. An act granting an increase of pension to Thomas D. Adams;  
H. R. 17934. An act granting an increase of pension to Thomas J. Byrd;  
H. R. 17935. An act granting an increase of pension to Andrew C. Woodard;  
H. R. 17938. An act granting an increase of pension to Clarissa L. Dowling;  
H. R. 17940. An act granting a pension to Rhetta Florence Tilton;  
H. R. 17999. An act granting an increase of pension to Samuel Yehl;  
H. R. 18034. An act granting a pension to Mary A. Montgomery;  
H. R. 18038. An act granting an increase of pension to Erastus W. Briggs;  
H. R. 18039. An act granting an increase of pension to John W. Stephens;  
H. R. 18041. An act granting an increase of pension to William R. Hiner;  
H. R. 18052. An act granting an increase of pension to John Lewis Bernard Breighner;  
H. R. 18073. An act granting an increase of pension to Mary McFarlane;  
H. R. 18076. An act granting an increase of pension to Elizabeth Bartley;  
H. R. 18105. An act granting an increase of pension to John A. Lyle;  
H. R. 18106. An act granting an increase of pension to Mary E. Patterson;  
H. R. 18121. An act granting an increase of pension to John W. Jones;  
H. R. 18132. An act granting an increase of pension to John W. Blanchard;  
H. R. 18184. An act granting an increase of pension to John J. Howells;  
H. R. 18239. An act granting an increase of pension to Bryant Brown;  
H. R. 18243. An act granting an increase of pension to Jacob S. Rickard;  
H. R. 18249. An act granting an increase of pension to Hiram G. Hunt;  
H. R. 18262. An act granting an increase of pension to John H. Broadway;  
H. R. 18308. An act granting an increase of pension to Clay Riggs;  
H. R. 18310. An act granting an increase of pension to Virgil A. Bayley;  
H. R. 18319. An act granting an increase of pension to Newton Kinnison;  
H. R. 18355. An act granting an increase of pension to Rachel A. Webster;  
H. R. 18356. An act granting an increase of pension to William A. Custer;  
H. R. 18357. An act granting an increase of pension to William E. Starr;  
H. R. 18367. An act granting an increase of pension to John Wilkinson;  
H. R. 18378. An act granting an increase of pension to Martha A. Dunlap;  
H. R. 18399. An act granting an increase of pension to Pauline Bietry;  
H. R. 18400. An act granting an increase of pension to Elmira M. Gause;  
H. R. 18402. An act granting an increase of pension to Lucy W. Powell;  
H. R. 18426. An act granting a pension to Elizabeth Hathaway;

H. R. 18447. An act granting an increase of pension to Elijah G. Gould;  
 H. R. 18449. An act granting an increase of pension to Hannah R. Jacobs;  
 H. R. 18460. An act granting a pension to Benjamin F. Tudor;  
 H. R. 18467. An act granting an increase of pension to Rudolph W. H. Swendt;  
 H. R. 18469. An act granting an increase of pension to Samuel C. Dean;  
 H. R. 18486. An act granting an increase of pension to William F. Walker;  
 H. R. 18505. An act granting an increase of pension to M. Belle May;  
 H. R. 18509. An act granting an increase of pension to Ellen L. Stone;  
 H. R. 18510. An act granting an increase of pension to Hugh R. Rutledge;  
 H. R. 18524. An act granting an increase of pension to Julius Rector;  
 H. R. 18539. An act granting an increase of pension to Angeline R. Lomax;  
 H. R. 18542. An act granting an increase of pension to Sarah Ann Day;  
 H. R. 18551. An act granting an increase of pension to William D. Brown;  
 H. R. 18560. An act granting an increase of pension to John Hamilton;  
 H. R. 18572. An act granting an increase of pension to Allamanza M. Harrison;  
 H. R. 18573. An act granting an increase of pension to John M. Quinton;  
 H. R. 18605. An act granting an increase of pension to William Lawrence;  
 H. R. 18627. An act granting an increase of pension to Elizabeth A. Anderson;  
 H. R. 18628. An act granting an increase of pension to William E. Chambers;  
 H. R. 18633. An act granting an increase of pension to Jennie F. Belding;  
 H. R. 18651. An act granting an increase of pension to Elizabeth Thomas;  
 H. R. 18654. An act granting an increase of pension to Robert D. Gardner;  
 H. R. 18655. An act granting an increase of pension to Leander Gilbert;  
 H. R. 18678. An act granting an increase of pension to Evans P. Hoover;  
 H. R. 18696. An act granting an increase of pension to Louisa C. Gibson;  
 H. R. 18697. An act granting an increase of pension to Martha L. Beesley;  
 H. R. 18702. An act granting an increase of pension to Edward B. Prime;  
 H. R. 18724. An act granting an increase of pension to Alfred Gude;  
 H. R. 18730. An act granting an increase of pension to William C. Mahaffey;  
 H. R. 18746. An act granting an increase of pension to Isaac Howard;  
 H. R. 18747. An act granting an increase of pension to William H. Colgate;  
 H. R. 18794. An act granting an increase of pension to William C. McRay;  
 H. R. 18795. An act granting an increase of pension to James E. Raney;  
 H. R. 18821. An act granting an increase of pension to Eliza Jane Witherspoon;  
 H. R. 18822. An act granting an increase of pension to Sophie S. Parker;  
 H. R. 18862. An act granting an increase of pension to Joseph H. Weaver;  
 H. R. 18887. An act granting an increase of pension to Alexander W. Carruth;  
 H. R. 18910. An act granting an increase of pension to Philo E. Davis;  
 H. R. 18930. An act granting an increase of pension to Eliza J. Mays;  
 H. R. 18935. An act granting an increase of pension to Mima A. Boswell;  
 H. R. 18959. An act granting an increase of pension to Albert G. Packer;  
 H. R. 18966. An act granting a pension to John W. Ward;  
 H. R. 18976. An act granting an increase of pension to Nelson S. Preston;

H. R. 19001. An act granting an increase of pension to Elizabeth A. McKay; and  
 H. R. 19005. An act granting a pension to Gideon M. Burriss.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Pennsylvania State Sabbath Association, of Philadelphia, Pa., praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

He also presented the petition of Francis N. Manning, of Boston, Mass., praying for the enactment of legislation providing that the cost of inspection of meat shall be paid by the Government; which was referred to the Committee on Agriculture and Forestry.

Mr. LODGE presented memorials of sundry railroad employees of Fitchburg and Worcester, Mass., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. NELSON presented memorials of sundry railroad employees of East Grand Forks, Winona, Melrose, St. Paul, Minneapolis, Austin, Two Harbors, Detroit, Virginia, Montevideo, all in the State of Minnesota, and of Chicago, Ill., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. ALLEE presented memorials of sundry railroad employees of Wilmington and Chester, in the State of Delaware, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. BURNHAM presented memorials of sundry railroad employees of Manchester and Concord, N. H., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented a petition of the Municipal Art Society of Baltimore, Md., praying for the enactment of legislation providing for a national advisory board of experts on art; which was referred to the Committee on the Library.

Mr. KNOX presented memorials of Lodge No. 62, Brotherhood of Firemen, of Carbondale; Lodge No. 378, Brotherhood of Firemen, of McKees Rocks; Division No. 200, Brotherhood of Railway Conductors, of Bradford; Division No. 314, Order of Railway Conductors, of Allegheny; Iron City Division, Brotherhood of Locomotive Engineers, of Pittsburg; Lodge No. 258, Brotherhood of Trainmen, of East Brady; Division No. 464, Brotherhood of Engineers, of Pittsburg; Division No. 281, Order of Railway Conductors, of Pittsburg; sundry employees of the Cincinnati, New Orleans and Texas Pacific Railroad Company, of Pittsburg; firemen of Philadelphia and Reading Railway, of Philadelphia; Division No. 610, Brotherhood of Trainmen, of Norristown; Division No. 467, Brotherhood of Engineers, of Tyrone; Division No. 51, Order of Railway Conductors, of Tyrone; Lodge No. 632, Brotherhood of Trainmen, of Dickerson Run; Lodge No. 465, Brotherhood of Railway Trainmen, of Allegheny; Lodge No. 665, Brotherhood of Railroad Trainmen, of Pottstown; Lodge No. 378, Brotherhood of Trainmen, of Allegheny; Division No. 104, Brotherhood of Engineers, of Columbia; Division No. 23, Order of Railway Conductors, of Tamaqua; Division No. 466, Brotherhood of Engineers, of Bellvue; Division No. 380, Brotherhood of Engineers, of Sayre; Division No. 75, Brotherhood of Engineers, of Reading; Division No. 293, Brotherhood of Engineers, of Allegheny; Division No. 172, Order of Railway Conductors, of Conemaugh; Order of Railway Conductors, of Clarks Summit; Lodge No. 337, Brotherhood of Railroad Trainmen, of Sayre, and Lodge No. 638, Brotherhood of Firemen, of Clearfield, all in the State of Pennsylvania, remonstrating against the adoption of an amendment to the rate bill prohibiting the issuing of passes to railroad employees and members of their families; which were ordered to lie on the table.

He also presented memorials of the Railroad Young Men's Christian Association of Philadelphia, Railroad Young Men's Christian Association of Conemaugh, Railroad Young Men's Christian Association of Reading, Railroad Young Men's Christian Association of Pittsburg, and Railroad Young Men's Christian Association of Altoona, all in the State of Pennsylvania, remonstrating against the adoption of an amendment to the

rate bill prohibiting the issuing of passes to secretaries of Railroad Young Men's Christian Associations; which were ordered to lie on the table.

Mr. KEAN presented a memorial of Elizabeth Division No. 688, Brotherhood of Locomotive Engineers, of Elizabeth, N. J., and a memorial of Local Division No. 294, Order of Railway Conductors, of Trenton, N. J., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented the petition of Lewis T. Stevens, of Cape May, N. J., praying for the enactment of legislation to amend the postal laws relating to newspaper subscriptions; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry pupils of the high school of Hoboken, N. J., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a memorial of the congregation of the Park Avenue Church, of East Orange, N. J., remonstrating against the transfer of the education and care of the Indians and Eskimos in Alaska from the United States Bureau of Education to the governor of that Territory; which was referred to the Committee on Territories.

He also (for Mr. DRYDEN) presented memorials of sundry railroad employees of Trenton, High Bridge, Hoboken, and Jersey City, all in the State of New Jersey, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also (for Mr. PLATT) presented memorials of sundry railroad employees of Sidney, New York City, Mechanicsville, Middletown, Syracuse, Norwich, Watertown, Ogdensburg, and St. George, Staten Island, all in the State of New York, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. PERKINS presented sundry memorials from railroad employees of Truckee, Los Angeles, and Sacramento, all in the State of California, and of Chicago, Ill., remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which were ordered to lie on the table.

Mr. MALLORY presented memorials of sundry railroad employees of Jacksonville and Pensacola, in the State of Florida, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented the memorial of H. E. Helm, of St. Augustine, Fla., secretary of the Railroad Young Men's Christian Association, remonstrating against the exclusion of secretaries of the association from the privilege of railroad passes, as provided in the conference report on the rate bill; which was ordered to lie on the table.

Mr. SPOONER presented memorials of sundry railroad employees of Madison, Ashland, Portage, Antigo, Fond du Lac, Ellis Junction, and Green Bay, all in the State of Wisconsin, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. BAILEY. Mr. President, I take it that I have received, as all other Senators have, telegrams of the same character and about the same number, but they have all been addressed to me. Consequently I have not deemed it necessary to present them to the Senate. They are not in the form of petitions, but they are an appeal to the Senator to whom they are addressed. I make this explanation, because having received them those who sent them finding no record might think I had not presented to the Senate their petitions. I do not regard them as a petition to the Senate, but a request of me. Consequently I do not put them in the RECORD.

Mr. FORAKER. Mr. President, the same question came into my mind, not only on this occasion, but on other occasions, and I have always thought that the Senate was entitled to whatever a Senator received in that way connected with the business of the Senate. Therefore, after making inquiry and finding that everybody else was in some doubt as to what should be done, but that all seemed to think it proper to file them, I have been, as a rule, filing such telegrams.

I send now to the desk a number of telegrams from railroad

employees protesting against being denied passes over their railroads.

The VICE-PRESIDENT. The memorials will be received.

Mr. FORAKER presented memorials of sundry railroad employees of Cincinnati, Van Wert, Chicago Junction, Dennison, Painesville, Cleveland, Toledo, Galion, Marion, and Middleport, all in the State of Ohio, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" prohibiting the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. BAILEY. I think there is no more sacred right in this Government than the right of petition, and I should be the last one to ignore or disregard it. But it does seem to me it is not placing the right of petition on precisely the high plane to which it is entitled if every time a constituent writes us a letter or sends us a telegram about a measure we deemed it necessary to present it as we would a petition. That being my view, those that come to me as a Senator I shall not deem it my duty to put in the RECORD; but when my constituents, if only a single one, would transmit through me a petition to the Senate I would be very careful to file it.

Mr. FORAKER. I did not mean to have the Senator infer that I would advocate that every time a Senator received a letter or a single telegram it should be presented here as though it were a petition; but in unusual cases like we now have presented, where telegrams are coming from all over the country, they are sent to their immediate representatives as a rule, and I think they are intended as in the nature of petitions. I would not think that it was any violation of the rule of presenting petitions to treat these as such and present them. I would be very glad to have the benefit of what come to the Senator from Texas. I would like to have them in the RECORD.

Mr. GALLINGER. In common with other Senators, I have received numerous telegrams, some in behalf, as they have represented, of thousands of people. I have thought that the proper disposition of them would be to send them to the committee of conference, and that is what I propose to do with mine.

Mr. McCUMBER. I have had like telegrams coming to me for several days, but nearly all of them come from an organization and come as a protest against certain contemplated legislation. That being so, I do not see any difference whether they come in the form of a protest signed by the secretary of an organization or in the form of a petition. The effect of it is a petition to Congress against the enactment of certain legislation. It seems to me, that being the case, that it is proper to file them.

The VICE-PRESIDENT. The memorial will be received.

Mr. McCUMBER presented a memorial of Local Division No. 279, Brotherhood of Locomotive Engineers, of Dickinson, N. Dak., remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which was ordered to lie on the table.

Mr. CLARK of Wyoming presented a memorial of the Order of Railway Conductors of Rawlins, Wyo., remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which was ordered to lie on the table.

Mr. HOPKINS presented memorials of sundry railroad employees of Freeport, Chicago, Mendota, Bloomington, Salem, Clinton, and Beardstown, all in the State of Illinois, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. SCOTT presented memorials of sundry railroad employees of Huntington, Bluefield, and Hinton, all in the State of West Virginia, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. DICK presented a memorial of Maple City Division, Brotherhood of Railroad Trainmen, of Painesville, Ohio, and a memorial of E. M. Redhead, secretary of the Brotherhood of Railroad Trainmen, of Chicago Junction, Ohio, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. MILLARD presented sundry memorials of railroad employees of Alliance, South Omaha, Omaha, Chadron, Norfolk, Lincoln, and Grand Island, all in the State of Nebraska, remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free

passes to employees and their families; which were ordered to lie on the table.

Mr. MILLARD. I present a telegram from the president of the Santa Fe road, which I ask to have read.

The VICE-PRESIDENT. It will be read, without objection.

The Secretary read as follows:

[Telegram.]

CHICAGO, ILL., June 5, 1906.

Hon. J. H. MILLARD,  
United States Senate, Washington, D. C.:

While in full sympathy with prohibition of free passes in general, the bill as amended in conference imposes great hardship on lower grades of employees, and will create much trouble; also we must move large numbers of laborers over long distances. They have no money, nor would it be safe to furnish them with amount necessary to pay fare. Provision should certainly be made for free transportation for our own officers and men and members of their families; otherwise great burden imposed on us without benefit to anyone.

E. P. RIPLEY,  
President of Santa Fe.

The VICE-PRESIDENT. The memorial will lie on the table.

Mr. ANKENY. I present a number of telegrams, and ask that the one pinned on top may be read. They are all about alike.

The VICE-PRESIDENT. The Senator from Washington presents certain telegrams, and asks that one be read.

Mr. BLACKBURN. Mr. President, I do not want to object to the reading of these telegrams, but they are all of the same general import. I have here in my hand several hundred of them. It seems to me that it is a useless consumption of the time of the Senate to read them. If that, however, is to be done, I shall ask for the reading of some of these.

The VICE-PRESIDENT. Is there objection to the reading of the telegram sent to the desk by the Senator from Washington?

Mr. TILLMAN. I object, Mr. President.

The VICE-PRESIDENT. Objection is made.

Mr. ANKENY presented memorials of sundry railroad employees of Ellensburg and Seattle, Wash., and of Chicago, Ill., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. DOLLIVER presented memorials of sundry railroad employees of Fort Dodge, Stuart, Boone, Valley Junction, Creston, Clarion, Ottumwa, and Cherokee, all in the State of Iowa, and of Chicago, Ill., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. PETTUS presented memorials of sundry railroad employees of Montgomery, Athens, Fayette, Tusculumbia, Gadsden, Anniston, Birmingham, Mobile, Selma, Greensboro, Opelika, Marion, Plantersville, Meridian, Sheffield, Tuscaloosa, Montevale, Camden, Grove Hill, Marion Junction, and Columbiana Depot, all in the State of Alabama, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. BLACKBURN. During my absence at the Military Academy, as a member of the Board of Visitors for the Senate, my colleague [Mr. McCREARY] presented a good many telegrams of the general nature of those just read at the desk, for which I am obliged. I was disposed to take the view expressed by the junior Senator from Texas [Mr. BAILEY] and treat these telegrams as individual communications rather than as petitions to Congress. But as the contrary view seems to prevail, it occurs to me but proper that I should ask to make an additional submission of one or two hundred telegrams that I have in my hand, all to the same purport, protesting against the conclusion reached in the conference report as to the section touching the question of free passes.

The VICE-PRESIDENT. The memorials will be received.

Mr. BLACKBURN presented memorials of sundry railroad employees of the State of Kentucky, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. RAYNER presented memorials of sundry railroad employees of Baltimore and Kensington, in the State of Maryland, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. CLARK of Montana presented memorials of sundry railroad employees of Glendive, Whitefish, and Livingston, all in the State of Montana, remonstrating against the adoption of a

certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. McCREARY. I present in addition to those presented yesterday morning other telegrams from railroad employees and from various brotherhoods of locomotive engineers, protesting against the report of the railroad rate bill relative to issuing passes to employees of railroads and their families. I ask that the memorials may lie on the table.

The VICE-PRESIDENT. The memorials will be received.

Mr. McCREARY presented memorials of sundry railroad employees of Ludlow, Somerset, Fulton, Winchester, and Paducah, all in the State of Kentucky, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. GALLINGER. I suggested a moment ago that I thought the proper place to send these telegrams was to the committee of conference, but as a different order seems to prevail, I send a portion of the telegrams that have come to me to the desk for reference.

The VICE-PRESIDENT. The memorials will be received.

Mr. GALLINGER presented sundry memorials of railroad employees of Concord, Woodville, Nashua, and Lakeport, all in the State of New Hampshire, remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which were ordered to lie on the table.

Mr. LA FOLLETTE. On behalf of Mr. H. R. Fuller, legislative representative of Locomotive Firemen, I present the memorials of the Affiliated Railway Employees of Los Angeles, Cal.; of Local Lodge No. 126, Brotherhood of Locomotive Firemen, of Austin, Minn.; of Local Lodge No. 328, Brotherhood of Locomotive Firemen, of Lajunta, Colo.; of Huffman & Carlton, of Amarillo, Tex.; of Local Lodge No. 330, Brotherhood of Locomotive Firemen, of Kansas City, Mo.; of Carbondale Lodge No. 56, Brotherhood of Locomotive Firemen, of Carbondale, Pa.; of Monongahela Valley Lodge, No. 277, Brotherhood of Locomotive Firemen, of Monongahela City, Pa.; of Local Lodge No. 638, Brotherhood of Locomotive Firemen, of Clearfield, Pa.; of Local Division No. 390, Order of Railway Conductors, of Claffin, Kans.; of Local Lodge No. 677, Brotherhood of Locomotive Firemen, of Coffeyville, Kans.; of Rock County Lodge, No. 210, Brotherhood of Locomotive Firemen, of Janesville, Wis.; of Local Division No. 8037, Brotherhood of Locomotive Firemen, of Roanoke, Va.; of Miami Lodge, No. 273, Brotherhood of Railroad Trainmen, of Dayton, Ohio; of John Kelly, of Bellefontaine, Ohio; of Local Lodge No. 88, Brotherhood of Locomotive Firemen, of Evanston, Wyo.; of Local Division No. 85, Order of Railway Conductors, of Winslow, Ariz.; of Local Division No. 569, Brotherhood of Locomotive Engineers, of Mena, Ark.; of Local Division No. 415, Brotherhood of Locomotive Engineers, of Rocklin, Cal.; of sundry conductors, engineers, trainmen, and station men, of Colton, Cal., and of Local Division, No. 653, Brotherhood of Railroad Trainmen, of San Luis Obispo, Cal., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families. I move that the memorials lie on the table.

The motion was agreed to.

Mr. BURROWS presented sundry memorials of railroad employees of Jackson, Gladstone, Battle Creek, Hancock, Calumet, Grand Rapids, Ironwood, Cheboygan, Bay City, and Detroit, all in the State of Michigan, remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which were ordered to lie on the table.

Mr. HANSBROUGH presented a memorial of Local Division No. 279, Brotherhood of Locomotive Engineers, of Dickinson, N. Dak., remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which was ordered to lie on the table.

Mr. LATIMER presented memorials of sundry railroad employees of Walhalla, S. C., and of Atlanta, Ga., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. PILES presented memorials of sundry railroad employees of Ellensburg and Seattle, in the State of Washington, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented a petition of the Good Roads Association of King County, Wash., praying for the enactment of legislation to provide for the establishment in the Department of Agriculture of a bureau to be known as the "Bureau of Public Highways," and to provide for national aid in the improvement of public roads; which was referred to the Committee on Agriculture and Forestry.

Mr. GAMBLE presented memorials of the conductors of the Dakota division, Chicago and Northwestern Railway, of South Huron, S. Dak., and of George R. Peck, of Chicago, Ill., remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which were ordered to lie on the table.

Mr. STONE presented sundry memorials of railroad employees of Springfield, Brookfield, Moberly, Slater, Monett, Elmo, Thayer, Milan, Eldon, St. Louis, Sedalia, Jefferson City, Laredo, Bonne Terre, South St. Louis, Stanberry, and St. Joseph, all in the State of Missouri, and of Indianapolis, Ind.; Chicago, Ill., and East St. Louis Mills, Ill., remonstrating against the adoption of an amendment to the so-called "railroad rate bill" prohibiting the issuance of free passes to railroad employees and their families; which were ordered to lie on the table.

Mr. WARREN presented memorials of sundry railroad employees of Sheridan and Rawlins, Wyo.; of Omaha, Nebr., and of Chicago, Ill., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" prohibiting the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. KITTREDGE presented a memorial of sundry railroad conductors of the Dakota division, Chicago and Northwestern Railway, of Huron, S. Dak., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which was ordered to lie on the table.

Mr. McENERY presented memorials of sundry railroad employees of New Orleans, Goulsboro, Algiers, and Shreveport, all in the State of Louisiana, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. LONG presented memorials of sundry railroad employees of Eort Scott, Horton, Osawatomie, and Atchison, all in the State of Kansas, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

#### PRESERVATION OF NIAGARA FALLS.

Mr. LODGE. I desire to ask that a reference be changed. By inadvertence the bill (H. R. 18024) for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes was referred to the Committee on Commerce. Bills, petitions, and all matters concerning that question have been before the Committee on Foreign Relations, because the question involves international relations. I ask that the reference be changed, and that the bill be referred to the Committee on Foreign Relations.

The VICE-PRESIDENT. The reference was made to the Committee on Commerce at the request of the Senator from Illinois [Mr. HOPKINS].

Mr. HOPKINS. Yes, sir. Ordinarily the bill would go to the Committee on Commerce, and I think that is the proper place for it; but I understand from the Senator from Massachusetts that, prior to the bill coming from the House, this subject-matter had been committed by the Senate to the committee of which he is a member, and that for that reason he is desirous of having the change made.

Mr. LODGE. As the Senator well knows, the chairman of the Committee on Commerce is upon the Committee on Foreign Relations, and he is aware that a similar bill has been before the latter committee, and it has necessarily been before that committee. The bill provides in one of its sections for the opening of negotiations with a foreign government, which has always been submitted, of course, to the Committee on Foreign Relations.

The VICE-PRESIDENT. Without objection, the Committee on Commerce will be discharged from the further consideration of the bill, and it will be referred to the Committee on Foreign Relations.

#### REPORTS OF COMMITTEES.

Mr. BACON. The Committee on Foreign Relations, to whom was referred the bill (S. 5345) for the relief of L. Biertempfel, have instructed me to report it back, together with an amendment in lieu thereof proposing to appropriate \$871.08 to reim-

burse L. Biertempfel for loss sustained by him through the action of the United States commercial agent at Bamberg, Germany, etc., which they recommend be placed upon the diplomatic and consular appropriation bill now before the committee, and ask that it be referred to the Committee on Appropriations and printed.

The VICE-PRESIDENT. The bill, with the proposed amendment, will be referred to the Committee on Appropriations and printed.

Mr. KEAN, from the Committee on Foreign Relations, to whom was referred the amendment submitted by himself on the 28th ultimo, proposing to appropriate \$1,983.06 to pay the claim of Durham W. Stevens as chargé d'affaires ad interim at Tokyo from October 25, 1878, to May 21, 1879, intended to be proposed to the general deficiency appropriation bill, submitted a favorable report thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 11072) granting an increase of pension to William T. Hosley;

A bill (H. R. 12531) granting a pension to Charles Collins;

A bill (H. R. 16371) granting an increase of pension to Peter Eberts;

A bill (H. R. 17332) granting an increase of pension to Joseph H. Truax;

A bill (H. R. 1420) granting a pension to John Nay;

A bill (H. R. 18764) granting an increase of pension to Mary M. Stone;

A bill (H. R. 16620) granting a pension to Jackson Adkins;

A bill (H. R. 14544) granting an increase of pension to William A. Carroll;

A bill (H. R. 7683) granting an increase of pension to James Ross;

A bill (H. R. 5707) granting an increase of pension to John P. Veach;

A bill (H. R. 7635) granting a pension to Delia Gibbs; and

A bill (H. R. 10808) granting an increase of pension to Michael Kearns.

Mr. CLARK of Montana, from the Committee on Indian Affairs, to whom was referred the amendment submitted by himself on the 25th ultimo proposing to appropriate \$2,007.20 to reimburse Thomas H. Kent for money expended by him in having surveyed certain allotments of the Crow Indian Reservation, Mont., intended to be proposed to the general deficiency appropriation bill, submitted a favorable report thereon, and moved that it be referred to the Committee on Appropriations and printed; which was agreed to.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 8660) granting a pension to William Mabery;

A bill (H. R. 18451) granting an increase of pension to Alexander B. Wilson;

A bill (H. R. 9876) granting an increase of pension to William H. H. Mallalieu;

A bill (H. R. 10394) granting an increase of pension to John Behymer;

A bill (H. R. 1655) granting an increase of pension to Theodore Cole;

A bill (H. R. 12183) granting an increase of pension to Arantha J. Livingston;

A bill (H. R. 13967) granting a pension to Sophie M. Staab;

A bill (H. R. 14554) granting an increase of pension to John Welch;

A bill (H. R. 18124) granting an increase of pension to Theodore T. Davis;

A bill (H. R. 18409) granting an increase of pension to Joel Gay;

A bill (H. R. 19026) granting an increase of pension to Mary Navy; and

A bill (H. R. 19276) granting an increase of pension to Ann W. Whitaker.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 1206) granting an increase of pension to Allen Crow;

A bill (H. R. 1238) granting a pension to Susan R. Stalcup;

A bill (H. R. 7539) granting an increase of pension to David H. Hair;

A bill (H. R. 7543) granting an increase of pension to Prior M. Pavy;

A bill (H. R. 10563) granting an increase of pension to Joseph D. Cummins; and

A bill (H. R. 10004) granting an increase of pension to Martin L. Holcomb;

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15105) granting an increase of pension to Jacob Shell;

A bill (H. R. 17632) granting an increase of pension to John Frick;

A bill (H. R. 18428) granting an increase of pension to James L. Gamble;

A bill (H. R. 18694) granting an increase of pension to Eliza Rebecca Sims;

A bill (H. R. 19099) granting an increase of pension to Columbus Cox;

A bill (H. R. 18904) granting an increase of pension to Henrietta G. Carter;

A bill (H. R. 18997) granting an increase of pension to Josephine Hardester;

A bill (H. R. 19061) granting an increase of pension to Mary E. Mundy;

A bill (H. R. 18720) granting an increase of pension to Ella Donald;

A bill (H. R. 18772) granting an increase of pension to Lorenzo G. Tomaselli; and

A bill (H. R. 18903) granting an increase of pension to Julia A. Abney.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15547) granting an increase of pension to Henry D. Duffield;

A bill (H. R. 12400) granting an increase of pension to Charles H. Sweeney;

A bill (H. R. 2223) granting an increase of pension to John A. Blanton;

A bill (H. R. 2229) granting an increase of pension to Lytle McCracken;

A bill (H. R. 5554) granting an increase of pension to James T. Saunderson, alias Sanderson;

A bill (H. R. 8285) granting an increase of pension to Daniel Sharpley;

A bill (H. R. 10031) granting an increase of pension to Martin Haley; and

A bill (H. R. 10474) granting an increase of pension to Lewis F. Davis.

Mr. McCUMBER (for Mr. ALGER), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 14705) granting an increase of pension to Alva Beebe;

A bill (H. R. 14919) granting an increase of pension to Maria C. Sheppard;

A bill (H. R. 15063) granting an increase of pension to Henry W. Brown;

A bill (H. R. 16571) granting an increase of pension to Mary L. Overley;

A bill (H. R. 17780) granting a pension to Caroline E. Perry;

A bill (H. R. 18092) granting an increase of pension to Andrew M. Logan;

A bill (H. R. 18462) granting an increase of pension to Samuel Dalley;

A bill (H. R. 18624) granting an increase of pension to Robert L. Fulton;

A bill (H. R. 18784) granting an increase of pension to Patrick Fitzgerald;

A bill (H. R. 18954) granting an increase of pension to John E. Minnick;

A bill (H. R. 19495) granting an increase of pension to Andrew P. Glaspie;

A bill (H. R. 10998) granting a pension to Helen G. Powell;

A bill (H. R. 1507) granting an increase of pension to Henry D. Jordan;

A bill (H. R. 2410) granting an increase of pension to Saturnin Jasnowski;

A bill (H. R. 2867) granting an increase of pension to Leah Bedford;

A bill (H. R. 7910) granting an increase of pension to Nicholas Karns;

A bill (H. R. 10224) granting an increase of pension to David Bussey, alias George Brown;

A bill (H. R. 11217) granting an increase of pension to Jordan H. Banks; and

A bill (H. R. 12013) granting a pension to Emma Fox.

Mr. PILES, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 14505) granting an increase of pension to John L. Clifton;

A bill (H. R. 15502) granting an increase of pension to Harmon Houck;

A bill (H. R. 17393) granting an increase of pension to George S. Green;

A bill (H. R. 18905) granting an increase of pension to Samuel H. Davis;

A bill (H. R. 19014) granting an increase of pension to Elizabeth A. Waller; and

A bill (H. R. 19222) granting an increase of pension to Catherine Warnock.

Mr. BURKETT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 5567) granting an increase of pension to Sanford Weaver;

A bill (H. R. 9159) granting an increase of pension to John S. McClary;

A bill (H. R. 11780) granting an increase of pension to Charles Stair;

A bill (H. R. 11811) granting an increase of pension to John Kamerer;

A bill (H. R. 13032) granting an increase of pension to Stewart McKeney;

A bill (H. R. 16613) granting an increase of pension to William C. Fox;

A bill (H. R. 17603) granting an increase of pension to George E. Yager;

A bill (H. R. 18320) granting an increase of pension to Jonathan M. Hunter; and

A bill (H. R. 19242) granting an increase of pension to Anthony W. Miller.

Mr. SMOOT (for Mr. GEARIN), from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 2714) granting an increase of pension to Charles H. Charles;

A bill (H. R. 4891) granting an increase of pension to George W. Swadley;

A bill (H. R. 6181) granting an increase of pension to Fayette E. Ford;

A bill (H. R. 12347) granting an increase of pension to Samuel Palmer;

A bill (H. R. 14107) granting an increase of pension to Isaac Maines;

A bill (H. R. 16399) granting an increase of pension to James H. Warford;

A bill (H. R. 16973) granting an increase of pension to John H. Smith;

A bill (H. R. 17652) granting an increase of pension to Joseph Lawrence;

A bill (H. R. 18475) granting an increase of pension to Joseph F. Cook;

A bill (H. R. 18656) granting an increase of pension to George W. Gordon;

A bill (H. R. 18974) granting an increase of pension to Minna Hildebrand; and

A bill (H. R. 19279) granting an increase of pension to Peter Cramer.

Mr. HEMENWAY, from the Committee on Claims, to whom was referred the bill (S. 1473) for the relief of Malinda S. Gray, reported it without amendment, and submitted a report thereon.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 609) granting an increase of pension to Horace H. Sickels;

A bill (H. R. 19053) granting an increase of pension to John T. Heaney;

A bill (H. R. 18901) granting an increase of pension to John E. English;

A bill (H. R. 18836) granting an increase of pension to John N. Burton;

A bill (H. R. 18587) granting a pension to Catherine Bausman;

A bill (H. R. 18398) granting an increase of pension to Susan R. Freeman;

A bill (H. R. 17806) granting an increase of pension to James K. Dickinson;

A bill (H. R. 17271) granting an increase of pension to James D. Taylor; and

A bill (H. R. 14774) granting an increase of pension to Levi M. Hall.

Mr. LODGE, from the Committee on Foreign Relations, to whom was referred the bill (H. R. 18024) for the control and regulation of the waters of Niagara River, for the preservation of Niagara Falls, and for other purposes, reported it with amendments, and submitted a report thereon.

Mr. LONG, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 15333) for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes, reported it with amendments, and submitted a report thereon.

#### BLACKFEET INDIAN RESERVATION LANDS IN MONTANA.

Mr. CLARK of Montana. I am directed by the Committee on Indian Affairs, to whom was referred the bill (H. R. 19681) to survey and allot the lands embraced within the limits of the Blackfeet Indian Reservation, in the State of Montana, and to open the surplus lands to settlement, to report it with an amendment in the nature of a substitute, and I ask unanimous consent for its present consideration. The matter embraced in the substitute has passed the Senate twice, once in the Indian appropriation bill and again last Saturday.

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

The amendment of the Committee on Indian Affairs was, to strike out all after the enacting clause and to insert the following:

That the Secretary of the Interior is hereby authorized and he is hereby directed to immediately cause to be surveyed all of the lands embraced within the limits of the Blackfeet Indian Reservation, in the State of Montana.

SEC. 2. That so soon as all the lands embraced within the Blackfeet Indian Reservation shall have been surveyed the Commissioner of Indian Affairs shall cause allotments of the same to be made under the provisions of the allotment laws of the United States to all persons having tribal rights or holding tribal relations and may rightfully belong on said reservation: *Provided*, That all water rights and privileges on or connected with streams within or adjoining said reservation shall be subject to the laws of the State of Montana: *And provided further*, That there shall be allotted to each adult or head of family 80 acres of irrigable land and 240 acres of additional land valuable only for grazing purposes, or at the option of the allottee the entire 320 acres may be taken in land valuable only for grazing purposes, and to each person under 18 years of age one-half of such acreage, respectively: *Provided further*, That the Holy Family Mission on Two Medicine Creek is hereby granted 320 acres of land, to be selected by the authorities of said mission, embracing the mission buildings and improvements thereon, and the Secretary of the Interior may reserve such lands as he may deem necessary or desirable for agency, school, and religious purposes; also such tract or tracts of grazing and timber lands as he may deem expedient for the use and benefit of the Indians of said reservation in common; but such reserved lands, or any part thereof, may be disposed of from time to time in such manner as the said Secretary may determine.

SEC. 3. That upon the completion of said allotments the President of the United States shall appoint a commission consisting of three persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians or reserved by the Secretary of the Interior or otherwise disposed of; said commission to be constituted as follows: One commissioner shall be a person holding tribal relations with said Indians and the other two resident citizens of the State of Montana.

That within thirty days after their appointment, said commissioners shall meet at some point within the Blackfeet Indian Reservation and organize by the election of one of their number as chairman. Said commission is hereby empowered to select a clerk at a salary of not to exceed \$5 per day.

That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of 40 acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisal said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; and fifth, mineral lands: *Provided*, That mineral lands shall not be appraised.

That said commissioners shall be paid a salary of not to exceed \$10 per day each while actually employed in the inspection and classification of said lands; such inspection and classification to be completed within nine months from the date of the organization of said commission.

SEC. 4. That when said commission shall have completed the classification and appraisal of all of said lands and the same shall have been approved by the Secretary of the Interior, the land shall be disposed of under the general provisions of the homestead, mineral, and town-site laws of the United States, except such of said lands as shall have been classified as timber lands, and except such sections 16 and 36 of each township, or any part thereof, for which the State of Montana has not heretofore received indemnity lands under existing laws, which sections, or parts thereof, are hereby granted to the State of Montana for school purposes. And in case either of said sections or parts thereof is lost to the State of Montana by reason of allotment thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to select other lands not occupied or reserved within said reservation, not exceeding two sections in any one township, which selections shall be made prior to the opening of the lands to settlement: *Provided*, That the United States shall pay to the said Indians for the lands in said sections 16 and 36, so granted, or the lands within said reservation selected in lieu thereof, the sum of \$1.25 per acre.

SEC. 5. That the lands so classified and appraised shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars and the Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged, but no entry shall be allowed under section 2306 of the Revised Statutes: *Provided further*, That the price of said lands shall be the appraised value thereof as fixed by said commission, which in no case shall be less than \$1.25 per acre for agricultural and grazing lands and \$5 per acre for timber lands; but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-fifth of the appraised value in cash at the time of entry and the remainder in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided*, That he shall make his final proofs in accordance with the homestead laws within seven years from date of entry, and that aliens who have declared their intention to become citizens of the United States may become such entrymen, but before making final proof and receiving patent they must receive their full naturalization papers: *And provided further*, That the fees and commissions at the time of commutation or final entry shall be the same as are now provided by law where the price of land is \$1.25 per acre: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, or to make final proof within seven years from date of entry, all rights in and to the land covered by his entry shall at once cease, and any payments theretofore made shall be forfeited and the entry shall be forfeited and canceled: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made.

SEC. 6. That if, after the approval of the classification and appraisal, as provided herein, there shall be found lands within the limits of the reservation under irrigation projects deemed practicable under the provisions of the act of Congress approved June 17, 1902, known as the "reclamation act," said lands shall be subject to withdrawal and be disposed of under the provisions of said act, and settlers shall pay, in addition to the cost of construction and maintenance provided therein, the appraised value, as provided in this act, into the reclamation funds: *And provided further*, That all lands hereby opened to settlement remaining undisposed of at the end of five years from the taking effect of this act shall be sold to the highest bidder for cash, at not less than \$1.25 per acre, under rules and regulations prescribed by the Secretary of the Interior; and any lands remaining unsold ten years after said lands shall have been opened to entry shall be sold to the highest bidder, for cash, without regard to the minimum limit above stated: *Provided*, That not more than 160 acres of land shall be sold to any one person or company.

SEC. 7. That the lands within said reservation not already previously entered, whether classified as agricultural, grazing, or timber lands, shall be subject to exploration, location, and purchase under the general provisions of the United States mineral and coal land laws, at the prices therein fixed, except that no mineral or coal exploration, location, or purchase shall be permitted upon any lands allotted to an Indian.

SEC. 8. That lands classified and returned by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior, under sealed bids, to the highest bidder, for cash, at not less than \$5 per acre, under such rules and regulations as he may prescribe: *Provided*, That the said timber lands shall be sold in tracts not exceeding 40 acres, with preference right of purchase to actual settlers, including Indian allottees residing in the vicinity, at the highest price bid.

SEC. 9. That after deducting the expenses of the commission of classification, appraisal, and sale of lands, and such other incidental expenses as shall have been necessarily incurred, including the cost of survey of said lands, the balance realized from the proceeds of the sale of the lands in conformity with this act shall be paid into the Treasury of the United States and placed to the credit of said Indian tribe. Not exceeding one-third of the total amount thus deposited in the Treasury, together with one-third of the amount of the principal of all other funds now placed to the credit of or which is due said tribe of Indians from all sources, shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of said Indians, in the construction and maintenance of irrigation ditches, the purchase of stock, cattle, horses, and farming implements, and in their education and civilization. The remainder of all funds deposited in the Treasury, realized from such sale of lands herein authorized, together with the remainder of all other funds now placed to the credit of or that shall hereafter become due to said tribe of Indians, shall, upon the date of the approval by the Secretary of the Interior of the allotments of land authorized by this act, be allotted in severalty to the members of the tribe, the persons entitled to share as members in such distribution to be determined by said Secretary; the funds thus allotted and apportioned shall be placed to the credit of such individuals upon the books of the United States Treasury for the benefit of such allottees, their legatees, or heirs. The President may, by Executive order, from time to time order the distribution and payment of such funds or the interest accruing therefrom to such individual members of the tribe as, in his judgment, would be for the best interest of such individuals to have such distribution made, under such rules and regulations as he may prescribe therefor: *Provided*, That so long as the United States shall hold the funds as trustee for any member of the tribe, the Indian beneficiary shall be paid interest thereon annually at the rate of 4 per cent per annum.

SEC. 10. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$65,000, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency and school purposes, at the rate of \$1.25 per acre; also the sum of \$75,000, or so much thereof as may be necessary, to enable the Secretary of the Interior to survey, classify, and appraise the lands of said reservation as provided herein, and also to defray the expense of the appraisal and survey of said

town sites, the latter sums to be reimbursable out of the funds arising from the sale of said lands.

SEC. 11. That nothing in this act contained shall in any manner bind the United States to purchase any part of the land herein described, except sections 16 and 36 or the equivalent in each township that may be granted to the State of Montana, the reserved tracts hereinbefore mentioned for agency and school purposes, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any part thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received.

SEC. 12. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks, not less than 80 acres of said land at or near the present settlements of Browning and Babb, and each of such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlements. Such town sites shall be surveyed, appraised, and disposed of as provided in section 2381 of the United States Revised Statutes: *Provided*, That any person who, at the date when the appraisers commence their work upon the land, shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter at any time prior to the day fixed for the public sale, and at the appraised value thereof, such lot and any one additional lot of which he or she may also be in possession and upon which he or she may have substantial and permanent improvements: *Provided further*, That before making entry of any such lot or lots, the applicant shall make proof to the satisfaction of the register and receiver of the land district in which the land lies of such residence, possession, and ownership of improvements, under such regulations as to time, notice, manner, and character of proof as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: *Provided further*, That in making their appraisal of the lots so surveyed it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry in their regular order with the other unimproved and unoccupied lots: *Provided, however*, That no lot shall be sold for less than \$10: *And provided further*, That said lots when surveyed shall approximate 50 by 150 feet in size.

The amendment was agreed to.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. DANIEL (by request) introduced a bill (S. 6382) for the relief of the heirs of Samuel C. Hull, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. LODGE introduced a bill (S. 6383) to pay to the Empire of Germany an award against the United States in order to satisfy certain conventional obligations of the United States; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. STONE introduced a bill (S. 6384) authorizing the Secretary of the Interior to examine and adjust the accounts of William R. Little, or his heirs, with the Sac and Fox Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. KITTREDGE introduced a bill (S. 6385) validating certain soldiers' additional homestead entries; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. LA FOLLETTE introduced a bill (S. 6386) granting a pension to Theron W. Haight; which was read twice by its title, and referred to the Committee on Pensions.

#### HOUSE BILLS REFERRED.

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

H. R. 7099. An act to amend section 2871 of the Revised Statutes;

H. R. 17455. An act permitting the building of a dam across the Mississippi River at or near the village of Clearwater, Wright County, Minn.;

H. R. 17881. An act permitting the building of a dam across the Crow Wing River between the counties of Morrison and Cass, State of Minnesota;

H. R. 19815. An act to authorize the Georgia, Florida, and Alabama Railway Company to construct a bridge across the Chattahoochee River between Columbus, Ga., and Franklin, Ga., and

H. R. 19816. An act to authorize the Georgia, Florida and Alabama Railway Company to construct three railroad bridges across the Chattahoochee River at or near the city of Eufaula, Ala., and two between said city of Eufaula and the city of Columbus, Ga.

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

H. R. 15096. An act to appoint a solicitor for the customs department of the Treasury;

H. R. 16386. An act to fix the time of holding the circuit and district courts for the northern district of West Virginia;

H. R. 18854. An act providing for sittings of the United States circuit and district courts of the southern district of Ohio at the city of Dayton, in said district;

H. R. 19150. An act to change and fix the time for holding the circuit and district courts of the United States for the middle district of Tennessee, in the southern division of the eastern district of Tennessee at Chattanooga, and the north-eastern division of the eastern district of Tennessee at Greenville, and for other purposes; and

H. R. 19522. An act establishing regular terms of the United States circuit and district courts of the northern district of California at Eureka, Cal.

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

H. R. 16785. An act giving preference right to actual settlers on pasture reserve No. 3, to purchase land leased to them for agricultural purposes in Comanche County, Okla.;

H. R. 16946. An act releasing the right, title, and interest of the United States to the piece or parcel of land known as the "Cuartel lot" to the city of Monterey, Cal.; and

H. R. 18668. An act ratifying and confirming soldiers' additional homestead entries heretofore made and allowed upon land embraced in what was formerly the Columbia Indian Reservation, in the State of Washington;

H. R. 14975. An act amending chapter 863, volume 31, of the Statutes at Large; was read twice by its title, and referred to the Committee on Naval Affairs.

H. R. 15442. An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States; was read twice by its title, and referred to the Committee on Immigration.

H. R. 16290. An act to postpone until 1937 the maturity of \$250,000 of 4 per cent United States bonds held in trust for the benefit of the American Printing House for the Blind; was read twice by its title, and referred to the Committee on Finance.

H. R. 17510. An act to provide for a reconnaissance and preliminary survey of a land route for a mail and pack trail from the navigable waters of the Tanana River to the Seward Peninsula, in Alaska, and for other purposes, was read twice by its title, and referred to the Committee on Territories.

H. R. 19606. An act to pay certain claims of citizens of foreign countries against the United States, and to satisfy certain conventional obligations of the United States, was read twice by its title, and referred to the Committee on Foreign Relations.

H. J. Res. 153. Joint resolution directing the Interstate Commerce Commission to investigate and report on block signals and appliances for the automatic control of railway trains was read twice by its title, and referred to the Committee on Interstate Commerce.

#### PROPOSED ISLE OF PINES INVESTIGATION.

Mr. MORGAN. I desire to ask permission to have Senate resolution 103 go over with its present privileges, because I understand that the Senator from South Carolina [Mr. TILLMAN] intends to press the consideration of the conference report on the rate bill.

The VICE-PRESIDENT. Without objection, it is so ordered.

#### CASES CONDUCTED BY OFFICERS OF DEPARTMENT OF JUSTICE.

Mr. KNOX. I ask unanimous consent for the present consideration of the bill (S. 2969) to authorize the Attorney-General and certain other officers of the Department of Justice and special assistants and counsel to begin and conduct legal proceedings in any courts of the United States and before any commission or commissioner or quasi judicial body created under the laws of the United States.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes the Attorney-General, the Solicitor-General, the Assistant to the Attorney-General, the Assistant Attorneys-General, special assistants to the Attorney-General, special assistants to the district attorneys, and special counsel appointed under any provision of law to begin and conduct any kind of legal proceedings, civil or criminal, in any court of any judicial district, or before any commission or commissioner or quasi-judicial body created under the laws of the United States, including grand jury proceedings, whether they reside in the judi-

cial district where such proceedings are brought or not. But all such proceedings shall be begun and conducted by such officials, attorneys, and counsel only under the direction, supervision, and control of the Attorney-General.

Mr. HOPKINS. I should like to have the Senator presenting the bill give a little explanation of the reason for the legislation.

Mr. KNOX. I ask that the report upon the bill, which is less than half a page, be read. It is the most succinct statement of the purpose of the bill I could possibly suggest.

The VICE-PRESIDENT. The report will be read.

The Secretary read the report submitted by Mr. Knox, May 28, 1906, as follows:

The Committee on the Judiciary, to whom was referred the bill (S. 2969) authorizing the Attorney-General and certain other officers of the Department of Justice to conduct legal proceedings in any court of the United States, having considered the same, reports the bill favorably without amendment.

It is frequently desirable and even necessary that the Attorney-General should detail an officer of his Department to assist some United States attorney in the investigation and prosecution of cases of unusual importance or interest, or to make an independent investigation and report the result to the Department, and, if necessary, to prosecute the same; or, where this latter is impracticable, to appoint a special assistant to the Attorney-General, or special counsel to act independently of the United States attorney, particularly in criminal matters.

In 1903 the Attorney-General appointed a special assistant to investigate and report in the Japanese silk fraud cases, and it was held (121 Fed. Rep., 826, U. S. v. Rosenthal) that a special assistant to the Attorney-General is not an officer of the Department of Justice under sections 359 and 367, Revised Statutes, or other provisions of the United States Statutes, and the indictment was quashed because of the presence of this attorney in the grand jury room. That case further holds that neither the Attorney-General, the Solicitor-General, nor any officer of the Department has the power to conduct or aid in the conduct of proceedings before a grand jury. It is clearly of great importance that they should have this power.

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

#### CHILD LABOR IN THE DISTRICT OF COLUMBIA.

Mr. DUBOIS. I ask unanimous consent for the present consideration of the bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia. It is a very important measure, and we desire to get it into conference.

Mr. TILLMAN. Will the bill excite any debate?

Mr. DUBOIS. None whatever, I think. It is a unanimous report from the Committee on Education and Labor.

Mr. TILLMAN. I will yield to the Senator, but I can not yield to anyone else.

Mr. DUBOIS. I am quite sure it will not lead to any debate.

The VICE-PRESIDENT. The bill was reported from the Committee on Education and Labor, with an amendment in the nature of a substitute. The proposed substitute will be read.

The SECRETARY. The committee report to strike out all after the enacting clause and insert:

That no child under 14 years of age shall be employed, permitted, or suffered to work in the District of Columbia in any factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house, theater, bowling alley, or in the distribution or transmission of merchandise or messages, or selling newspapers. No such child shall be employed in any work performed for wages or other compensation, to whomsoever payable, during the hours when the public schools of the District of Columbia are in session, nor before the hour of 6 o'clock in the morning or after the hour of 7 o'clock in the evening.

Sec. 2. That no child under 16 years of age shall be employed, permitted, or suffered to work in the District of Columbia in any of the establishments named in section 1, unless the person or corporation employing him procures and keeps on file and accessible to the inspectors authorized by this act and the truant officers of the District of Columbia an age and schooling certificate, and keeps two complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the building in which such children are employed.

Sec. 3. That an age and schooling certificate shall be approved only by the superintendent of public schools, or by a person authorized by him in writing, who shall have authority to administer the oath provided for therein, but no fee shall be charged therefor.

Sec. 4. That an age and schooling certificate shall not be approved unless satisfactory evidence is furnished by duly attested transcript of the certificate of birth or baptism of such child, or other religious record, or the register of birth or the affidavit of the parent or guardian or custodian of a child, which affidavit shall be required, however, only in case such last-mentioned transcript of the certificate of birth be not procured and filed, showing the place and date of birth of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath, and who shall not demand or receive a fee therefor.

Sec. 5. That the age and schooling certificate of a child under 16 years of age shall be in the following form:

#### AGE AND SCHOOLING CERTIFICATE.

This certifies that I am the (father, mother, guardian, or custodian) of (name of child) \_\_\_\_\_, and that (he or she) was born at (name of town or city) \_\_\_\_\_, in the county (name of county, if known) \_\_\_\_\_ and State (or country) of \_\_\_\_\_, on the (day and year of birth) \_\_\_\_\_ and is now (number of years and months) \_\_\_\_\_ old. Signature of (father, mother, guardian, or custodian). (Date.)

There personally appeared before me the above-named (name of person signing) \_\_\_\_\_ and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge

and belief. I hereby approve the foregoing certificate of (name of child) \_\_\_\_\_, height (feet and inches) \_\_\_\_\_, eyes (color) \_\_\_\_\_, complexion (fair or dark) \_\_\_\_\_, hair (color) \_\_\_\_\_, having no sufficient reason to doubt that (he or she) is of the age therein certified, I hereby certify that (he or she) can read at sight and can write legibly simple sentences in the English language, and that (he or she) has reached the normal development of a child of (his or her) age, and is in sound health and is physically able to perform the work which (he or she) intends to do, and that (he or she) has regularly attended the public schools, or a school equivalent thereto, for not less than one hundred and thirty days during the school year previous to arriving at the age of 14 years, or during the year previous to applying for such school record, and has received during such period instruction in reading, spelling, writing, English grammar, and geography, and is familiar with the fundamental operations of arithmetic to and including fractions.

This certificate belongs to (name of child in whose behalf it is drawn) \_\_\_\_\_ and is to be surrendered to (him or her) whenever (he or she) leaves the service of the corporation or employer holding the same; but if not claimed by said child within thirty days from such time it shall be returned to the superintendent of schools.

(Signature of person authorized to approve and sign, with official character or authority.) (Date.)

A duplicate of each age and schooling certificate shall be filled out and kept on file by the superintendent of public schools. Any explanatory matter may be printed with such certificate, in the discretion of said superintendent.

Sec. 6. That whoever employs a child under 16 years of age, and whoever having under his control a child under such age permits such child to be employed, in violation of sections 1, 2, 8, or 9 of this act shall, for such offense, be fined not more than \$50; and whoever continues to employ any child in violation of any of said sections of this act, after being notified by an inspector authorized by this act, or a truant officer of the District of Columbia, shall for every day thereafter that such employment continues be fined not less than \$5 nor more than \$20. A failure to produce to an inspector authorized by this act, or a truant officer of the District of Columbia, any age or schooling certificate or list required by this act shall be prima facie evidence of illegal employment of any person whose age and schooling certificate is not produced or whose name is not so listed. Any corporation or employer retaining any age and schooling certificate in violation of section 5 of this act shall be fined \$10. Every person authorized to sign the certificate prescribed by section 5 of this act who knowingly certifies to any materially false statement therein shall be fined not more than \$50.

Sec. 7. That inspectors authorized by this act and the truant officers of the District of Columbia may visit the factories, workshops, and mercantile establishments in the District of Columbia and ascertain whether any minors are employed therein contrary to the provisions of this act, and they shall report any cases of such illegal employment to the superintendent of public schools and the corporation counsel of the District of Columbia. Inspectors authorized by this act and the truant officers of the District of Columbia may require that the age and schooling certificates and lists provided for in this act of minors employed in such factories, workshops, or mercantile establishments shall be produced for their inspection.

Sec. 8. That no minor under 16 years of age shall be employed, permitted, or suffered to work in any manufacturing, mechanical, or mercantile establishment more than eight hours in any one day, or before the hour of 6 o'clock a. m., or after the hour of 7 o'clock p. m., and in no case shall the number of hours exceed forty-eight in a week.

Sec. 9. That every employer shall post in a conspicuous place in every room where such persons are employed a printed notice, stating the number of hours required of them on each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or for other meals begin and end. The printed form of such notice shall be furnished by the inspectors authorized by this act and the truant officers of the District of Columbia, and the employment of any such person for a longer time in any day than that so stated shall be deemed a violation of this section.

Sec. 10. That the Commissioners of the District of Columbia are hereby authorized to appoint two inspectors to carry out the purposes of this act, at a compensation not exceeding \$1,200 each per annum.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill just read?

Mr. HALE. Mr. President, I discovered in listening to some of the provisions of the bill that it is a very remarkable measure. It seeks to take charge entirely of the younger population of the District and subject them to certain restrictions in the way of employment, which, it seems to me, is a very great step beyond anything that has ever been applied to conditions here in the District.

It is not, Mr. President, a bill regulating child labor, because I think everybody realizes that there may be proper statutes and regulations affecting child labor; but as I listened to the bill it seemed to me that in any case where a widowed mother has a bright boy helping her to maintain her family and glad to help her to maintain a home and the family relations, if he is below the age of 16 he is searched out by Government inspectors, and he is told and the mother is told that instead of contributing, as young boys and young girls do, to family expenses and family needs, he shall be taken from his vocation and shall be put to school willy nilly. It is a step in the direction to which I have called, and other Senators have called, the attention of the Senate, of the Government assuming the control and management here of the domestic relations.

Mr. TILLMAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from South Carolina?

Mr. HALE. I have known a great many cases—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from South Carolina?

Mr. TILLMAN. I was going to suggest to the Senator from Maine that evidently this bill will excite discussion, and that he object to its consideration and let us get on to something else. It is evident that it can not pass this morning without debate.

Mr. HALE. Certainly it can not. The Senator can object, and then it will go over.

Mr. TILLMAN. I had objected, but yielded on the assurance that it would take no debate.

Mr. DUBOIS. Before objection is made, I wish to say just a word.

Mr. TILLMAN. Certainly.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Idaho?

Mr. HALE. Mr. President, I for one do not propose that this bill shall pass, taking charge of the things to which I have alluded, without there being opportunity, not only for me, but for other Senators, to examine it and to see whether it is a domain of legislation that we ought consistently to enter into.

Mr. DUBOIS. Mr. President—

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

Mr. DUBOIS. Yes.

Mr. LODGE. If this bill were such a measure as the Senator from Maine has stated, it would be open to great objection; but it is not.

Mr. DUBOIS. Not at all.

Mr. LODGE. The statements made by the Senator from Maine in regard to the provisions of this bill do not represent the bill.

Mr. DUBOIS. Not at all.

Mr. LODGE. The bill simply provides that children under 14 years of age shall not be employed during school hours. That is the law in my State, and I believe it is the law in almost every other State. There is not anything more wholesome in legislation anywhere. The other provision is that as to those under 16, there shall simply be a certificate made—

Mr. HALE. I certainly, in the reading of the bill, heard the restriction applied to 16 years. I want an opportunity to examine this bill, and other Senators want that opportunity, and I am not content that the bill shall be taken up now.

Mr. DUBOIS. Mr. President, I desire to make a simple statement to the Senator from Maine. I am quite sure he would not object to this bill if he understood its provisions. There are no restrictions of any kind in the District of Columbia in regard to child labor. They have child-labor laws in all the States. This bill, which is called my bill—it is not my bill—is a model bill taken from laws now in operation in Illinois, Ohio, and other States; laws which have passed the scrutiny of the courts and have been found to be practicable and effective. I repeat, it is a model bill in regard to child labor. It has been indorsed by all the organizations and the business houses of this city. Its passage is very necessary. The Senator from Iowa [Mr. DOLLIVER] has made a report on the bill which, if any Senator will read, he will see the necessity for the passage of this measure. I feel quite deeply in regard to this matter, and I know the Senator from Maine would not object to it if he understood it.

Mr. TILLMAN. I sympathize with the object of this legislation, because I believe in the Government regulation of child labor and its prohibition.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SCOTT. I object, Mr. President, because I want to read the report on this subject, which I have only this moment had laid on my desk.

I wish to say that my experience with labor has been that the two brightest young men I have ever had in my business I educated at night school. They were 14 years of age. One of them is now in charge of a large factory, of which I am the president, and he is managing 800 people. The other is in a responsible position. I do not want to do anything that will debar a boy from securing an education or taking care of his mother or looking after his aged father, nor do I wish to deprive him of advantages which he may derive in the other direction. But I desire that we shall have time to examine the report on this bill, which, I repeat, has only been laid on our desks this morning, and I desire that we shall have an opportunity to read it; which we have not yet had.

The VICE-PRESIDENT. Objection being made, the bill goes over.

#### EMPLOYERS' LIABILITY BILL.

Mr. DANIEL. Mr. President—

Mr. TILLMAN. I move that the Senate proceed to the consideration of the conference report on the rate bill.

The VICE-PRESIDENT. The question is on the motion made by the Senator from South Carolina [Mr. TILLMAN].

Mr. DANIEL. Mr. President, the Senator from South Carolina [Mr. TILLMAN] has been sitting in his seat for some time without rising to his feet to address the Chair; and I rose in my seat and addressed the Chair.

Mr. TILLMAN. I yield to the Senator from Virginia. I do not want to antagonize him. I was not aware that the Senator from Virginia had addressed the Chair.

Mr. DANIEL. I had.

The VICE-PRESIDENT. The Chair understood the Senator from South Carolina [Mr. TILLMAN] to first address the Chair. Does he yield to the Senator from Virginia?

Mr. DANIEL. But he did not rise from his seat to address the Chair.

The VICE-PRESIDENT. The Senator from South Carolina [Mr. TILLMAN] arose and addressed the Chair.

Mr. TILLMAN. I yield to the Senator from Virginia.

The VICE-PRESIDENT. The Senator from Virginia.

Mr. DANIEL. Have I the floor, Mr. President, in my own right?

The VICE-PRESIDENT. The Senator has the floor in his own right.

Mr. DANIEL. Mr. President, I desire to move to reconsider the vote by which the Senate passed what is known as the "employers' liability bill," in order to get a hearing upon an amendment which I offered thereto. I entered this motion several days ago, and I would ask now for its consideration.

The VICE-PRESIDENT. The first question will be: Will the Senate proceed to consider the motion to reconsider?

Mr. DANIEL. I hope the Senate will give unanimous consent that the vote by which the bill was originally passed may be considered as reconsidered. I was ready to address the Senate on the amendment, but was called for a few moments out of the Chamber while a long speech was being delivered, it being known that I would next address the Senate on that subject in answer to the Senator from New Hampshire and the Senator from Ohio. It was by accident that I was not then heard. I ask that unanimous consent be given that the vote by which the bill was passed shall be regarded as reconsidered. I shall not attempt to delay its passage.

The VICE-PRESIDENT. Is there objection?

Mr. TILLMAN. I must object to any unanimous consent.

Mr. DANIEL. Then, Mr. President, I will proceed with my argument.

The VICE-PRESIDENT. Objection being made, a motion would be in order to proceed to consider the motion to reconsider the vote by which the bill was passed.

Mr. DANIEL. Which I make, Mr. President.

The VICE-PRESIDENT. The Senator from Virginia moves that the Senate proceed to consider the motion to reconsider the vote by which the bill, the title of which will be stated, was passed.

The SECRETARY. A bill (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.

Mr. TILLMAN. If we can get a vote on it, I have no objection to the reconsideration.

Mr. DANIEL. I have no purpose to delay a vote.

The VICE-PRESIDENT. The question is on the motion of the Senator from Virginia. [Putting the question.] In the opinion of the Chair, the "ayes" have it.

Mr. DANIEL. Section 3 of the bill reads—

Mr. LODGE. What bill is that, Mr. President?

The VICE-PRESIDENT. What is known as the "employers' liability bill," which heretofore passed the Senate, and as to which a motion to reconsider was entered.

Mr. LODGE. I do not think it was understood upon what the vote was being had.

The VICE-PRESIDENT. The Chair put the question distinctly, but the Chair will put it again. In order that Senators may understand the parliamentary status, the Chair will state that the Senator from Virginia [Mr. DANIEL] some days ago entered a motion to reconsider the vote by which House bill 239 was passed. That motion he has now asked to have determined. He asked unanimous consent for its consideration, but there was objection. He then moved to proceed to the consideration of the motion to reconsider, and that is the motion before the Senate.

Mr. GALLINGER. The question, then, is on consideration?

The VICE-PRESIDENT. The question is on the motion to take up the motion to reconsider.

Mr. GALLINGER. I think not.

Mr. DANIEL. The bill has been reconsidered; and I suppose it is now before the Senate.

Mr. TILLMAN. I rise to a parliamentary inquiry, Mr. President.

The VICE-PRESIDENT. The Senator from South Carolina will please state his parliamentary inquiry.

Mr. TILLMAN. It is whether or not the bill is before the Senate? Has the vote by which it was passed been reconsidered?

The VICE-PRESIDENT. The bill is not before the Senate, but the motion to proceed to re-reconsider is the pending motion. Will the Senate proceed to consider the motion to reconsider the vote by which the bill was passed?

Mr. GALLINGER. Let that be put, Mr. President.

The VICE-PRESIDENT. The question is on that motion. [Putting the question.] In the opinion of the Chair, according to the sound, the "noes" have it.

Mr. DANIEL. Mr. President, there is a misunderstanding here. The Senate gave assent to the reconsideration by an affirmative vote. The question then was whether we should proceed to consider the bill. The bill was then before the Senate, but the Vice-President asked the question if it should then be proceeded with. There was no question raised as to the reconsideration at all. There was but one vote against it.

I will state that I have not been heard upon the amendment which I have offered. I was called casually out of the Chamber for a few moments while a long speech was being made. Having prepared that amendment and having requested my colleague to send to me if the speech ended, and having notified the patron of the bill of that fact, while I was casually and accidentally called out, by the sudden termination of the speech the matter was voted on without my being heard.

I do not regard it as proper consideration for any member of this body to dispose of legislation in that way. The amendment was lost which, I think, should have carried, and the Senate has not been advised of the reasons upon which I offered the amendment. Of course, it is the right and the pleasure of the Senate to do as it pleases.

Now, I ask, Mr. President, what is the present status?

The VICE-PRESIDENT. The question is whether the Senate will proceed to consider the motion to reconsider the vote by which the bill referred to was passed. The Chair put the question and, according to the sound, declared that the "noes" seemed to have it, and the Senate refused to proceed to the consideration of the motion entered by the Senator from Virginia.

Mr. MONEY. Mr. President, I do not think the question was understood.

Mr. MALLORY. Mr. President, I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from Florida will state his parliamentary inquiry.

Mr. MALLORY. Mr. President, I understand the Senator from Virginia [Mr. DANIEL] to say that he was not present at the time when the amendment which he offered, and to which he refers, was disposed of, and that he subsequently entered a motion to reconsider the vote by which the bill was passed.

Mr. DANIEL. That is true. There was no yea-and-nay vote on it.

Mr. MALLORY. I do not care to cut off the Senator from making his statement. On the contrary, I am in favor of the Senator's amendment, but I desire to inquire of the Chair what would be the condition of the bill in case the motion now made by the Senator from Virginia should be voted down? So far as I am concerned, of course I should like to see the bill passed.

Mr. DANIEL. So should I.

Mr. MALLORY. But I do not want the matter delayed indefinitely.

Mr. DANIEL. I should like to see the bill passed after I have been heard, and not before.

Mr. TILLMAN. Mr. President, has not the bill already been passed?

Mr. DANIEL. It has been.

The VICE-PRESIDENT. The bill has been passed, and a motion to reconsider the vote by which it was passed has been entered.

Mr. TILLMAN. But the motion to take up the motion to reconsider this morning has been voted down?

The VICE-PRESIDENT. It has been.

Mr. TILLMAN. That has been voted down?

The VICE-PRESIDENT. That has been voted down.

Mr. TILLMAN. Now, I move that the Senate proceed to the consideration of the conference report on the railroad rate bill.

Mr. MONEY. Mr. President, just one word.

The VICE-PRESIDENT. Does the Senator from South Carolina yield to the Senator from Mississippi?

Mr. TILLMAN. I do.

Mr. MONEY. I only desire to say a word, and it is simply this; I am sure the Senate did not hear the motion that was put by the Chair. I was sitting right here, and the noise of the conversation in the Chamber was so great that I did not hear it, for I intended to vote that the Senator from Virginia be given an opportunity to be heard on his motion. I hope the Senate will consent that the question be again put. It will not hurt anything.

The VICE-PRESIDENT. The Chair twice put the question distinctly to the Senate, but if there is a misunderstanding the Chair will, of course, again put it. The Senator from Virginia [Mr. DANIEL] moves that the Senate proceed to consider the motion to reconsider the vote by which House bill 239, known as the "employers' liability bill," was passed.

Mr. OVERMAN. Mr. President, I rise to a parliamentary inquiry.

The VICE-PRESIDENT. The Senator from North Carolina will state his parliamentary inquiry.

Mr. OVERMAN. Suppose the Senate votes down the motion to proceed to reconsider, what will then be the condition of the bill? The bill will then be held there pending the motion to reconsider, will it not?

The VICE-PRESIDENT. That will be the effect of it.

Mr. OVERMAN. Then, if the Senate votes this motion down, it leaves this bill in the Senate hanging up?

The VICE-PRESIDENT. It leaves it precisely where it is now.

The question is on the motion of the Senator from Virginia, [Putting the question.] In the opinion of the Chair the "ayes" have it, and the Senator from Virginia will proceed.

Mr. DANIEL. Mr. President, the third section of the pending bill, relating to the liability of common carriers by railroads in the District of Columbia—

Mr. GALLINGER. I rise to a point of order, Mr. President.

The VICE-PRESIDENT. The Senator from New Hampshire will state his point of order.

Mr. GALLINGER. I desire to know now the status of this bill. Has the motion to reconsider the vote by which it was passed been put to the Senate?

The VICE-PRESIDENT. It has not been. That is the pending question.

Mr. GALLINGER. And that the Senator from Virginia is debating?

The VICE-PRESIDENT. The Senator from Virginia has risen to debate that question. The question is, Will the Senate reconsider the vote by which the House bill 239 was passed? The Senator from Virginia is recognized.

Mr. DANIEL. Now, Mr. President, I proceed to state the reasons why I believe the vote by which this bill was passed ought to be reconsidered. Section 3 of this bill, relating to liability of common carriers by railroads in the District of Columbia and interstate commerce, reads as follows:

Sec. 3. That no contract of employment, insurance, relief benefit, or indemnity for injury or death entered into by or on behalf of any employee, nor the acceptance of any such insurance, relief benefit, or indemnity by the person entitled thereto, shall constitute any bar or defense to any action brought to recover damages for personal injuries to or death of such employee: *Provided, however,* That upon the trial of such action against any common carrier the defendant may set off therein any sum it has contributed toward any such insurance, relief benefit, or indemnity that may have been paid to the injured employee, or, in case of his death, to his personal representative.

The amendment which I offered while the bill was pending before the Senate was to strike out that proviso. It is to the propriety of striking out that proviso that I will now speak.

Section 10 of the act "concerning carriers engaged in interstate commerce and their employees," which was approved June 1, 1898, reads as follows:

Sec. 10. That any employer subject to the provisions of this act and any officer, agent, or receiver of such employer who shall require any employee, or any person seeking employment, as a condition of such employment, to enter into an agreement, either written or verbal, not to become or remain a member of any labor corporation, association, or organization; or shall threaten any employee with loss of employment, or shall unjustly discriminate against any employee because of his membership in such a labor corporation, association, or organization; or who shall require any employee or any person seeking employment, as a condition of such employment, to enter into a contract whereby such employee or applicant for employment shall agree to contribute to any fund for charitable, social, or beneficial purposes; to release such employer from legal liability for any personal injury by reason of any benefit received from such fund beyond the proportion of the benefit arising from the employer's contribution to such fund; or who shall, after having discharged an employee, attempt or conspire to prevent such employee from obtaining employment, or who shall, after the quitting of an employee, attempt or conspire to prevent such employee from obtaining employment, is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was committed, shall be punished for each offense by a fine of not less than \$100 and not more than \$1,000.

Thus, Mr. President, eight years ago the Congress of the United States expressed its opinion as to the policy of the relief associations that are referred to in the proviso of this act and in the act from which I have just quoted. The latter act denounces the conduct of the corporations who compel their employees to join the relief associations. The pending proviso rewards the corporations for violations of law, and gives them special privilege instead of punishment.

Mr. BACON. Mr. President, there is so much conversation on the floor that it is utterly impossible for the Senator from Virginia to be heard. I ask that order be restored.

The VICE-PRESIDENT. The Senate will be in order.

Mr. BACON. I simply desire to say, Mr. President, it is not the fault of the Chair, but I respectfully suggest that sometimes those who are not members of the body are not considerate when they visit this Chamber in indulging in audible conversation.

Mr. DANIEL. Now, Mr. President, let us analyze the proviso which I have moved to strike out. Provision is made in this act for an action of damages that may be brought by an employee against a corporation engaged in interstate carrying, and this proviso authorizes, in defense of such action, that upon the trial thereof any such common carrier may set off in such action "any sum it has contributed toward any such insurance, relief benefit, or indemnity that may have been paid to the injured employee, or, in case of his death, to his personal representative."

As it would seem to me, Mr. President, this is a most incongruous and most perverted effort to interject into such an action a plea of set-off that does not properly belong there.

Offset as a complete or partial defense is entirely unknown to the common law. It is entirely a creature of statute. Such a claim as is here described to be an offset and is authorized to be pleaded in an action of damages does not answer to the term. What is an offset, Mr. President? I read from Waterman on Set-Off, Recoupment, and Counterclaim:

Set-off signifies the subtraction or taking away of one demand from another opposite or cross demand, so as to extinguish the smaller demand and reduce the greater by the amount of the less; or, if the opposite demands are equal, to extinguish both.

This is a condensed definition of offset or set-off, but neither the indemnity, the relief, the benefit, nor the insurance which is here authorized to be pleaded as an offset answers to that definition. Neither, Mr. President, would any equitable extension of the law of offset, nor any definition of recoupment or counterclaim, which are connate branches of the law of offset, apply to such a case as this.

The relief, the benefit, the insurance, or the indemnity which an employee of a railroad company receives from a society to which he belongs and which accrues to him in case he is injured while in the service of the corporation has already been paid for by his contribution thereto. "Paid"—significant word. Paid—that is a word that shows it was owed. If paid, it has been extinguished. How can a paid and extinguished debt be made offset to a new claim against him by the creditor? The fact that the railroad corporation may have been itself a member of that society and may have contributed to a fund provided for the relief, indemnity, and insurance of its employees is a totally irrelevant matter in an action of an employee for damages occasioned by the negligence of that concern.

In the fourth volume of the hearings before the Committee on Interstate Commerce of this body there will be found a collation of considerable matter upon this subject. In that matter will be found the protest of the employees of corporations in this country, very ably and powerfully presented by H. R. Fuller, esq., who is their representative here. It shows that these relief associations are formed by compulsion of corporations, and they here seek to engraft themselves upon this bill, which has as its animus the giving of a fair and just relief to the employees.

The gentleman to whom I refer gave his testimony before the Industrial Commission on May 11, 1900, and that testimony will be found in the fourth volume of the hearings before the Committee on Interstate Commerce, page 3177. I ask the attention of Senators to what this representative of these workmen has here said, and I ask to insert in my remarks a transcript from his testimony, pages 3177 and 3178:

In the first place, Mr. President, he shows that the relief departments of the corporations are practically carried on by deductions from the wages of the employees each month. He shows further that, while they are in name voluntary, they are generally compulsory, and are forced into being by the paramount influence of the corporations themselves and against the protest and will of their employees. He further shows that

while the employees furnish the majority, and in many cases the overwhelming majority, of the fund that is paid out in relief, they are not permitted themselves to control the association, which is different from the organization of the corporations. He says this as to their effect:

The effect of these associations on the relations between employer and employee is anything but pleasant. The employees have had their eyes opened in regard to these associations. They see that through the intricate workings of these relief departments they are being financially robbed and deprived of their legal rights in the courts, and they denounce them bitterly.

He further asserts—and as an experienced railroad man and the public spokesman and the chosen witness to give testimony he is certainly one who is entitled to be heard and entitled to be respected until his statements have been satisfactorily answered, if they can be—that—

The primary motives of railroad companies in operating these departments are avaricious rather than benevolent: First, because they require an employee to release them from responsibility for injury, and, second, because membership in the relief department keeps employees out of labor organizations on account of their being unable to pay the dues in both. In this way the employees are deprived of the great benefit of labor organizations, and the company's hands are therefore more free to impose unfavorable conditions upon its men, and through this means they will become gradually bound up so that the company can do as it pleases with them. If these relief departments did not serve the purposes of releasing the company from responsibility for injury and alienating the interests of employees from labor organizations, there would not be many of them in existence.

Mr. MALLORY. Will the Senator from Virginia allow me to ask him a question?

Mr. DANIEL. With pleasure.

Mr. MALLORY. The relief departments are relief departments, as I understand, of the railroad, so called. So the word "it," where it appears here—

The defendant may set off therein any sum it has contributed—

Would apply to a contribution on the part of the railroad and not a contribution on the part of the men themselves.

Mr. DANIEL. That is correct, sir.

Now, Mr. President, if these allegations of this representative of labor organizations in this country are true, the Senate in refusing to adopt the amendment which I have offered will play into the hands of and reinforce the powers of their oppressors.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from New Hampshire?

Mr. DANIEL. I do, sir, for a question.

Mr. GALLINGER. As I understand, the Senator is reading from testimony given some six years ago.

Mr. DANIEL. No, sir; I am reading from testimony that was given not only six years ago, but which was repeated last year by the witness.

Mr. GALLINGER. I ask for information merely. Did Mr. Fuller appear when the bill that is now under consideration was pending in either branch of Congress, and oppose that provision in the law? Mr. Fuller—

Mr. KEAN. I think the Senator will look in vain through the testimony before the committee to find it.

Mr. GALLINGER. Mr. Fuller is a very diligent man, both before committees and in his attendance upon the sessions of the Senate in a proper way, and it seems to me that if he had had objections, he would not have omitted to appear either in the House or the Senate to have urged those objections at the present time. Matters have changed greatly in six years, both as regards the management of railroads and as regards the opinion of some of the men who are working for railroads.

Mr. DANIEL. I am well aware, Mr. President, that rapid changes often occur in the spirit of political and public dreams. I have seen men in public life stand up and advocate one opinion and vote another. I am not quoting, however, from any ancient testimony. I am reading from comparatively fresh testimony. It is in the fourth volume of the hearings before a committee of this body, on page 3176. This testimony—

Mr. KEAN. Will the Senator kindly give the date?

Mr. DANIEL. I am trying to find the date, but the day's session was so long sometimes, when extensive testimony was taken, that I have not been able to find the date.

Mr. KEAN. I listened to the testimony—

Mr. DANIEL. Let the Senator turn to the fourth volume, and he can tell us the date.

Mr. KEAN. In the hearings before the Interstate Commerce Committee last year?

Mr. DANIEL. Yes, 1905, or it may have been this year, for all I know. I have not the date here. It was where Mr. Fuller appeared, and where he spread before the committee, as his then view, testimony which he had given years previously before the Industrial Commission. Be that as it may, there is evidence in the report of this committee as to the truth of his

allegations. Let the Senator turn to page 3178 and to the heading "Baltimore and Ohio Railroad Company—Relief Department." He will read in the first clause of the form of application of a person seeking employment by the Baltimore and Ohio Railroad Company, these words:

Do hereby, as one of the conditions of such employment, apply for membership in the relief feature, and consent and agree to be bound by all the regulations of the relief department now in force.

Senators will then see in a succeeding clause where the deduction of the employee's wages is required. They will then see this release that is given by the employee:

The acceptance of benefits from such relief feature for the injury or death shall operate as a release of all claims against said company or any company owning or operating its branches or divisions or any company over whose railroad, right of way, or property the said Baltimore and Ohio Railroad Company or any company owning or operating its branches or divisions shall have the right to run or operate its engines or cars or send its employees in the performance of their duty, for damages by reason of such injury or death could be made by or through me.

And so on. I know not the exact date when this form of application was required by this great corporation, but surely with so many friendly eyes reading this exhibit made by Mr. Fuller and with it spread of record in a public document of this kind, it is not likely that that habit has changed without our being fully advised thereof. Continuously through this document, in many forms of evidence will be found similar forms of application in other companies and the views of employees as to the methods which are taken to constrain their membership in these relief associations and to compel them to release their claims against the railroad company which the act now before the Senate is intended to give them aid and facility in urging.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from New Hampshire?

Mr. DANIEL. For a question.

Mr. GALLINGER. I simply wish to call the attention of the Senator from Virginia to section 3 of the bill under consideration, where it is specifically provided "that no contract of employment, insurance, relief benefit, or indemnity," etc., shall act as a bar—

Mr. DANIEL. I read that to begin with.

Mr. GALLINGER. "Or defense to any action brought to recover damages for personal injuries to or death of such employee." So those old contracts, if they were made, certainly would be reversed by this statutory provision.

Mr. DANIEL. Yes; they would be reversed by a statute eight years old, which I also read to this body; and the curious part of the matter is that while Congress looks in that direction, both in the statute of 1898, which I read, and in the third section of the proposed statute, which the Senator has just quoted, it turns upon its track and looks back and seeks to make an offset and defense to the claim out of the very pernicious practices which the law has denounced. But this proviso is repugnant not only to the theory of this bill, but to the policy which this Government sets forth in the act of Congress of 1898.

I now call attention to page 3204, fourth volume of hearings before the committee, where is set forth by Mr. Fuller a summary of questions and answers given to the employees of these companies on this subject:

The total number of lodges making replies to the questions was 28. They came from 26 cities and towns in 7 different States and represent 1,674 members.

In answer to question 1, 100 per cent say that membership in the relief department is considered by the employees to be compulsory.

In answer to question 2, 100 per cent say that men who seek employment do not receive it if they do not make application for membership in the relief department.

In answer to question 3, 100 per cent say the blank application for membership in the relief department is handed to the new employee without solicitation on his part.

In answer to question 4, 100 per cent say that the actions of the company's representatives are such as to make him believe that the filling out of this blank by him is necessary to secure employment.

Strange to say this question has been before the Senate for two or three years, and while this bill has been the shuttlecock between this committee and that committee, no committee has ever expounded the terms and the significance of the bill presented to this body on this subject. In a hasty moment, in the closing days of Congress, in the twinkling of an eye, an amendment which seeks to bring before this body an intelligent view of this subject and to inform it, is defeated; we now find in the body of this bill a proviso intended to reinforce and to support the pernicious policies of corporations and to impede the natural and just methods of their employees to get damages for wrongs. It was adopted with little debate.

Two Senators answered in brief terms the brief statement of mine in favor of this amendment. The Senator from New Hampshire answered us by telling of some good deeds the railroads

had done in his part of the State, and by making some allusion to a supposed ban the corporations are under in this body. The Senator from Ohio made an appeal for justice to railroad corporations without the slightest suggestion of any fact upon which anyone could conclude that an injustice was contemplated. The Senator from Wisconsin, equally vague in his suggestion, set forth mildly that the bill might be unconstitutional if this proviso were left out. Why, he did not suggest, and he leaves my imagination still wondering why, why. The right of offset, even when it exists, is based on a claim which is the subject-matter of an independent suit. Nothing can properly be made by law the subject-matter of offset unless it were something for which the holder thereof might himself institute a separate and independent suit.

There, Mr. President, is the crux of this matter. Let any Senator ask himself, if he designs to deliver intelligent judgment upon this subject, whether or not a railroad company which has some stock in a relief association, which either compels, induces, or persuades its employees to join, has an independent claim to recover back its contributions from any one of them who may claim relief from the association. Certainly not. The railroad company voluntarily contributes to a beneficial institution. It gets its own benefit by supplying ready relief, not to the particular man who may be the victim of its negligence, but to any one of its employees, whether a member of the association or not, whether he suffers by its negligence or not, and it is for its own good government and not as an independent philanthropic or eleemosynary concern that it provides its surgeons and its reliefs and its succors for its employees.

So far as the employee himself is concerned, he has paid for any relief which he may get out of the fund by his own contributions from month to month, from year to year, it may be throughout a generation, it may be having paid in much more than he will get out at the last. And then, when the company, by remissness to do what it should have done, or by positive and injurious wrongdoing, has caused damage to an employee, and he goes into court to get relief from law, the one who has posed as a philanthropist and who seeks to be commended here in that character, comes and seeks by law to convert a voluntary contribution given in its own interest into a claim and a demand upon the whole body of its employees.

The representative magazines and journals of employees in this country have fully shown the utter fallacy and false pretense of these assertions. The Interstate Commerce Commission in its thirteenth annual report adverts to the subject-matter, and calls the attention of Congress to it. No committee of this body and not a single Senator upon this floor has suggested a single substantial idea in favor of that provision, and up to this moment not a single thought has come forth from any mind justifying, vindicating, or even making plausible defense for this strange insertion into this bill.

Mr. President, the Senator from New Hampshire [Mr. GALLINGER] generally looks upon all subjects with a very composed mind and never seeks by extravagant expressions or by appeals to improper considerations to move the minds of his hearers. I will go further than he has done in applauding some of the good deeds of railroad corporations. I have before me now a paper which was handed me yesterday by the secretary of a railroad Young Men's Christian Association. I do not regard these relief associations as benevolent institutions, although much benevolence may grow out of them. It is not benevolence on the part of the company that inspires it. It is not benevolence that produces its contributions. It is a strict matter of business, and one pressed in this amendment to a most severe and usurious conclusion. But there is some good and very great good that many of these corporations are engaged in doing.

In this country there are 220 railroad Young Men's Christian Associations. They have a total membership of 80,000 railroad men. A hundred and thirty-six buildings are occupied by these organizations. The value of their buildings is \$2,517,000. Seventy-five per cent of the cost of these buildings has been contributed by the railroad corporations, and about 25 per cent by the railroad men. These buildings are either owned in fee simple or held by long lease at a nominal rental by the railroad association of employees. They are operating on over 78 per cent of the railroad mileage of the United States. They are having a most happy influence over the employees, and as one of these secretaries has said in a paper he has written upon this subject, "They are good for the men; better for the company, best for the public."

I accord great credit to the enlightened corporations of this country who have put to work along their lines an influence so wholesome and so beneficial to good business interests and to

the society of the land and so helpful to those industrial men who take their lives in their hands every day while they are conducting the powerful and dangerous engines of steam and travel in this country. I am not one of those Senators, if there be any, who seek in this Chamber to excite prejudice against any class of my fellow-citizens or against any class of public corporations. There is good, there is bad, and there is the indifferent in almost all if not all human concerns. When I come to a page of facts such as those I have recited I bow my head before a noble and just thing and say unto myself, "Whether it be done by railroad corporations or by anyone else, so shines a good deed in a naughty world." But, Mr. President, these relief associations are horses of a different color.

Mr. GALLINGER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Virginia yield to the Senator from New Hampshire?

Mr. DANIEL. Certainly.

Mr. GALLINGER. I thank the Senator.

In the few observations I made the other day I had in mind the class of benefactions that the Senator has just alluded to. As an illustration, in my own little city the railroad has rented for a good many years a large building that was used for a railroad branch of the Young Men's Christian Association, and has just now purchased the land and is about to erect a beautiful building upon it. I have thought it was a most excellent work; and that is true of every large city and town in New Hampshire. I am glad the Senator has called attention to it. That is what I had particularly in view.

Mr. DANIEL. Mr. President, I am always glad to hear of such good things. I am glad to have an opportunity to applaud them. I agree with the Senator from New Hampshire in all that he has said in praise of the worthy men who are conducting and advancing such commendable work.

But I hope the Senator will also agree with me when I demur to that evidence as bearing upon an amendment in the Senate which simply tends to secure the freedom and independence of railroad employees, which will prevent a corporation from exercising any oppressive influence over them, and which will also prevent the attempted legal construction of a voluntary benevolent contribution into a legal demand and into an offset against a claim for damages.

The things are of different character. There is nothing in the character of a voluntary contribution of a railroad corporation to an association under its own patronage for the benefit of all of its men that suggests the idea of a claim of an offset when one of those men sues for damages for wrong.

Mr. President, every man, woman, and child in the United States is deeply interested in the correct organization of common carriers. My worthy friend [Mr. GALLINGER], whom I always hear with pleasure, had a little experience with a common carrier a month or two ago which caused his friends to shudder. He knows that unless those great institutions, so necessary to the public business and to the public comfort, are conducted upon precise and just business methods no results but those to be deplored can flow.

I would be ashamed to be unjust to a railroad company. I think there is nothing more degrading to any man, and nothing that so bespeaks either mental or moral weakness, than would be disclosed in a willingness to be unjust to a corporation any more than to an employee. Justice is the one thing that every man on this earth has a right to demand, from power as well as from weakness, from those in authority as well as those who are without it. If it were just to a railroad company to allow it to construct its voluntary contributions into an offset to impede the claim of one of its employees for damages which resulted to him from its own wrong; to take away from his widow and his orphans, if he be gone, the compensation which it should pay for the damages which it inflicted, and credit it over to the railroad company to reimburse it for a voluntary gift which it claimed to have made—if that be just, then the Senator from New Hampshire is a just man in asking that it be done here. I do not think it is just. I can not support that proviso in this bill.

Some question was asked me about the attitude of Mr. Fuller. Mr. Fuller, it may be, thinks that this bill will not go through this body unless this proviso is assented to. It may be that he also thinks it will not go through another body, which it must pass ere it becomes a law, unless this proviso be assented to. It may be that, therefore, he would succumb and relent in his efforts to get justice and follow the vague trail of policy to get some justice and let some injustice go.

The Senator from Wisconsin [Mr. LA FOLLETTE] assented a few days ago that this bill might pass with that proviso in it. I can not think that that is his unconstrained and independent thought. I can not believe that if his hand had been penning

this bill he would have written any such proviso in it. Perhaps he has penned a bill and probably such a proviso will not be found in it. I had the honor to offer this bill as an amendment to another bill, and I struck that proviso out. I believe that once I offered a bill with that proviso in it. At that time I was acting unwittingly and was assuming facts which might naturally be assumed from the words of the proviso. But before the time came to act upon these measures I took occasion to look into their history, and when I discovered the protest that had been made against that proviso and the worthy and strong considerations of private right and of public policy upon which that protest was based that was the end of the proviso with me.

Mr. President, if I could get a hearing before a full Senate, and if my colleagues in this body could fully understand this amendment, its nature and its purposes, they would never, in my opinion, permit this bill to pass with their indorsement thereof. It has been argued with me that I had better withdraw my objection and let the bill go as it is, and that probably the conferees would fix it all right and it would come back to us with this obnoxious nob shaved and planed off and with this bad wrinkle smoothed out. I hope if the proviso stays in the bill the conferees will strike it out.

But there is nothing, Mr. President, in the history of conferences to make me beguile myself with any such optimistic faith. The conference which has just reported denies to the Christian associations, who have got their angels of mercy following every line of traffic in this country, the right to go upon the railways that they are serving to minister to the sick and dying. When conferences act against one of the most wholesome and blessed organizations of the land, which carries healing on its wings, can we properly rely on a conference extracting the poison from this bill which we are urged to put in it? The Senate must see for itself that it is right; and if we are right in the character of legislation that we send forth from this body, we can stand against the world. We can rest under our own vines and fig trees, with none to make us afraid. But how poor are they who lean on princes' favors, whether those princes sit on conference committees or rule the world from other thrones of power. The little that we can do in this world is to do the best to keep ourselves right, and if we succeed fairly well in that we have accomplished a great and worthy undertaking.

Now, Mr. President, I ask the Senate to reconsider this bill, to strike out that obnoxious proviso, which is against the policy of the law of eight years' standing, which is against natural right, which is utterly un-American, and which is an artificial and shrewdly concocted attempt to give powerful people advantage over those who have suffered wrong by their default.

Mr. LA FOLLETTE obtained the floor.

#### PANAMA CANAL.

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A bill (S. 6191) to provide for the construction of a sea-level canal connecting the waters of the Atlantic and Pacific oceans, and the method of construction.

Mr. TILLMAN. I hope the Senator in charge of the unfinished business will consent that it may be temporarily laid aside until we can get a vote on the motion of the Senator from Virginia.

Mr. KITTREDGE. I will consent to that.

The VICE-PRESIDENT. The Senator from North Dakota asks that the unfinished business be temporarily laid aside. Without objection, it is so ordered.

#### EMPLOYERS' LIABILITY BILL.

The Senate resumed the consideration of the motion of Mr. DANIEL to reconsider the vote by which the Senate passed the bill (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.

Mr. LA FOLLETTE. Mr. President, I know the anxiety of the Senator from South Carolina [Mr. TILLMAN] to take up the conference report on the rate bill, and I will not protract this discussion at all. I simply will ask to have read the letter which I send to the desk.

The VICE-PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

WASHINGTON, D. C., June 2, 1906.

HON. ROBERT M. LA FOLLETTE,  
United States Senator, Washington, D. C.

DEAR SENATOR: With regard to the amendment proposed by Senator DANIEL, to strike out the proviso contained in section 3 of the em-

ployers' liability bill (H. R. 239), I am authorized on behalf of the 230,000 railroad employees who are seeking this legislation, and in whose interest it is supposed to be, to express the hope that this amendment will not be adopted for the following reasons:

1. As now legally advised, it would seriously threaten the validity of the whole section.
2. From a moral standpoint, we think it only just and fair that the carrier should be given credit for such amounts as it has actually paid to an injured employee on account of such injury.

Very truly, yours,

H. R. FULLER,  
*Legislative Representative.*

Mr. KEAN. In order to dispose of this bill and that we may enact it into a law as soon as possible, I move to lay the motion of the Senator from Virginia on the table.

The VICE-PRESIDENT. The Senator from New Jersey moves to lay the motion of the Senator from Virginia to reconsider on the table.

The motion was agreed to.

The VICE-PRESIDENT. The bill stands passed.

#### REGULATION OF RAILROAD RATES.

Mr. TILLMAN. Now, if the Senator from South Dakota [Mr. KITTREDGE] will kindly yield to me, I should like to get the conference report on the rate bill before the Senate, and let us dispose of it one way or the other, either approve it or disapprove it, and let it get back to conference. The Senator from South Dakota asked me not to move to take up the conference report, I suppose because of the doubt of the parliamentary condition that that might raise. I do not want to displace the unfinished business. The Senator kindly consents that the unfinished business be laid aside for that purpose.

Mr. KITTREDGE. I ask that the unfinished business be temporarily laid aside for the purpose of enabling the Senator from South Carolina to bring before the Senate the conference report.

The VICE-PRESIDENT. Without objection, it is so ordered.

The Senate resumed the consideration of the conference report on the bill (H. R. 12987) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Mr. PETTUS. Mr. President, I desire to call the attention of the Senate to a fact, which no lawyer will controvert, that there is a provision in this bill which is palpably unconstitutional outside of any question that has been debated here, and that therefore the bill ought to come back into the Senate that it might examine it on that question.

I do not intend to discuss any question that has been discussed heretofore in reference to this bill, though I agree with some of my brethren that there are other questions in it that are violative of the Constitution. I intend to confine myself to a single point, and that for the purpose of having the Senate reject this conference report, so that the bill may come back into the Senate, if the Senate pleases to have the act done.

On page 24, when the Commission has awarded damage to any applicant he can sue in the United States court, and when he sues that court is given jurisdiction to give him a judgment and execution. But what about the cost?

Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

Mr. TILLMAN. Mr. President—

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

Mr. PETTUS. Certainly.

Mr. TILLMAN. From what page does the Senator read?

Mr. PETTUS. From page 24 of the last print.

Mr. TILLMAN. I call the Senator's attention to the fact that that part of the bill has already been accepted by both Houses and is out of the reach of the Senate now.

Mr. PETTUS. That is the more reason why the report should be rejected, so that the Senate—

Mr. TILLMAN. The trouble about it is that the Senate itself can not get it any more, having accepted it, without a reconsideration of the whole thing and bringing it back into the Senate.

Mr. PETTUS. At all events, Mr. President, I hope I will be allowed to say what I have to say. I am not going to detain the Senate more than a few minutes. I rarely ever speak long.

It has been decided several times that a provision requiring one of the parties to pay costs or to pay attorneys' fees and exempting the other is not due process of law, and so far as I have been informed it has never been decided to the contrary in any case. I will read from an Alabama case, where the provision

was exactly like this, that if a man sued the railroad for damages and recovered, he should have his attorney's fees, besides the other costs. I will read the opinion so far as it applies to this question, and this opinion is well sustained by authorities, by the Supreme Court and by text writers, by Cooley on Constitutional Limitations. It is the case of South and North Alabama Railroad Company v. Morris, found in 65 Alabama Reports, on page 198:

It is further insisted that the court below erred in allowing an attorney's tax fee to the appellant's counsel, on the ground that the law authorizing it is unconstitutional and void.

Just like this, it allowed an attorney's fee to the man suing the railroad, but allowed no attorney's fee to the railroad if it succeeded.

This action of the court was taken under the provisions of section 1715 of the Code, which constituted section 6 of the statute in question, and reads as follows:

"Sec. 1715. Any corporation, person, or persons owning or controlling any railroad in this State, or any complainant against such corporation, person, or persons, taking an appeal from a decision rendered by a justice of the peace in suit for damages brought under the provisions of section 1711 and failing to sustain such appeal, or to reduce or increase the judgment before the appellate court, shall be liable for a reasonable attorney's fee incurred by reason of such appeal, to be assessed by the court, not to exceed \$20; and the attorney's fee shall be part of the cost and collected as such."

After a careful consideration of this question, during which it has been held under protracted advisement by the whole bench, a conclusion has been reached which clearly persuades us that this particular section of the code is violative of both the constitution of the State and that of the United States. The following sections of the declaration of rights (constitution of 1875, art. 1) are pertinent to this subject: 2—

"Sec. 2"—

Speaking of the Alabama constitution—

"provides that all persons resident in this State who are citizens are entitled to possess 'equal civil and political rights.'"

It goes on down and cites the Constitution of the United States to the effect that a person can not be deprived of his property without due process of law:

The clear legal effect of these provisions is to place all persons, natural and corporate, as near as practicable upon a basis of equality in the enforcement and defense of their rights in courts of justice in this State, except so far as may be otherwise provided in the constitution. This right, though subject to legislative regulation, can not be impaired or destroyed under the guise or device of being regulated. Justice can not be sold or denied by the exaction of a pecuniary consideration for its enjoyment from one when it is given freely and open-handed to another, without money and without price. Nor can it be permitted that litigants shall be debarred from the free exercise of this constitutional right by the imposition of arbitrary, unjust, and odious discriminations perpetrated under color of establishing peculiar rules for a particular occupation. Unequal, partial, and discriminatory legislation which secures this right to some favored class or classes and denies it to others, who are thus excluded from that equal protection designed to be secured by the general law of the land, is in clear and manifest opposition to the letter and spirit of the foregoing constitutional provisions.

It was forcibly said by the supreme court of Tennessee, in *Wally v. Kennedy* (2 Yerger, 554): "The right of every individual must stand or fall by the same rule or law that governs every other member of the body politic, or land, under similar circumstances, and every partial or private law which directly proposes to destroy or affect individual rights, or does the same thing by affording remedies leading to similar consequences, is unconstitutional and void. Were it otherwise, odious individuals and corporations would be governed by one law and the mass of the community and those who made the law by another, whereas the like general law, affecting the whole community equally, could not have been passed."

The opinion quotes a case in Massachusetts:

It is manifestly contrary to the first principles of civil liberty and natural justice and to the spirit of our Constitution and laws that any one citizen should enjoy privileges and advantages which are denied to all others under like circumstances, or that one should be subject to losses, damages, suits, or actions from which all others under like circumstances are exempted.

Mr. President, in this very law there are fierce denunciations and terrible punishments inflicted upon people who make unjust discriminations; and yet this proposed law has in it that same vice. It makes these unjust discriminations against one suitor; it exempts one of them from all costs and requires the others to pay the costs, including an attorney's fee, to be allowed by the court as a part of the costs in the case.

Mr. President, I only desire, if any other Senators discuss these other constitutional questions, that they will tell us wherein this decision is defective. It is supported, as I stated before, by numerous decisions of the supreme court of Alabama and of the Supreme Court of the United States and by the text writers. I have not found one—and I have examined carefully—in conflict with it.

My purpose, as I said before, in making these remarks is to induce Senators, if they see fit, to set aside this conference report and let it go back or to act upon it in any other way. I want to destroy the conference report, so that the Senate may act as it sees fit in regard to this unconstitutional provision. I should like to have Senators at least examine this before they pass upon the matter.

Mr. SPOONER. Mr. President, of course rejecting the con-

ference report would not bring this bill back to the consideration of the Senate and open the door to an amendment such as the Senator from Alabama [Mr. PERRUS] suggests.

Mr. PETTUS. I do not say that it would.

Mr. SPOONER. I had the floor last night on this subject at the adjournment, and I take it this morning for the purpose of submitting a few observations upon two propositions which the report presents.

I do not intend to lecture the conference committee or to reprobate it at all for having exceeded the functions of a conference committee by inserting in the bill propositions which are absolutely new and not cognate to anything that was in it as it passed the Senate, although I think one or two provisions which are challenged as being beyond the functions of the conference committee were within its functions and are properly in the conference report as made. Two things are to be said in defense of the committee, if it needs any defense. One is that it has often been done; the other is that the committee was absolutely frank about it and called the attention of the Senate to the provisions which may be regarded as obnoxious to the rule; but the rule is a good rule, and in the long run the only safety is in observing it.

Mr. President, I object very strenuously to the amendment reported by the conference committee prohibiting absolutely free transportation. They report this proposition:

No carrier subject to the provisions of this act shall, after January 1, 1907, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passage. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not exceeding \$1,000; and any person who uses, solicits, or accepts for himself or for another any such interstate free ticket, free pass, or free transportation shall be deemed guilty of a misdemeanor and upon conviction thereof be subject to a like penalty.

I think railway carriers should not be permitted to grant transportation to an officer of the Government or to those whose function it is to legislate upon this subject. Members of Congress, I think, should not use passes and should not be permitted to solicit them. The issuing of railroad passes to them should be prohibited. The same thing is true as to the judiciary; the same thing is true as to that department which executes the law.

I think, too, Mr. President, that the general prohibition of free transportation is wise, because free transportation if it is left entirely open to the will of the transportation companies engaged in interstate commerce, may be used very efficiently as a means of discriminating between shippers. Some will have passes, embracing themselves and others, and some will not, that being made dependent upon the relation of the shippers to the companies. I think that ought to be stopped; and I think the rule is a wise rule that they should not be issued at all; but that does not involve that there should not be, in the public interest, and should not be, as a matter of common justice and common decency, some exceptions to that rule.

The report made by the committee of conference repeals, of course, the existing law, which has been in force ever since 1895, against which I have heard no complaint that it has been subject to abuse. That law provides:

That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments—

I do not care so much for that, although there are certain catastrophes which have occurred and which in the future may occur, like the San Francisco case and others, where perhaps it would not be only just, but generous and wise, that there should be some "leeway"—

or for charitable purposes, or to or from fairs and expositions for exhibition thereof, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees.

Mr. President, no reason in the world that I can imagine can be given for the strict and absolute rule upon this subject reported by the conference committee.

Mr. TILLMAN. Will the Senator from Wisconsin allow me?

Mr. SPOONER. Certainly.

Mr. TILLMAN. I do not know that I would be disclosing any secrets of the conference to say that we either had to take this or nothing.

Mr. SPOONER. The Senator has disclosed one of the secrets of the conference committee.

Mr. TILLMAN. The proposition was that we should take this or strike out others, but I am unwilling to leave the old law stand, because it has no punitive clause in it. It is a kind of a loose thing that has a pretense of prohibiting free passes and has not accomplished anything. By putting this drastic provision in, or by consenting to it, the Senate conferees merely deferred action until such time as we could consider this matter calmly and sanely and provide an effective antipass law. That is all.

Mr. SPOONER. Mr. President, we can not, of course, propose an amendment to this report. Whatever is done upon this subject must be done by the conference committee.

Mr. TILLMAN. I will state, further, while I am on my feet, that we were very anxious to arrive at an agreement on all subjects in dispute, and that caused the Senate conferees to give way on some important points that we would not have yielded if it had not been with that view.

Now, having had this matter referred back to us, as I presume it will be presently, I want to say that unless we can get something that is acceptable to the Senate and acceptable to the country I am going to report a disagreement, if my colleagues will help me do it, and let the Senate take the matter up and instruct us as to what they want done.

Mr. SPOONER. That is just what the conference committee ought to do. I am not criticising the conference committee, but I should have liked their report better if they had reported a disagreement upon this proposition. The Senate overburdened the proposition. It contains elements fairly subject to criticism—there is no doubt about that; and I think it will be very easy, Mr. President, for the conference committee to eliminate disputable items—fairly disputable items—from the Senate amendment; but there are some which can not be disputed; there are some which ought not to be eliminated, and there are some which I hope the conference committee will not agree shall be eliminated. We have among the Senate amendments this proposition:

No carrier subject to the provisions of this act shall hereafter directly or indirectly issue or give any interstate free ticket, free pass, or free transportation for passengers except to its officers, agents, employees, surgeons, physicians, actual and bona fide attorneys, and members of their immediate families.

Now, upon what conceivable theory ought the Congress in this respect to step between the employer and the employee? What sense is there, Mr. President, in the matter of rate regulation to prohibit railway carriers from granting free transportation to the men upon whose labor and upon whose skill they are constantly dependent for the safe operation of their railways? Almost from time immemorial, until it has become traditional, it has been the habit of railway carriers to give free transportation to their employees. It has become a matter of course; and in some of the telegrams which I presented to the Senate—and the same is true as to telegrams presented by other Senators—the employees treat it as a part of their compensation. The telegraphers, in their protest against this bill, say it is specifically made a part of their compensation, and, if it is taken away, they have very grave doubt whether there will be substituted for it an equivalent increase in compensation. Mr. President, I think the railway employees of the country have a right to resent it. There are 1,200,000 of them in the United States. There is no better, no more reliable, no more careful, no more devoted band of workers in this or any other country. The lives of the passengers on the trains are dependent upon their skill, upon their discretion, and upon their fidelity. It is a rare thing for one of them to fail in courage or duty. To say that a railroad employee under no circumstances may ask for or receive from his employer free transportation over the road over which he runs the engine or conducts the train seems to me an absurdity. And, as to their families—

Mr. WARREN. Mr. President—

The PRESIDING OFFICER (Mr. WARNER in the chair). Does the Senator from Wisconsin yield to the Senator from Wyoming?

Mr. WARREN. I will not interrupt the Senator unless it is agreeable.

Mr. SPOONER. The Senator had better interrupt me now if he wishes to at all.

Mr. WARREN. I want to ask the Senator if he does not think that the owners and agents in charge of live stock should be considered in the same category?

Mr. SPOONER. No; not in the same category at all. But I will get to that.

Mr. WARREN. So far as their transportation is concerned, they are in the same category in one sense.

Mr. SPOONER. They are not in the same category in any sense. The justification for free transportation or half-fare transportation for the owner or his employee accompanying live stock is ample; but the argument in support of it, I think, from an entirely different standpoint. But I will get to that.

Mr. BAILEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. SPOONER. Certainly.

Mr. BAILEY. Following the suggestion of the Senator from Wyoming [Mr. WARREN], I think where the regulation of the railroad itself requires that a man shall accompany every shipment of live stock, the man who accompanies a shipment of live stock is, at least pro hac vice, in the service of the railroad; and if he goes in obedience to a requirement of the railroad, I think then he comes properly within the exception. So far as I am concerned, the only two exceptions I am willing to make is the one the Senator is now discussing, which I think ought to be made, and also an exception in the case of the live-stock shipper when the regulations of the railroad require a man to accompany such shipments.

Mr. SPOONER. I think, Mr. President, that the man accompanying a shipment of live stock ought to come within the exception. I have not any doubt about it; but I do not base my support of that proposition upon the theory that he is in any sense an employee or sustains any relation to the railway company.

Mr. WARREN. Mr. President, there is this similarity: I do not claim he is exactly on the same basis, but he really is in a practical sense an employee of the road, so far as transportation is concerned. His fare for accompanying live stock is figured with the rate or freight tariff on the stock with which he is traveling. The railroads require that a man shall travel with the stock; and if the owner or his employee did not go the railroad would have to employ a man to send with it. So that while such shippers may not be employees, surely their privileges should be enlarged and they should travel without cost, since they have no compensation for their service at the time. In my opinion, they should be reckoned with the employees, so far as the privileges of free transportation are concerned.

Mr. SPOONER. I think, Mr. President, the proposition to except the owner or his employee accompanying a shipment of live stock is, as I have said, entirely justifiable. I think the Senator weakens it, as one always does weaken a proposition, by contending for it upon an assumption which has no logical foundation. If the Senator were shipping a carload of blooded horses, and he preferred to accompany them himself, the shipment being conditioned by the railroad company upon the live stock being accompanied by the owner or some one representing him, he would not be in any sense an employee of the railroad company; he would sustain no relation whatever to the railroad company.

Mr. FULTON. He might be an appurtenant.

Mr. SPOONER. No; he would not even be an appurtenant. If he were an appurtenant he would be subject to the railroad mortgages. So he would not be that. He would not be an employee of the railroad company; he could not be hired and could not be discharged by the railroad company; he can not be controlled by the railroad company, and he would have no relation to the railroad company.

Mr. WARREN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Wyoming?

Mr. SPOONER. Certainly.

Mr. WARREN. It is perfectly plain that the Senator from Wisconsin and I practically agree. It would be a misfortune for me if we did not. I want to ask him another question, if he will permit me, while he is discussing this proposed restriction. As I understand, the bill came from the House with no provision whatever regarding passes. Am I right about that?

Mr. TILLMAN. There was nothing of that nature in the bill.

Mr. SPOONER. It was left as it is under existing law.

Mr. WARREN. The Senate passed the bill permitting certain people to ask for and receive passes. It seems to me that the duty and the privilege of the conferees would lie between the maximum and the minimum—that is to say, between having no restriction whatever and some of the restrictions which the Senate introduced in the measure while it was under consideration here.

Mr. LODGE. The Senate can recede.

Mr. WARREN. Certainly.

Mr. LODGE. The Senate can recede and agree to the House bill as it came here.

Mr. WARREN. Certainly; but what I am getting at is by

what authority or justice do the conferees strike out into new territory entirely beyond what was considered either by the House or the Senate?

Mr. SPOONER. There is no mathematical limitation upon the conferees. The whole subject was entirely open.

Mr. WARREN. It is simply introducing new matter—new legislation.

Mr. SPOONER. No; it is not introducing new matter.

Mr. WARREN. Well, new restrictions.

Mr. SPOONER. The Senate passed a provision in regard to free transportation. It was not a narrow provision, either. It was, if anything, too large, too broad. The House disagreed and left that subject entirely open to the conferees, and in what the conferees have done about it, so far as the functions of conferees are concerned, beyond any question they acted entirely within their right.

Mr. President, another thing. I was saying when interrupted that there is no reason why the families of railway employees should not be included in the free transportation granted by the carrier which employs them or obtained by an exchange from other carriers. These men all have their vacation time. It is for their pleasure, for their good, and for the good of the public that they should avail themselves of it by travel and rest and recreation. It is for their good and for the good of the public that their families should accompany them, if they wish to do so. Comparatively few, I think, of the families, and perhaps few of the operatives themselves, would travel very much if they were obliged, as the rest of us are—and, I think, ought to be—to pay full fare. I think the railroad men of this country are right in the intensity and earnestness of the protests with which they have flooded the Senate Chamber against this proposition.

Mr. STONE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. SPOONER. I do.

Mr. STONE. I should like to ask the Senator a question. The provision in regard to passes, as reported by the conferees and as it appeared in the bill as it passed the Senate, is to the effect that railroads shall not, directly or indirectly, issue or give any interstate free transportation?

Mr. SPOONER. Yes.

Mr. STONE. That means, I assume, that transportation shall not be given wholly without a consideration?

Mr. SPOONER. Yes.

Mr. STONE. Would it be an evasion of this law, or in any sense a violation of it, if the railroads should agree, as they can do, and impliedly do under the present practice, to furnish transportation to their employees as a part of the consideration for the services they render? Especially would that apply in cases where men are sent with live stock. That is part of the consideration of the shipment. There is another class of people who ought to have attention, and who have been telegraphing Senators, and they are the railway mail clerks. I ask why the Government could not make an arrangement and have it a part of the contract with the railroad for carrying the mail that the railroad should furnish free transportation to such clerks under certain conditions? Why could not all these objections be met by some contractual relation?

Mr. SPOONER. I do not believe in enacting legislation which will be just only in the event that it is evaded. There are very broad prohibitions in this bill, and rightly so, against discriminations, and this amendment, as reported by the conference committee, was obviously intended to prevent any such evasion as the Senator from Missouri suggests.

Mr. STONE. I do not mean it as an evasion. I asked the Senator the question whether it would be an evasion.

Mr. SPOONER. I think it would.

Mr. STONE. I think not.

Mr. SPOONER (reading):

No carrier subject to the provisions of this act shall, after January 1, 1907, directly or indirectly—

Directly or indirectly—

issue or give any interstate free ticket, free pass, or free transportation for passage.

Mr. President, if that language were construed, in the light of the record history of the section, it would be construed in the light of the fact that the Senate had provided for the issue of such transportation in excepted cases, including employees and their families, and that the conference committee had stricken it out and made the prohibition an absolute one, and by the use of the words "directly or indirectly" had rendered it impossible to evade it without liability to the penalty paragraph of the section.

Why should not railroad corporations, common carriers in

interstate commerce, be permitted to exchange free transportation with the officers of other companies and their families and the employees of other such carriers and their families? It has always been done. It is in the interest of the public that it should be done; and why should it be prohibited? Who has complained of the operation of the existing law in that respect?

Mr. McCUMBER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Dakota?

Mr. SPOONER. Yes.

Mr. McCUMBER. The Senator asks that question. I should like to ask him right now if he is complaining of the existing law, and if he believes there is any occasion whatever for adopting this provision? Is not all that we ought to prohibit in the matter of free transportation already prohibited by the interstate-commerce law, and has not the amendment of the Senator from Massachusetts [Mr. LODGE], which reinstated the punitive provisions of that old law, made it so that it is complete in itself, and that there is an absolute prohibition except in the very cases for which the Senator contends?

Mr. SPOONER. My recollection is that the punitive provision to which the Senator refers as having been introduced by the Senator from Massachusetts does not apply to this provision at all. It applies to matters—

Mr. McCUMBER. Let us see. This is the provision, if I may read it:

That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons, except as such penalties are herein changed.

Mr. SPOONER. That would cover it, I think, on reflection.

Mr. McCUMBER. It seems to me that it is sufficiently broad, and that there is no necessity for this provision.

Mr. SPOONER. That would have been a good argument to have addressed to the Senate against incorporating in this bill the provision which the conference committee has eliminated.

Mr. McCUMBER. Is it not also a good argument for the Senate to recede entirely from that amendment? I appreciate the fact that the Senate wanted to go on record in some positive way that it was opposed to free transportation; but when it is shown clearly that by the amendment already in the law it is opposed to it, I do not see the necessity of its going on record a second time to practically reenact what is already the law.

Mr. SPOONER. It is not a question of receding from the amendment, as I understand it.

Mr. McCUMBER. I think the Senator will concede that it is better to recede from that amendment than to adopt it as the conferees have reported it.

Mr. SPOONER. We are not obliged to face that alternative.

Mr. McCUMBER. I hope not.

Mr. SPOONER. The Senator from North Dakota secured the insertion of an amendment which he thought and declared is of vital consequence to the agricultural region which he represents, and that is the provision which permits railroad corporations to transport, as I recollect, agricultural laborers under such regulations and restrictions as the Interstate Commerce Commission may prescribe. That is not in the existing law. There is great force, there is great justice in it, and there is almost a public necessity of some provision of that kind, properly guarded, being in the law.

So I think we ought to deal with this matter upon the theory that it is going back to the conference committee, and outline somewhat in the Senate here what we think the conferees on the part of the Senate ought to do with respect to it.

Mr. TILLMAN. Will the Senator from Wisconsin allow me?

Mr. SPOONER. I do not want to occupy much time.

Mr. TILLMAN. The Senator has just mentioned the provision about the transportation of laborers which was put into the Senate amendment at the suggestion of the Senator from North Dakota. It is in line 10 of the Senate amendment, which is stricken out, on page 5. I call attention to the fact that it is not confined to agricultural laborers, but includes any laborers, and you can follow the language down and you can discover that under it, by interpreting it between the lines, it means that the railroads would have the power and right to transport strike breakers to any point on their line where they needed labor.

Mr. SPOONER. The argument was directed—

Mr. TILLMAN. I know to what the argument was directed, but I want to show you—

Mr. SPOONER. I understand the Senator. The argument

was directed to the necessity for the free transportation of agricultural labor.

All I have to say about that is this: If the language is not apt, if it needs to be more restrictive, it is entirely within the power of the conference committee to change it so as to confine it specifically to a purpose which is entirely legitimate and necessary.

Mr. President, railway companies have been in the habit of sending their cars, their general managers, their directors, their officers to every part of the United States, and of sending their advertising agents into all parts of the United States soliciting business. It is in the public interest that that should continue. It is in the public interest that the railway carriers should send their exposition cars into different parts of the country. There are many arguments in favor of this, and there is no argument to be made against it. As I said the other day, under the provisions of this amendment as it was first introduced, and under the provisions of this amendment as it comes back to us from the conference committee, if an engineer or a conductor or a fireman on an interstate train were mortally wounded and lay in a hospital in some distant city far from his home, it would be unlawful for the company to transport free of charge his wife and children to be at his bedside when he breathed his last. There is no sense in it, and it ought to be changed.

Mr. McCUMBER. I call the attention of the Senator from Wisconsin to another point. There was a great fire in Baltimore a short time ago, and it was necessary to bring fire departments from all the surrounding cities.

Mr. SPOONER. That happens often.

Mr. McCUMBER. But under this provision as now reported it would be impossible for a railroad company to carry them free.

Mr. SPOONER. I thank the Senator for the suggestion. That often happens. The language should be elastic. There should be power left, under proper restriction, for the railway companies to do those things which humanity demands of them, which the public interest demands of them, and out of which no possible abuse or harm can arise.

Mr. TILLMAN. Could not the Senator from Wisconsin, who is very resourceful—

Mr. SPOONER. Does the Senator mean that as a compliment?

Mr. TILLMAN. The Senator knows I mean precisely what I say. Could he not help the conferees by drafting some provision which would be a positive and direct prohibition against some people, and not let the prohibition be general, and then have a regiment of exceptions, but have the prohibition specific and no exceptions? In other words, pick out the men whom you do not want to ride free, and leave the railroads to haul all the balance of creation for nothing if they want to.

Mr. SPOONER. I will gladly render any assistance in my power. If the Senator is in favor of that proposition, it will be easy to accomplish his purpose. I am not in favor of it. I think the rule should be prohibitive and that those who are to be permitted to be carried free should be specific exceptions.

Mr. TILLMAN. Is not the Senator aware of the fact that in the public mind all the agitation and the dissatisfaction in regard to free transportation is because of the belief—I presume it must be based on good grounds—that the railroads use free passes and things of that kind to indirectly or directly bribe lawyers, officers, and other people—legislators, Congressmen, Senators, and everybody else?

Mr. SPOONER. If the Senator from South Carolina keeps on, he will have the rule established in a few moments. I have said—

Mr. KNOX. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Pennsylvania?

Mr. SPOONER. I do.

Mr. KNOX. I should like to ask the Senator from Wisconsin why the provisions of the act of 1895, which amended the original interstate-commerce act of 1887, are not broad enough?

Mr. SPOONER. I think they are broad enough, probably.

Mr. KNOX. They would include the cases you have just mentioned, about the transportation of fire engines and doing everything else for municipal purposes, charitable purposes, and they also include the right to give employees of the railroad, or the employees of any other railroad, free transportation. The language of that act, if the Senator does not have his hand on it, is as follows:

Sec. 22. That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies,

and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies.

Mr. TILLMAN. Will the Senator from Wisconsin allow me for a moment?

Mr. KNOX. It seems to me, if the Senator from South Carolina will just allow me to finish my sentence, that all the worthy cases that it seems necessary and humane and proper to provide for are covered by the provisions of the existing law.

Mr. TILLMAN. I want to ask the Senator from Pennsylvania, if the Senator from Wisconsin will permit me—

Mr. SPOONER. Certainly.

Mr. TILLMAN. What is the trouble, then; and why did the Senate break out in a new place, to use a slang phrase, and run amuck on free passes?

Mr. KNOX. Not myself having indulged in it, I can not answer the question. I made no suggestion—

Mr. TILLMAN. Perhaps I am criticising the Senate unduly, but if we have enough law and the lawyers here know it is enough law, why did they vote for these things and tumble over each other in their effort to do so? Is it not because the punishment in the old law is inadequate; that there is no effective legislation on the books?

Mr. KNOX. Add the penalty. Make any penalty you see fit.

Mr. TILLMAN. Then, perhaps, our road would be very plain and we could follow it—

Mr. CULLOM. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Illinois?

Mr. SPOONER. Certainly.

Mr. CULLOM. Mr. President, I am not disposed to take much part in the discussion of the report of the conference committee. As one of the conferees, I feel rather that we ought to listen and take advice from the Senate as to the places where we made mistakes, if we made any. So far as I am concerned I was against such an amendment in relation to passes as finally got into the bill, and resisted it as long as I thought it was proper for me to do so. I have not said this before, because I felt a little delicacy in referring to what took place in the conference committee, but I think in justice to myself I have a right to say that much.

Now, what I wish to ask the Senator from Wisconsin is whether he would be willing—I am doing this because I want to find out what the Senate is for—to strike out the provision in the bill, which we agreed to and put in the bill, prohibiting all passes, and relegate the whole thing back to the law as it now stands?

In the first place, the law of 1887 was not as extensive in its latitude permitting the granting of passes as it became afterwards when the bill was passed to which the Senator from Pennsylvania [Mr. Knox] referred. But the original act, as modified by other acts subsequently passed, made this latitude very broad. I supposed all the time that it was as broad as it ought to be, and possibly it might be said to be too broad, in view of the opposition to passes that has been exhibited in this country for some years past. I desire to find out if we were to go into conference again and say, "We will not agree to this absolute prohibition," and if we could get an agreement resting upon the present law as it stands, whether it would be satisfactory to the Senator.

Mr. SPOONER. Mr. President, it is very clear, I think, from what has been said that if this bill contains no provision whatever on the subject of passes, the law of 1895, which I read in the beginning of my remarks, will be in force with penalties, under the amendment offered by the Senator from Massachusetts.

Mr. CULLOM. I think the Senator will find penalties for a violation of any provision of the bill.

Mr. SPOONER. I think that is true. The act of 1895 is not quite as broad as the amendment agreed to by the Senate, and I think this is an improvement upon it in some respects. Under the act of 1895 it was possible for a railroad to give a free pass to a minister. There are cases where it ought to be permitted to do it.

Mr. CULLOM. As a matter of fact, I have not read the law

of 1895 for some little time, and hence I do not remember accurately the classes that are exempt.

Mr. SPOONER. But the Senate conferees, upon their statement here, were compelled by the House conferees to yield everything and to consent to this absolute prohibition. I am antagonizing—

Mr. CULBERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Texas?

Mr. SPOONER. Certainly.

Mr. CULBERSON. I should like to ask the Senator in this connection what is probably more a parliamentary question than otherwise, and that is this: The House bill containing no prohibition against the issuance of passes, and the bill as it passed the Senate containing a prohibition, are not the conferees bound to accept one or the other?

Mr. SPOONER. I think they are.

Mr. CULBERSON. The House bill or the bill as it passed the Senate?

Mr. SPOONER. I think so.

Mr. CULBERSON. They can not amend either?

Mr. SPOONER. No.

Mr. CULBERSON. Under the rules of the Senate is it possible to accept the amendment as brought in by the conferees in this case, because that is neither the House bill nor the bill as it passed the Senate, but it is an amendment of the bill as it passed the Senate in that respect. I say it is more a parliamentary question than otherwise. I should like to be informed about it.

Mr. TILLMAN. The inquiry of the Senator from Texas opens an entirely new phase. I was under the impression, based upon the little experience I have had on conference committees, that where disagreements have been had, the conferees are not limited to adopting one provision or the other, but they can arrange a compromise proposition. They are not estopped from changing the language.

Mr. SPOONER. I think that is true.

Mr. CULBERSON. I simply inquired for information in order to know what the rule was.

Mr. SPOONER. I think the matter was open.

Mr. CULBERSON. As a matter of fact, the conferees have brought in a recommendation that has not passed either House.

Mr. SPOONER. That often happens. I think the subject was open to the conferees. The Senate had passed an anti-pass provision; the House disagreed to it, and in that status the conferees were appointed. The conference committee could have recommended that the House recede. It could modify the proposition passed by the Senate, and recommend that the Senate concur. They have done that. I do not think their hands are tied as to the precise provision upon a subject which we submit to them as an open proposition which they may recommend, each to the body which appointed them.

Mr. TELLER. Will the Senator from Wisconsin allow me to interrupt him?

Mr. SPOONER. Certainly.

Mr. TELLER. I think the Senator from Wisconsin has laid down the rule correctly. I only want to emphasize what he said.

It was in the power of the conference committee to modify what the Senate had put in which was new. I think in this case, as the Senator from Texas says, they went beyond their power when they repealed, practically, the act existing to-day, which our amendment did not repeal, but only modified.

Mr. SPOONER. We proposed, technically, the repeal of the existing law by substituting a new law for it covering the same subject.

Mr. TELLER. Yes; but it was not a total repeal. It was a modification of the law. This is an absolute repeal.

Mr. SPOONER. Our proposition, if enacted, would have repealed the section of the law of 1895, because, dealing with the same subject, it would be a substitute for it.

Mr. TELLER. We left in our amendment the law, but we modified it. We did not destroy it absolutely. This amendment destroys it absolutely.

Mr. SPOONER. I think it was competent for the conferees to submit that proposition to the Senate in place of ours.

Mr. TELLER. I do not think so.

Mr. BACON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Georgia?

Mr. SPOONER. Certainly.

Mr. BACON. I want to say that I agree with the Senator from Wisconsin entirely. Whenever a subject-matter is committed to the conference committee, they can either modify or enlarge; either one.

Mr. SPOONER. I am antagonizing the House proposition. I come to this. We provided that the railway carriers might grant free passes "to ministers of religion, local and traveling secretaries of Young Men's Christian Associations." Why not? They are not organized for financial profit. They are moved in their organization or association, which is voluntary, by the highest aspirations. They are organized to do good.

Mr. TILLMAN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from South Carolina?

Mr. SPOONER. Certainly.

Mr. TILLMAN. This is all very interesting and instructive, but if the Senator is going around up and down the country to hunt up subjects that are worthy, I think he can expand the Senate amendment, which is already broad enough to take in 10,000,000 people, it is said. There are poor teachers and college professors, and I do not know how many other worthy classes in the country.

Mr. HALE. Sunday schools.

Mr. TILLMAN. Sunday schools and every other kind of thing.

Mr. GALLINGER. Impecunious doctors.

Mr. TILLMAN. The more the Senator will consider the various phases of this subject, the more difficult he will find it to know where to stop. If you are going to exempt the secretaries of Young Men's Christian Associations dealing with railway employees and going from one State to another, then somebody will say, "Why not give the same privilege to the other Christian associations?" Take a case where the secretaries live in towns, and are bubbling over with humanitarian feelings and philanthropy, and want to go around and help some other poor fellow somewhere, or aid in the work of the Railroad Christian Associations. Why not except secretaries and all that kind of thing? We have to stop somewhere, or else leave it as it is now—a humbug.

Mr. SPOONER. I was about to suggest, if the Senator's avalanche had been withheld, that this might properly be restricted to the branch of the Young Men's Christian Association which has relation directly and is organized for the purpose of dealing with the railway employees of the United States.

Mr. HALE. Why not include the entire membership of Young Men's Christian Associations?

Mr. SPOONER. Why not include the Senate? Why not include everybody?

Mr. HALE. We have included almost everybody.

Mr. SPOONER. No.

Mr. HALE. Pretty much, in the Senate amendment.

Mr. SPOONER. I think not. There are certainly 70,000,000 people who are not included.

Mr. HALE. Are about 10,000,000 included?

Mr. SPOONER. I do not suppose all of them will get a pass. In the amendment as we adopted we also excepted "inmates of hospitals and charitable and eleemosynary institutions; indigent, destitute, and homeless persons."

Ought railroad carriers to be prohibited from giving free transportation to such as are properly accredited to be in these classes?

Mr. HALE. Why not put in "all poor and impoverished persons?"

Mr. SPOONER. That is different.

Mr. HALE. Yes; but it is charity.

Mr. SPOONER. That is rate regulation run mad. If there is to be a legislative embargo upon charity and mercy and humanity—

Mr. HALE. I think we are trying to get at practical results. Why not limit this to the actual employees of the railroads?

Mr. TILLMAN. And their families, of course.

Mr. HALE. And their families. Why go outside of that? When we do—when we go outside into the domain either of charity and beneficence, or into other business—we open a wide door. I should like to see an amendment agreed to by both Houses that would confine this matter of passes to the employees of railroads and their families, and nobody else. When you begin to include one class of beneficiaries because they are worthy—a religious organization or, as a Senator suggests, a live-stock association—then why not lumbermen's associations and all of the agricultural and business departments? Why not confine ourselves to a provision, I dislike to repeat, that will except railroad employees and their families, and leave it there?

Mr. SPOONER. The law on this subject, ever since 1895, has been as follows:

That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and

the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said Homes.

Has the Senator ever heard of any abuse of it?

Mr. HALE. I have heard of a great many abuses of this pass system which to me were a great surprise. I heard in every field where passes are issued, either by favoritism or by classes, of very great and inexcusable abuses, notwithstanding that statute, which I think goes too far. I would confine it—and I hope that will be the outcome of this—so that for a year to come at least passes shall only be issued to railway employees and their families.

Mr. SPOONER. I hope that the committee at least will stand by the act of 1895.

Mr. TILLMAN. With a punitive clause in it?

Mr. SPOONER. Certainly. There is a clause already in the bill—

Mr. TILLMAN. What does that amount to? How much punishment? Do you mean to put the punishment for a violation of the new law in the act of 1895?

Mr. SPOONER. It is there now.

Mr. TILLMAN. No.

Mr. GALLINGER. I will suggest, if the Senator from Wisconsin will permit me, that, of course, the conferees could adopt the provisions of the law of 1895 and put them in the present law. They could compromise upon that.

Mr. SPOONER. Certainly. I say I hope they will do not less than that.

Mr. GALLINGER. Then the pains and penalties of the present law would apply.

Mr. McCREARY. I should like to inquire of the Senator from Wisconsin if he has read the law of 1895.

Mr. SPOONER. I have; and the Senator from Pennsylvania read it, and I now hand it to the Senator from Kentucky.

Mr. McCREARY. I want to say to the Senator from Wisconsin that I am in favor of the employees of railroads having the privilege of receiving passes for themselves and their families. It has been done for years. I think they are entitled to it. I agree with him in that proposition. I have not examined the act of 1895, but I think that the amendment as reported by the conferees is entirely too drastic, and I am not in favor of it.

Mr. SPOONER. Another amendment was adopted, which authorized the railroad carriers in interstate commerce to give transportation to officers of the brotherhoods of railway trainmen. That is dropped out of the bill. I refer to the amendment authorizing the giving of free transportation to the officers of railway trainmen brotherhoods—the Brotherhood of Locomotive Engineers, the Brotherhood of Conductors, etc.

Mr. TILLMAN. Everything that was in the Senate amendment was knocked out.

Mr. SPOONER. No; that was a separate amendment.

Mr. TILLMAN. We put the free-pass amendments in the two sections of the bill, or the two paragraphs of the bill together, and dealt with the whole free-pass subject in the manner we did.

Mr. SPOONER. Those organizations are created by the train men.

Mr. CULBERSON. If the Senator will permit me, I will call his attention to the page where the amendment he is now discussing appears. It is an entirely different section from the other. It is on page 32, amendment numbered 45.

Mr. SPOONER. It was an amendment offered by my colleague [Mr. LA FOLLETTE] and adopted by the Senate, I think, without objection, as follows:

SEC. 16b. Nothing in this act shall prevent any common carrier subject to its provisions from giving free transportation or reduced rates to the officers of the organizations of such employees for the purpose of transacting the business of such organizations with such railroads: *Provided*, That such reduced rates or free transportation are not issued with the view of discriminating in favor of or against any particular class of employees.

Mr. TILLMAN. A very proper provision; but will the Senator recall the fact, by looking at the report, that of the fifty-one amendments proposed by the Senate the Senate conferees obtained the consent of the House conferees to forty-five or forty-six, and that we practically got everything we asked for? We had to give something.

Mr. SPOONER. I think the committee did well.

Mr. TILLMAN. From the lecturing we are receiving it would appear that a great many people are dissatisfied with what we did.

Mr. SPOONER. Oh, no; the Senator ought not to regard it

as lecturing or in the nature of a stricture upon the action of the committee. It is simply a fair statement of Senators here of their antagonism to the proposition which was reported by the committee, and which was insisted upon, as it is said, by the conferees on the part of the House.

I venture to say it is impossible adequately to express the obligation of the railroad employees of the United States, the railway carriers of the United States, and the people of the United States to the officers of these railway organizations. They are able men. They have maintained their contracts. They have been "courts of conciliation." They have been wise and tactful and manly. They have prevented strikes where they would have been ruinous and unnecessary. They have maintained cordial and friendly relations between the carriers and the employees to a wonderful extent, and they have illustrated splendidly, in my opinion, the legitimate function of the organization of men who work for wages to accomplish great results. It is in the public interest that every possible facility should be afforded for frequent conferences between these men and the officials of the various railway companies of the United States. They are ex-trainmen, they belong each to his brotherhood, they have all had experience in the operation of railways, and there is no reason why they should not be put upon the same basis exactly as actual railway employees. I object strenuously, Mr. President, to any proposition which prevents the interstate common carriers from giving freely to their employees and their families, and to the officers of the Brotherhood of Railway Trainmen, free transportation as heretofore has been done.

Now, Mr. President, I pass for a moment from that to another provision in this conference report. It has been criticised as beyond the power of the conference committee. I do not think that is a just criticism. It is to be found on pages 6 and 7 of the conference report. As we passed it it provided that—

Any common carrier subject to the provisions of this act shall promptly, upon application of any shipper tendering interstate traffic for transportation, construct, maintain, and operate upon reasonable terms a switch connection with any private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same.

The conference committee inserted "any lateral branch line of railroad, or of." Then follow the words: "Any shipper tendering interstate traffic for transportation." That is all qualified by the language before that in the section. It deals with *precisely the same subject*. It simply enlarges the class so as to take in the lateral branch lines of railroads with the shipper. I think it was open to that modification and that the committee of conference did not exceed its authority in incorporating it.

Moreover, Mr. President, I think it is a wise provision to incorporate in the bill. I think—and I have had in my life some opportunity to form an accurate opinion about it—it is a very important provision. Many times I have known short lines of railroad connecting with a trunk line or a long line of railroad, constructed for some special purpose and a common carrier.

I fancy that my friend from Minnesota [Mr. CLAPP] has known of the same thing—to carry lumber, if you please, or some other commodity to reach raw materials to be developed into finished products and find somewhere a market. But, Mr. President, it has very often happened that the men who put their money into the construction of such railroads have found themselves at one end of it practically in a pocket. They would be denied connections and prorating upon any fair basis. They have been frozen out repeatedly of their ownership because of the impossibility of operating under the unfair restrictions, and have been obliged in the end to sell their railroads at a great loss to the single company with whose road they were connected.

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

Mr. SPOONER. Certainly.

Mr. LODGE. I do not think I disagree with the Senator as to the merits, which he has been discussing, of this amendment, but on the point of its being new matter, this proposition, which is a substantive proposition, was taken up as a separate matter when the bill was before the Senate. It was discussed and voted upon, and voted down. It seems to me that that constitutes it a distinct and a new proposition. It was not in the bill as passed by the House. It did not come to us from the House. We took it up as a separate proposition from the switches and spur tracks and decided that we would not put it in the bill. It seems to me if the conference committee is going to be able to take a substantive proposition that the Senate voted down and put it into a bill it enlarges their powers very much.

Mr. TILLMAN. Mr. President—

Mr. SPOONER. If the Senator will permit me a minute, it is no more a substantive proposition than the proposition in regard to passes, which was proposed by the House conferees and accepted reluctantly by the Senate conferees.

Mr. LODGE. But the Senate did not vote down the pass proposition.

Mr. SPOONER. I do not think the Senate by voting down an amendment proposed to a section thereby prevents the conferees on the part of the House from proposing it as a modification of the Senate proposition.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Maine?

Mr. SPOONER. I do.

Mr. HALE. I think the Senator is correct to a certain extent, but if the House has not brought forward any proposition upon this matter and the Senate seeks to put in a new proposition and that proposition fails then certainly there is nothing for the conferees to consider.

Mr. SPOONER. I think when the House of Representatives refused to agree to this section which the Senate had proposed, it was open when it was sent to conference—

Mr. LODGE. It was not properly open to new matter.

Mr. SPOONER. The Senator from Massachusetts says that it was not properly open to new matter. That begs the question.

Mr. HALE. What was before the conferees? It may be that I do not know the facts, but if the House had nothing in the bill that covered this matter and the Senate voted down everything covering the matter, what had the conferees to consider?

Mr. SPOONER. This is what the Senate did—

Mr. HALE. It is not a question of what the Senate did, but the fundamental thing in a conference report is that nothing shall be put in that neither House has considered or adopted. If there is nothing put in by either House, then clearly the conferees have no jurisdiction.

Mr. SPOONER. On page 6, amendment 6, if I may have the attention of the Senator from Maine, the provision is that—

Any common carrier subject to the provisions of this act shall promptly, upon application of any shipper tendering interstate traffic for transportation, construct, maintain, and operate upon reasonable terms a switch connection with any private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same.

Now, that is in a section which was in the bill as passed by the House and which the Senate amended. It is precisely the same subject-matter. It relates to a compulsory connection upon fair terms.

Mr. LODGE. That was not in the bill as passed by the House. It was our amendment.

Mr. HALE. Was that provision in the bill as passed by the House?

Mr. SPOONER. I think it was. I am not sure. The argument is all the stronger if it were not.

Mr. HALE. I agree, if that proposition was in the bill as passed by the House, and was therefore before the conferees, they had a right to consider it. But if it was not in the bill as passed by the House and an amendment was offered in the Senate and voted down, then clearly it was beyond the jurisdiction of the conferees.

Mr. TILLMAN. Will the Senator from Wisconsin allow me?

Mr. SPOONER. Yes.

Mr. TILLMAN. On a paragraph of new matter relating to connections between railroads and a private side track, we will say, and there are no side tracks unless those side tracks come from something—some man who has some factory or some mine or something to take the product—does the Senator from Maine contend that the House conferees have no right to say to us, "You want connection with a private side track. We will grant you that provided you will put in here a provision that there shall be connection between spur railroads?"

Mr. HALE. No; I do not. If the Senate had voted in an amendment and had made it a part of the business of the business of the conferees, then, undoubtedly, they would have jurisdiction.

Mr. TILLMAN. That is exactly what we did.

Mr. HALE. But if the House did not put anything in and the Senate voted down the proposition, then the conferees had no jurisdiction.

Mr. TILLMAN. Then the Senator from Maine entirely misunderstands the situation, because if he will examine the amendment numbered 6 at the bottom of page 6 and the top of page 7, the Senate amendment relating to this very subject, he will see what the Senate put in. All the House did was to ask us to incorporate the words "any lateral branch line of railroad," so as to make the provision put in by the Senate, which

was applicable to private side tracks, applicable to spur railroads and lateral railroads.

Mr. HALE. I think that depends upon whether the Senate put it in.

Mr. TILLMAN. The Senate did put it in.

Mr. HALE. I am told the Senate did not put it in.

Mr. TILLMAN. The Senator from Maine can look at the bill; he will see for himself.

Mr. SPOONER. Mr. President, to me this is a pretty plain proposition. The Senate passed this provision—it was not in the House bill—requiring railway carriers to connect with a private switch where it could be done properly and sufficient business was promised. We sent that to the House of Representatives. They disagreed to the amendment. I am trying to convince the Senator from Maine, for whom I have the profoundest possible deference.

Mr. HALE. I am trying to listen to the Senator. It is a very easy task.

Mr. SPOONER. We sent this provision to the House requiring interstate railroad carriers to connect with private switch the shipper when it could reasonably be done, and when it promised sufficient business to warrant it. The House disagreed to the proposition, and therefore the bill went with that disagreement to the conference committee.

Now, it seems to me that in that committee it was entirely an open question. The House could have refused to agree to any of it, for it was a Senate amendment to the House bill. The House could agree to it with an amendment if it chose to insist upon an amendment. That is what occurred. The House says, "As you are providing for compulsory connection with a private switch under certain restrictions, we will agree to that if you enlarge the class tendering or constructing the switch. If you will allow lateral roads which have switches to make connection with the carrier, where it is practicable and where it promises business enough to warrant it, we will agree to the Senate amendment." It seems to me very clear that that was entirely within the competency of the House conferees to propose and of the Senate conferees to agree to.

Mr. HALE rose.

Mr. SPOONER. Now, a moment further. The only argument which can be made against it, I fancy, is the argument based upon the fact that it had been offered in the Senate and voted down by the Senate.

Mr. HALE. I was going to address myself to that subject.

Mr. SPOONER. I want to address myself to that for a moment.

Mr. HALE. I want to anticipate the Senator.

Mr. SPOONER. Very well.

Mr. HALE. If the subject-matter is in the bill by the provisions of the House, although a Senate amendment to that has been rejected, I do not think the conferees are forbidden to consider it. If the subject-matter is in the bill in the House provision, although the Senate has voted down an amendment, I think it is in the competency of the conferees to amend the provision by the very provision that the Senate has struck out. It is not the question of what the Senate does, but the fundamental underlying question is whether the subject-matter is in the provision as sent by the House to the Senate. I do not think the conferees are obliged to reject an amendment even if the Senate has rejected it.

Mr. SPOONER. I think the Senator is absolutely correct. I knew he would be.

Mr. TILLMAN. Will the Senator from Wisconsin allow me?

Mr. SPOONER. In a moment, please. Now, the question is, Is the *subject-matter* in the amendment sent by the Senate to the House?

Mr. LODGE. There can be no doubt it was germane. I do not think there can be the slightest doubt of it.

Mr. SPOONER. Very well, Mr. President. Then if it is germane, if the subject-matter was there—

Mr. LODGE. It was there very properly.

Mr. SPOONER. It is there properly, and it was perfectly competent for the House to enlarge the operation of the same subject-matter, and that is what they did. I am glad that the Senator from Maine and the Senator from Massachusetts concur in my view of the proposition that this was in order.

Now, Mr. President, continuing for just a moment—and my time has been taken up by interruptions—is it a wise provision? It is a provision without which the construction of hundreds of lateral lines, which would have been in the interest of the people, has been discouraged during all the years, for the reason that men did not dare to invest their money in the construction of lateral roads when there was no means whatever of securing fair treatment at that end of it which connected with a trunk line, if I may so speak of the railroad upon which they

depended to get to a market. It has been a discouragement to the construction of lines which ought to have been constructed. There is no good reason why a railway carrier engaged in interstate commerce should be required to make a private switch with the private track of a shipper who is proposing to tender traffic and that a lateral railroad which tenders traffic in vastly greater volume and affecting beneficially large numbers of people and sections of the State or Territory should not have the same right.

Mr. HALE. What is the significance actually and practically, different from a switch, of the words "a lateral railroad?"

Mr. SPOONER. A lateral railroad is built from the side. It may be 20 miles; it may be 10 miles; it may be 50 miles; it may be 100 miles.

Mr. HALE. But is an independent line?

Mr. SPOONER. Certainly.

Mr. HALE. It is only associated with the trunk line by physical connection?

Mr. SPOONER. It is associated with the trunk line in this, that it brings the trunk line business.

Mr. HALE. It is an independent organization?

Mr. SPOONER. Certainly. It is not a competitor; only a feeder.

Mr. HALE. It is a feeder?

Mr. SPOONER. That is all.

Mr. HALE. And it is only associated with the trunk line by its connection, which brings business?

Mr. SPOONER. That is all.

Mr. ELKINS. It is a switch connection.

Mr. HALE. The Senator from West Virginia says it is a switch connection. It is more than that.

Mr. ELKINS. It has to be a switch connection.

Mr. SPOONER. To state it shortly, it is such connection as will enable the transfer of cars from one to the other interchangeably.

Mr. HALE. But it is not what we commonly understand by a switch connection of short lines of the road itself; it is independent.

Mr. SPOONER. It is independent.

Mr. HALE. It is not a switch connection.

Mr. SPOONER. A firm, a coal company, or a group of independent coal-mining companies are unable to get cars, they are unable to obtain switches, they are unable to connect with the line upon which they are dependent to get to market, and they may organize a little company and build 10 miles or 20 miles of railroad. Of course it is a common carrier; it has to be. Constructing that road to a connection with the long line engaged in interstate commerce, there is every reason in the world why, upon fair terms, it should be permitted to connect with that railroad, so as to be able to secure an interchange of traffic and cars on fair terms.

Mr. HALE. Through transportation?

Mr. SPOONER. Certainly. Now, that is all this is. It will apply and be of great value in respect to coal production; it will apply and be of great value in respect of lumber production, and it will apply and be of great value for very many purposes which I need not take the time to go over. This is very important in many ways to the public, and is perfectly competent for the conferees to agree to.

Mr. LODGE. If the Senator is through on that amendment, I should like to ask him if he has any question that the two amendments on page 21 are new matter? On page 21 the words in line 9 "or transportation," and in line 17 the words "rates or," I think, give a very changed significance to that whole section.

Mr. TILLMAN. I call the Senator's attention to the fact that in the statement I made yesterday morning I said distinctly that the conferees knew it was new matter and had no authority to insert it, and we threw ourselves on the mercy of the Senate. I said I did not come in here with any effort to deceive them, but I told them that we had exceeded our authority.

Mr. LODGE. It is admitted that it is new matter.

Mr. SPOONER. It is agreed to be new matter, and if it were not agreed to be new matter I have very grave doubt whether the amendment does not mean a great deal more in its legal effect than the conferees would be willing to sanction. What are the other pages?

Mr. LODGE. On pages 40 and 41 are found the amendments which the Senator from South Carolina [Mr. TILLMAN] admits to be new matter.

Mr. SPOONER. Mr. President, I apologize for having taken so much of the time of the Senate, although I think most of it has been occupied by interruptions.

Mr. TILLMAN. The amendment on page 41, of course, is

new matter, but I am still in doubt about it, as I said yesterday. I asked Mr. Cleaves, whose expert knowledge and experience in this matter is well worthy of our respect and consideration, whether he considered the words in regard to the salary of the secretary of the Commission and the new office to be created was new matter, and he said: "I do not know, for you had to deal with the composition of the Commission, and the House conferees insisted on your putting back the House provision. I think probably it was within the province of the conferees to suggest this matter; but that, of course, is a question for the Senate."

Mr. HALE. Mr. President, the Senator's citation of the opinion of the old veteran clerk of the Committee on Appropriations reminds one of the college story of the boy who was refused admission. When his father asked him why they shut him out, he said he did not know; that he had answered every question. His father asked what was the first question. The boy replied that it was "In what year did Columbus discover America?" "Did you answer that?" "Yes." "What did you say?" "I said I did not know." [Laughter.] Now, the citation of the opinion of the veteran clerk is simply that he does not know.

Mr. TILLMAN. Well, Mr. President, in view of the fact—I want to do Mr. Cleaves entire justice—that he compiled, under the instruction, of course, of the veteran chairman of the Committee on Appropriations, the Senator from Iowa [Mr. ALLISON], the manual of the Senate on the subject of conference reports, their powers, limitations, duties, and all the history of the whole thing. It was not a case of mere offhand decision; but I think he was very much in doubt as to whether or not the conferees in this case had exceeded their authority.

Mr. HALE. But the result of it all was that the clerk did not know.

Mr. TILLMAN. The Senator from Maine only has his opinion.

Mr. HALE. I want to trust the conferees very largely, and give them large discretion; but I do not think on this matter, on which there seems to be so much diversity of opinion—

Mr. TILLMAN. I will say to the Senator from Maine, if he will permit me to interrupt him, that I do not want to delay the termination of this matter any longer, and, so far as I am concerned—and I think I can speak for the Senate conferees—we will submit that proposition in a joint resolution, which will be introduced to cover the amendment on page 41, the sixty-days' provision, unless the Senate might now, if it be permissible, grant the conferees unanimous consent to retain the new matter on the last page.

Mr. HALE. No; the Senate, I think, can not do that. It will not with my consent. I think, when the conferees present a joint resolution, that it had better be confined—but that is discretionary as to the matter of the time when the act shall take effect—

Mr. TILLMAN. Would not the Senate have it within its power to amend the joint resolution and vote down anything we might submit after it is in? That is what I want to know.

Mr. HALE. Undoubtedly; but I suggest to the Senator not to complicate that most important question, upon which every vote of the Senate will be given to pass a joint resolution to extend the time to sixty days, because of the necessity for getting the machinery at work. I suggest to the Senate and to the chairman of the conference committee not to complicate that question with anything else. Such a resolution as he suggests will go through, as such resolutions have many a time, without a single objection, and will cover that point; but the other matter is for the discretion of the conferees.

Mr. PATTERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Colorado?

Mr. HALE. I shall, after putting in the motion which I send to the desk. I want to submit a motion. I do not want to have an ironclad construction, but I want the vote of the Senate upon the order which I now send to the Secretary's desk.

The VICE-PRESIDENT. The Senator from Maine proposes an order, which will be read by the Secretary.

The SECRETARY. Mr. HALE moves, as an expression of the views of the Senate:

That passes issued by railroad corporations included in this bill be confined to actual employees of such railroads and their families.

Mr. HALE. I want a vote on that.

Mr. PATTERSON. I should like to ask the Senator from Maine a question.

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Colorado?

Mr. HALE. Yes.

Mr. PATTERSON. Mr. President, we have been listening for nearly a day to a discussion on the subject of new matter

introduced by the pending conference report. Is there anything to prohibit, or, in other words, is it not, after all, a matter for the Senate to pass upon? The Senator from Maine [Mr. HALE] shakes his head and the Senator from Massachusetts [Mr. LODGE] shakes his head. I desire to call the attention of the Chair and of the Senate to what I find in the Senate report upon the subject of conferences and conference reports. I have discovered upon reading it that the Senator from Massachusetts [Mr. LODGE] played a very important part in having the rule to which I call the attention of the Senate established. This matter is found on page 16 of that report in reference to conferences and conference reports:

29. Conferees may not include in their report matters not committed to them by either House. (1414-1417.) (50th Cong., 1st sess., Sen. Jour., pp. 1064, 1065; 54th Cong., 2d sess., Sen. Jour., pp. 90, 91, 96.)

That is Rule XXIX.

In the House, in case such matter is included, the conference report may be ruled out on a point of order. (See Rule 50, below.)

In the Senate, in case such matter is included, the custom is to submit the question of order to the Senate.

Then there is the following note:

NOTE.—In the Fifty-fifth Congress, first session, Vice-President Hobart, in overruling a point of order made on this ground against a conference report during its reading in the Senate, stated that the report having been adopted by one House and being now submitted for discussion and decision in the form of concurrence or disagreement, it is not in the province of the Chair during the progress of its presentation to decide that matter has been inserted which is new or not relevant, but that such questions should go before the Senate when it comes to vote on the adoption or rejection of the report. (55th Cong., 1st sess., Sen. Jour., pp. 171, 172; Cong. Rec., pp. 2780-2787.) See also Cong. Rec., p. 2827, 56th Cong., 2d sess., when the Presiding Officer (Mr. LODGE in the chair) referred with approval to the foregoing decision of Vice-President Hobart, and stated that when a point of order is made on a conference report on the ground that new matter has been inserted, the Chair should submit the question to the Senate instead of deciding it himself, as has been the custom in the House. No formal ruling was made in this case, however, as the conference report, after debate, was, by unanimous consent, rejected. (56th Cong., 2d sess., Cong. Rec., pp. 2826-2883.)

As I read this, it can have no other meaning than that if the point is raised that something that is found in a conference report is new matter, when called to the attention of the Senate, the Senate itself acts upon it.

Mr. HALE. Undoubtedly.

Mr. PATTERSON. And if the Senate decides it is not, or whatever may be the reason or motive of the Senate, the Senate has it in its power to retain that matter in the bill.

Mr. HALE. Undoubtedly. That is only a matter of procedure; but the fundamental proposition which the Senator from Colorado has raised is that there shall be no new matter inserted. Our processes are different from those of the House. I think, in the prevailing tendency of conferees to usurp power, that we have got to adopt—and I hope we shall do so before this session ends—the House rule, that such insertions shall be subject to a point of order and ruled out; but we have not gone as far as that. We have said the conferees should not put in new matter and that the question shall be submitted to the Senate; but it does not change the underlying and absolutely necessary proposition that no new matter shall be incorporated by the conferees.

Mr. LODGE. Will the Senator from Colorado allow me a moment?

Mr. PATTERSON. Certainly.

Mr. LODGE. The general parliamentary law and also the practice of both Houses is, of course, that there shall be no new matter in a conference report—that is, no matter which has not been adopted by one of the two Houses.

In the House of Representatives the point of order lies, and the Chair decides. If the Chair decides that the matter is new matter, and therefore out of order, the conference report is rejected by that finding of the Chair. All that any parliamentary body can do with a conference report is to accept it or reject it. It can not amend it. It must be either accepted or rejected.

The point of order, when it lies in the House and is ruled on by the Speaker and sustained, carries with it the rejection of the report, just as when the Chairman of the Committee of the Whole in the House sustains a point of order against a clause in an appropriation bill it carries with it the rejection of that clause.

Here, if the point of order is made, it has been held by Vice-President Hobart, in a ruling which I sustained later when I happened to be in the chair, that the point of order must be submitted to the Senate. Therefore it comes down to the Senate as a question whether they shall reject the conference report on the ground that there is new matter contained in it.

That is the state of the parliamentary law, as I understand it, in this body; but that does not change the fundamental parliamentary proposition that conference committees have no

right to put into conference reports matter which has not been adopted by either House.

Mr. PATTERSON. Mr. President, to a certain extent, and to a very considerable extent, the Senator from Massachusetts is right; but, after all, the ruling by the Senate recognizes, if not the right, at least the power of conference committees to insert new matter in a measure.

Mr. LODGE. Not at all.

Mr. PATTERSON. I beg your pardon. It is simply reaching a conclusion by different processes. Even in the other House, Mr. President, I imagine, should the Speaker sustain the point of order that a proposition contained in a conference report is new matter, that decision might be appealed from.

Mr. LODGE. The House could accept new matter by unanimous consent undoubtedly, and we could accept new matter by a majority vote; but that does not make it in order.

Mr. PATTERSON. Very well, then, so far as the House is concerned. In other words, both the Senate and the House can accept, if they choose, new matter of legislation.

Mr. LODGE. Undoubtedly.

Mr. PATTERSON. While the rule is a good rule and should as a general proposition be enforced, I have no hesitation in maintaining in a case of this kind, and as to a bill of this character, that when the conferees meet for the purpose of discussing a matter and reaching an agreement, if they discover that there is something needed to make a measure effective as a whole, they have not only the power, but it is their duty to insert that, and then submit it both to the House and to the Senate.

Mr. HALE. But, Mr. President, does the Senator not see the far-reaching, dangerous, and disastrous results of his proposition? Legislation is matured here and in the House of Representatives. Conferees are not a legislative body. They are to confine themselves to disagreements between the two Houses and to report only as to those.

Mr. PATTERSON. I understand precisely.

Mr. HALE. But when the Senator says the conferees have a right, when they believe that in order to make a measure effective they may put in new propositions, he is transferring the legislative power, which ought to be confined to the two bodies, to a conference committee that is only appointed and constituted not to newly legislate, but to consider differences between the two Houses.

The Senator is not a radical Senator; he is a conservative Senator, and he ought to see the wide and far-reaching and dangerous proposition which he has made, that the conferees can take upon themselves the power of legislation that only inheres in the two bodies.

Mr. PATTERSON. Mr. President, it is right there that I disagree with the Senator from Maine. It is not a case of a conference committee taking upon itself legislative power; it is simply a conference committee reviewing the measure as it is sent to them, discovering that there is a defect or something that ought to be in to make the bill effective, and then in their report suggesting it to the Senate and also to the House. It is utterly impossible for the conference committee to legislate. It can only in its report refer the matter back to the Senate, and then the matter that is suggested is before the Senate to be discussed, to be considered, to be voted upon, to be rejected, or to be adopted. That is all there is of it. It is not a usurpation in any sense of the word; and I sincerely hope that the conference committee, if the conference committee believes that there are omissions in the bill, and that some slight amendments will make the bill more effective, will stand by them, and let the Senate as a body, after full discussion, determine whether they shall be a part of the measure.

It is simply another method of legislation, a different method of initiation, and, after all, passed upon as solemnly and as deliberately by the Senate and by the House as though the proposition had been originally introduced and sent to a committee, or as though the amendment had been originally offered in open Senate while the bill was under discussion.

For that reason, Mr. President, leaving this standing, I could not comprehend why so much time was taken up in attempting to establish that this proposition or that proposition or another proposition was new matter. The conferees have brought subjects connected with this great legislation before the Senate and asked the view of the Senate upon them, and if the Senate stands by the conference committee, provided the House agrees, their recommendations will be incorporated into the body of the bill.

Mr. LODGE. Mr. President, if the Senator from Colorado will allow me—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Massachusetts?

Mr. PATTERSON. I yield to the Senator.

Mr. LODGE. If the Senator from Colorado had pushed his inquiries as far as page 15 of the document from which he has read, he would have seen that it is not in order to give such instructions to conferees as would require changes in the text to which both Houses have agreed. We can not, even by the instructions of a unanimous Senate, direct our conferees to make a change in a text to which both Houses have agreed.

Mr. PATTERSON. Let me read to the Senator from Massachusetts from the same document, on page 15, the page to which the Senator refers me:

21. It is in order to instruct conferees, and the resolution of instruction should be offered after the House has voted to insist and ask a conference and before the conferees have been appointed.

Mr. LODGE. Certainly; but we can not instruct them to make a change in the text that has been agreed to; or, in other words, we can not instruct them to introduce new matter.

Mr. PATTERSON. Let me ask the Senator from Massachusetts a question.

Mr. LODGE. Let me say just a word, if the Senator will allow me.

Mr. PATTERSON. I should like to ask the Senator from Massachusetts a question in this connection.

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Colorado?

Mr. LODGE. Certainly.

Mr. PATTERSON. Does the Senator from Massachusetts say that if the conference committee reports that it is admittedly new matter there is no legislative way by which that could be incorporated into the measure?

Mr. LODGE. I do not think that there is, Mr. President, and I do not think there ought to be; and if our rules permit it, the sooner, in the protection of the Senate and of legislation, that we amend those rules the better.

Mr. PATTERSON. Let me ask the Senator from Massachusetts another question, then. Let us carry it to its logical conclusion. If the conferees make a report incorporating new matter, and the point of order is made that it is new matter, and the Senate votes it down, and then the motion is made to agree to the report, is not that, so far as the Senate is concerned, a part of the measure?

Mr. LODGE. Undoubtedly that is the case under the Senate's practice.

Mr. PATTERSON. That is what I have been contending.

Mr. LODGE. Undoubtedly that is the case under the Senate's practice, and that is the reason, I think, our rules ought to be amended and made like the rules of the House of Representatives, so that if the point of order is sustained and it is held that it is new matter—of course if the Chair holds that it is not new matter, then it is not liable to rejection—but if it is new matter, and held to be new matter, that that mere fact shall reject the conference report and send it back. We are dealing in a conference with the work of both Houses, and we are not proposing that six representatives of those Houses shall be allowed to introduce new matter which neither House has ever adopted.

Mr. PILES obtained the floor.

Mr. PATTERSON. Mr. President—

The VICE-PRESIDENT. Does the Senator from Washington yield to the Senator from Colorado?

Mr. PILES. Certainly.

Mr. PATTERSON. I desire just a moment. It is admitted by the Senator from Massachusetts that the result I have suggested may be secured in a perfectly legitimate way under the rules.

Mr. LODGE. Mr. President—

The VICE-PRESIDENT. The Senator from Washington has the floor. Does the Senator from Washington yield to the Senator from Massachusetts?

Mr. PILES. I yield to the Senator.

Mr. LODGE. I merely want to say that the Senator from Colorado misunderstood me. If the point of order is made here in the Senate, and submitted to the Senate, and if the Senate holds that it is not new matter, of course it goes in.

Mr. PATTERSON. But you can not inquire into the motives of Senators.

Mr. LODGE. If the Senate holds it is not new matter, it is not new matter.

Mr. PATTERSON. But you can not inquire into the motives of Senators when they vote upon the proposition.

Mr. LODGE. Of course not.

Mr. PATTERSON. We know it has constantly been the practice of the Senate to sustain or to overrule a decision of the Chair upon questions connected with measures, Senators voting in accordance with their view of the very right of the measure itself.

Mr. LODGE. On the question of relevancy.

Mr. PATTERSON. And they may do the same thing on matters contained in a conference report. In other words, it carries out what I have heard Senators boast of so frequently, that this body can always have its way under its rules, and when this body determines that a certain measure should contain certain provisions, so far as this body is concerned there is nothing in its rules that will prevent their insertion in the measure. No hard and fast parliamentary rule can prevent such being the case.

Mr. President, time and time again I have, in my short service in the Senate, seen the Chair submit questions of order to the Senate, not because the Chair was in doubt, but because the Chair wanted the Senate to have its way as to whether a particular matter should or should not be inserted in a bill. That is all there is in connection with this matter.

We have a right, under the rules, if we think on a conference report that a certain thing should be in the bill when it ultimately becomes a law, so far as this body is concerned, to do our part in putting it in. Of course it requires the concurrence of both Houses; but when, in whatever method, on a conference report or otherwise, the mind of the House and the mind of the Senate jointly meet, then all that remains, if it is the enactment of a bill, is the signature of the President to make it a law.

Mr. LODGE. Before the Senator from Colorado takes his seat, I will say that if, under our rules, the question of relevancy can be submitted to the Senate, and if the Senate declares that an amendment proposed to an appropriation bill is relevant, then it is relevant and it goes in. But that is not equivalent to saying that irrelevant matter can go in. In the same way—

Mr. PATTERSON. Mr. President—

Mr. LODGE. One moment. Let me finish. If the Senate decides that the matter against which the point of order is made is not new matter, then, of course, not being new matter, it is entitled to go in, in the same way as if the Speaker should decide in the House, when the point of order is made, that it is not new matter. Then it goes in. But if he holds it is new matter, or if we hold it is new matter here in the Senate, then the report is rejected and goes back to conference. It is for us to decide whether it is new matter. I have never seen the Senate fail to reject a report where the matter was obviously new, as in this case.

Mr. PATTERSON. I desire to say—

Mr. PILES. Mr. President—

The VICE-PRESIDENT. The Senator from Washington is entitled to the floor. Does the Senator from Washington yield to the Senator from Colorado?

Mr. PILES. It will take me but two or three minutes to say all I have to say.

Mr. LODGE. I beg the Senator's pardon; I will not interrupt him again.

Mr. PILES. If the Senator from Colorado can get through in a few moments, let him go ahead.

Mr. PATTERSON. It will take but very few minutes.

The VICE-PRESIDENT. The Senator from Washington yields.

Mr. PATTERSON. It amounts to precisely the same thing. As I suggested in the first instance, if it is not new matter and the Senate decides it is not, it is simply the Senate's way of saying that is the legislation the Senate wants, and it is going to have it. That has been done time and time again.

I have instances in mind—I can not name them now—but I know in the short time that I have been here there have been at least half a dozen occasions where the Senate has held against the proposition that it was new matter or new legislation, the question being submitted to the Senate by the Chair, although it was, in fact, new legislation. The Senate decided to the contrary because the Senate wanted that legislation.

Mr. PILES. Mr. President, I shall detain the Senate but a moment.

Mr. PETTUS. Mr. President, I desire to ask the Senator from Maine [Mr. HALE] a question.

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

Mr. PILES. I yield to the Senator.

Mr. PETTUS. If the Senator from Maine will oblige me, I should like to know if his motion does not amount to instructions?

Mr. HALE. Yes.

Mr. PETTUS. And whether he thinks at this stage instructions ought to be given?

Mr. HALE. It is clear that we have a right to instruct, but I do not put it in quite as bald a fashion as that, because the conferees are not an obstinate and an unruly body of men; but

I should like to have the expression of the Senate upon this subject of passes. So I have not put the motion in the form of instructions, but as the sense of the Senate. I could have put it in the form of an instruction—

Mr. PETTUS. My question is, Does it not amount to instructions, whether it takes that form or not?

Mr. HALE. That is for the conferees to settle.

Mr. PILES. Mr. President, I desire to express the hope that the conference committee will retain in this bill the amendment excepting timber and the manufactured products thereof from the provision which prohibits the carriage in interstate and foreign commerce of any article manufactured or produced by a carrier. When I had the honor to propose the amendment, I took occasion very briefly, as I shall now, to explain to the Senate my reasons for the amendment.

I regret exceedingly that the conference committee saw fit to yield to the House conferees on this point. As I understand, the reason which prompted the Senator from West Virginia [Mr. ELKINS] to introduce the amendment prohibiting such carriage was because interstate carriers owned coal mines along their lines of road, and that those carriers were furnishing to their own coal mines cars, thereby preventing the independent coal operators from competing with them successfully in the market, because the carriers would not furnish the independent operators a sufficient number of cars, although the former had plenty of cars with which to haul the coal which they were engaged in mining. If that was the object, so far as it relates to my section of the country, it will be a detriment instead of a benefit on that point alone.

As I said the other day, Mr. President, the lumbermen of the State of Washington by means of their logging roads and steam and sailing schooners are carrying to all parts of the world the products of the forest and their sawmills, I think the greatest in the world.

These people are not engaged, strictly speaking, as common carriers, while they are such undoubtedly under the law. But there are now I suppose in the neighborhood of a thousand cars of lumber west of the Cascade Mountains, and certainly that number west of the Rocky Mountains which can not be transported over the mountains for lack of motive power. These lumbermen in my section of the country went into the business on the lines in which they are now engaged with rail and schooner for the express purpose of getting their product to market, which they could not get to market because the railroads were unable to furnish them a sufficient number of cars and sufficient motive power to take their product to market.

These people have engaged in this business, having provided their own means of transportation, by which they transport lumber from the Pacific to the Atlantic coast and to all parts of the world, which can not be transported in cars for the reasons I have stated, and which, in a large degree, has had a tendency to give a reasonable rate by which they could put their product upon the eastern market. It seems to me that Congress ought not to pass any law which would in any way prevent them from getting their product to market or to pass any law which would compel those people, through some subterfuge, to organize some company different from that which they are now operating, or to organize a number of companies for that purpose, but that they ought to be encouraged in the great business which they have undertaken.

I do not want to take the time of the Senate in discussing a question which I discussed only a few days ago. I do hope, and I felt it my duty to say it, that the Senate conferees, when they go back to reconsider the report, will stand firmly by this amendment which was inserted in the bill.

Mr. TELLER obtained the floor.

Mr. McCUMBER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from North Dakota?

Mr. McCUMBER. I merely wish to ask, with the consent of the Senator from Colorado, what is the question now before the Senate. Senators seem to be discussing some other thing than the pending motion, and I wish to have it read.

The VICE-PRESIDENT. The question is on the order proposed by the Senator from Maine [Mr. HALE]. At the request of the Senator from North Dakota, it will be read again by the Secretary.

The SECRETARY. The Senator from Maine proposes as an expression of the views of the Senate—

That passes issued by railroad corporations included in this bill be confined to actual employees of such railroads and their families.

Mr. TELLER. I do not understand that the motion of the Senator from Maine is in order now.

Mr. President, the question of order that has been discussed at considerable length is a very important one for the Senate.

I do not agree with the declaration that has been made here that the question whether or not it is new matter depends entirely upon the whim of the Senate. I realize that if the Senate ever votes that it is not new matter, that is the end of the controversy. Upon ordinary subjects I admit that sometimes the Senate votes to-day that a thing is in order, to-morrow votes that it is not in order, but upon this question, which is so vital to the proper administration of affairs in the Senate, I venture to say that no man can find a precedent where, when the question has arisen as to whether it was new matter or not, and it was held by the Senate that it was, the committee has not been compelled to reconsider the matter in conference.

There is one precedent here which can be found—I found it some time ago, but I can not turn to it now—where after it was determined that the matter was new and ought not to be there the unanimous consent of the Senate was asked that it might remain, and the matter thereupon remained, and the whole subject dropped. That is the only case I found in the examination I made some time ago when the question came up whether the Committee on the Five Civilized Tribes had put new matter in the report.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Maine?

Mr. TELLER. I yield.

Mr. HALE. I call the Senator's attention to the fact that where it was established clearly that the report included new matter, the chairman of the committee at once admitted it, and the bill went to a new conference by unanimous consent.

Mr. TELLER. That has been the custom.

Of course, in the House the Speaker determines whether it is new matter, and that ends the controversy. Here the rule has been, I think for a good many years, that the Senate determines those questions. A question of this kind a good many years ago was determined one way by the Presiding Officer, who was then Mr. Edmunds. That was as to instructions, and not as to this vital question whether the committee has put new matter in a bill. In that case it was whether there should be instructions. The Presiding Officer held, as I recollect, that there could not be instructions, and the Senate held there could be. I think it will be found that the Senate has held both ways on that subject. I think there can be instructions myself. I do not think that is a matter of very great concern, except as to when the instructions are made.

Senators will remember that not long ago, within the last two years, the House appointed conferees, and before they had had any conference with the Senate conferees the House instructed their conferees what to do and what not to do; whereupon the Senate refused to confer with the House conferees until they receded from that position.

I regard the question whether there shall be new matter put into a bill by the agency of a conference committee as the most important one which can be raised here in reference to the orderly proceeding of this body. In the great majority of cases we accept a conference report nem. con. We pay little attention to it. We believe the committee have done the best they could. Where they have taken what was in the House bill and what was put in by the Senate, and arranged them in any way consistent with the fact that both had been passed upon by the Senate, we have accepted them.

I dare say that in the whole history of the Senate—it ought to be said of every legislative body, and I believe it is true of the Parliament of Great Britain—there never has been a case where the conferees have put in new legislation, and it was apparent that it was new legislation, and it was admitted to be new legislation, that the House has accepted it as a part of the transaction.

There are a great many cases that come before us where it is difficult to determine whether or not it is new legislation. I am disposed myself to believe that the provision in this bill concerning passes goes beyond the power of the conference committee, but Senators in whose judgment I have great confidence tell me I am wrong, and very likely I am, although upon a question of that kind the Senate might divide. The Senate might determine that I was wrong, and that would be the end of the controversy.

But we have in this report several things that the conference committee say they knew were new, but they thought it would improve the bill if they put them in. That is not the province of a conference committee, speaking with all due respect for the committee. They are not empowered to do that. They are simply to determine what was the mind of the Senate on one proposition and what was the mind of the House on the same proposition, and, if possible, to reconcile the differences between the two. That they can do. But when they come to say,

"We thought it would be a good thing to put in this provision, and therefore we have put it in, although neither body had ever considered it," such a proceeding would lead to interminable confusion, and it would be the duty of every Senator—he would be compelled to watch with the greatest care—to see that these things were not done. We have a right to suppose when a conference committee go out that they will confine themselves to the custom that has been in vogue in this country and in England, that new matter shall not be put in.

I speak with some feeling on this subject, because we have been condemning this practice for some time. I have myself been on a good many conference committees where there has been an attempt to change the text of a bill and to put in some new matter, and I will say for myself that I have never consented to that, and I do not recall now that I was ever a party to a conference committee that did agree to it. I know the members of the Appropriations Committee have stood inflexibly against the slightest change that was not justified by the rule.

Mr. HALE. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Maine?

Mr. TELLER. I yield to the Senator from Maine.

Mr. HALE. I want to bear testimony to what the Senator is just saying. There is no committee in this body that deals with so many subjects affected by legislation as does the Committee on Appropriations, of which the Senator from Colorado is an old, experienced, and most valuable member. The practice of that committee is to report the result of a conference to the Senate. It mentions amendments by number. It declares what amendments have been added. In twenty years I have hardly ever known, or ever known, a question to arise as to whether new legislation was embodied in those reports. The reason is that the Committee on Appropriations sets its face sternly against all new matter. As an old member of that committee, I would hold myself delinquent if I ever consented, in the numerous matters that come before that committee, to anything that involves new matter. I would consider myself, as the Senator from Colorado would consider himself, delinquent in my duty to this body if I did so.

I hope the rule of that committee will be maintained not only in that committee, but in reports from all other conference committees. This discussion, Mr. President, is not without its great uses.

Mr. PATTERSON. Mr. President—

The VICE-PRESIDENT. Does the senior Senator from Colorado yield to the junior Senator from Colorado?

Mr. TELLER. I yield.

Mr. PATTERSON. Does the Senator from Maine say that there is no case in which a point of order against matters contained in appropriation bills coming from the Committee on Appropriations has been sustained?

Mr. HALE. No; I do not.

Mr. PATTERSON. I recall quite a number.

Mr. HALE. I say I have never known an instance, in connection with that committee, where the conferees have deliberately put in new matter, and I hope I shall never know of such an instance.

Mr. TELLER. Mr. President, I wish to say a word or two about the question that has been disturbing the Senate for a day or two, and that is with respect to passes. We put in a very elaborate provision as to passes, somewhat remarkable and quite wonderful. The conference committee strike all of that out and insert something that I think was neither in the House bill in principle nor in the bill as it passed the Senate. There was nothing in the House bill about passes.

In my judgment, if we had confined the interdiction of passes to members of both Houses, the judiciary of the country, and the executive officers of the country, it would have been as far as it was necessary for us to go with reference to the matter. We then should have, perhaps, provided that a railroad company should not make a discrimination between shippers and give a pass to one shipper and deny it to another. I believe they might give it to one class of shippers, like the cattle shippers, while they might decline to give a pass to the man who ships the common products that need no care or attention en route.

I think the committee ought to go back and take up a part, at least, of the Senate amendment, if they do not want to put in all of the Senate amendment, and I should hope they will not, because some part of it I think should be left out. I wish they would go into that to a sufficient extent so as to permit railroad employees and their families and railroad attorneys to have passes. The public do not complain of that. They have complained of Representatives and Senators taking passes, on the theory that they would be influenced in favor of the railroads because they carried them free. I do not believe there is any-

thing in that at all. I do not believe any man who ever got into the Senate was small enough and mean enough to fail to do his duty here because some railroad company gave him a pass on its road.

Mr. CULLOM. Mr. President—

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Illinois?

Mr. TELLER. I do.

Mr. CULLOM. I only wanted to inquire whether the Senator from Colorado is sufficiently familiar with the present law, the law of 1887 as amended in 1895, to justify him in passing judgment as to whether it is sufficient.

Mr. TELLER. I am quite familiar with that law. I helped to pass the law of 1887, and I helped to pass the law of 1895.

Mr. CULLOM. I know the Senator did, but I did not know whether he remembered it sufficiently.

Mr. TELLER. Yes; I remember very well the provision about passes. While I know it has not always been adhered to by the railway companies, I believe that act excluded passes, and I believe it now excludes passes. I do not think a Member of Congress ought to accept free transportation, not because I think he will change his views on the subject of railroad legislation, but simply because of the speech of the people; because I think that is a deference we ought to show to the people. For that reason I would confine, if I could, the interdiction of passes to the three classes I have mentioned, and to shippers.

I have before me a large number of these telegrams, which every Senator has received. I did not think it worth while to send them to the desk. I have them on my desk. I sympathize fully with these people. I do not think any harm will come from permitting the railroads to issue passes to their employees, and I know the railroad people want to give them that privilege. I have here, which I will ask to have read, a telegram from Mr. Ripley, who is the president of the Atchison and Santa Fe, a practical railroad man. I think it explains the situation. I hope the committee, before they get through with their proceedings, will put something of the kind in the bill.

The VICE-PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

Hon. HENRY M. TELLER,  
United States Senate, Washington, D. C.:

While in full sympathy with prohibition of free passes in general, the bill as amended in conference imposes great hardship on lower grades of employees and will create much trouble; also, we must move large numbers of laborers over long distances. They have no money nor would it be safe to furnish them with amount necessary to pay fare. Provision should certainly be made for free transportation for our own officers and men and members of their families, otherwise great burden imposed on us without benefit to anyone.

E. P. RIPLEY.

Mr. TELLER. I have been told that a similar telegram has been read. I did not know that fact. It escaped my attention.

Mr. CULLOM. It has been.

Mr. TELLER. That is from a practical railroad man, and I think it ought to have some weight with the committee. That is all I care to say upon this question.

Mr. HALE. It is in no way a dispatch that is dictated by selfishness on the part of Mr. Ripley, but it recognizes the importance in their business of favoring their employees by giving them this transportation, which I think everybody is in favor of.

Mr. TELLER. I will say that every railroad company ever since there have been railroad companies organized in this country has issued passes to its employees. They are in the habit of doing it. Some years ago, before I came to the Senate, I was president of a railroad company. I had something to do with the construction and the operation of a road for six or eight years. I know something about the practical needs of a railroad company in these matters. It would be almost impossible to do business properly if every railroad employee had to get a ticket. It is absurd to think about it, and we have no right to demand anything of that kind from a railroad company, in my opinion. They have a right to do their business, if they do it so that the public are not distressed and injured by it, as it suits them.

Mr. LODGE. Mr. President, I desire to call attention to a change made by the conferees which it was entirely within their province to make and agree to, but which seems to me to be of the most serious character.

In the penal clauses, which I offered as an amendment, and also in the one offered by the Senator from North Dakota [Mr. McCUMBER], the words "knowingly and willfully" appear. They were, on my motion, inserted in the clauses which I moved as an amendment, subsequent to the adoption of the clauses, and were adopted by the Senate by a large majority on a record vote. With those words out there is not a railroad officer in the United States who is not liable to be put in prison or

heavily fined at any moment through the error of some clerk or perhaps the misdoing of some clerk or the inadvertence of some subordinate in giving a lower rate than the published rate. It seems to me—

Mr. DANIEL. Mr. President—

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Virginia?

Mr. LODGE. Certainly.

Mr. DANIEL. I am very much interested in what the Senator is saying. I am trying to find the line in the bill to which the conference report refers. I note on page 3—

Mr. LODGE. Page 16, lines 23 and 24; page 18, line 20; page 19, line 9.

Mr. DANIEL. I note in the conferees' report on page 3, that it is referred to as in line 35.

Mr. LODGE. That must be a mistake.

Mr. DANIEL. If we were to adopt that report—

Mr. LODGE. I do not understand the Senator.

Mr. DANIEL. "In line 35," it says, "strike out 'knowingly and willfully.'"

Mr. LODGE. That follows the lines of the amendment separately, I think.

Mr. TILLMAN. It follows the lines of the blue print.

Mr. LODGE. The blue print.

Mr. TILLMAN. The old bill, as it comes from the House.

Mr. LODGE. That is correct, but I have to make my reference to the printed bill we have here.

Mr. President, the amendment of the Senator from North Dakota, for which I voted and which I think was an excellent amendment, provided that in the case of a shipper soliciting or receiving a rebate or discrimination, he should be liable in a civil action for three times the amount. The words "knowingly and willfully" are stricken out of that clause, and a shipper who may have paid what he believed to be the proper published rate, owing to a mistake or inadvertence of the shipping clerk, finds himself liable to damages in three times the amount, although he knew, and could know, nothing about it and was perfectly innocent in regard to it.

It seems to me that such a departure from the ordinary penal statutes of the United States and of every State of the Union ought not to be made. It does not seem to me that it is right to put this great body of men engaged in business all over the country at the mercy of anyone who for revenge perhaps, or for purposes of blackmail would take advantage of a law like this subjecting the shipper to imprisonment and fine.

Mr. NELSON. Will the Senator allow me a question?

Mr. LODGE. Yes.

Mr. NELSON. How can you prove that a corporation does a thing knowingly and willfully?

Mr. LODGE. It covers not only corporations. It covers specifically natural persons. It covers every officer, every agent, every shipper, every one of whom could do it knowingly and willfully.

Mr. McCUMBER. May I call the Senator's attention to one paragraph on page 17, which declares positively that—

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier, or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person.

Mr. LODGE. Certainly; and the Senator from North Dakota has read the words to show the natural persons. Moreover, you can not put corporations in prison; and, of course, the only ones I am trying to protect are the individuals, the agents and officers of the road. It seems to me to make any class of men anywhere subject to a penal statute of this kind, where they may find themselves in jail and under heavy fines for an offense of which they were absolutely guiltless, is very poor legislation.

I do not desire to press this to a vote of instruction, if the conferees will consent to the removal of these lines without bringing it back again to the Senate. But if they desire it, I shall be very glad to take the sense of the Senate on the striking out of those vital words. It is quite within the power of the Senate to instruct conferees. I send to the desk, and ask that there may be printed in the RECORD two instances which I have marked, where in previous conferences, once on the motion of Senator Sherman, the conferees were instructed; and later, if it seems desirable, I will offer a resolution of instruction.

The matter referred to is as follows:

Mr. Clark, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, reported that the committee having met, after full and free conference had been unable to agree.

The Senate resumed the consideration of the bill (H. R. 649) last mentioned, with the amendments thereto in disagreement between the two Houses; and,

On motion by Mr. Nesmith to recommit the bill, with the amendments thereto in disagreement between the two Houses, to the committee of conference, with instructions to agree to an amendment in the following words:

"And the sum of \$43,000 is hereby appropriated, to be added to the contingent fund of the House of Representatives, for the purpose of paying such contingent expenses as may be directed by resolution of the House."

On motion by Mr. Buckalew to amend the motion of Mr. Nesmith, by striking out the part making an appropriation of \$43,000, and in lieu thereof inserting, "That the committee be authorized to agree to a provision for the payment of 20 per cent additional compensation to the officers of both Houses for the present session,

It was determined in the negative.  
On the question to agree to the motion of Mr. Nesmith,  
It was determined in the affirmative—yeas 21, nays 18.

On motion by Mr. Trumbull,  
The yeas and nays being desired by one-fifth of the Senators present, Those who voted in the affirmative are: Messrs. Anthony, Brown, Carlile, Cowan, Dixon, Doolittle, Foster, Harris, Henderson, Hendricks, Johnson, McDougall, Morrill, Nesmith, Powell, Ramsey, Riddle, Sumner, Van Winkle, Wiley, Wright.

Those who voted in the negative are: Messrs. Buckalew, Clark, Collamer, Conness, Farwell, Hale, Harlan, Howe, Lane of Indiana, Morgan, Nye, Pomeroy, Sherman, Sprague, Ten Eyck, Trumbull, Wilson.

So it was—  
*Resolved*, That the bill, with the amendments thereto in disagreement between the two Houses, be recommitted to the committee of conference, with instructions to agree upon an amendment in the following words: "And the sum of \$43,000 is hereby appropriated, to be added to the contingent fund of the House of Representatives, for the purpose of paying such contingent expenses as may be directed by resolution of the House."

*Ordered*, That the Secretary notify the House of Representatives thereof.

[Senate Journal, March 1, 1865, pp. 268, 269.]  
Mr. Sherman submitted the following resolution for consideration:  
*Resolved*, That the Senate agree to the further conference asked by the House of Representatives on the disagreeing votes of the two Houses on the bill H. R. 207, and that the conferees on the part of the Senate be instructed to recede from the amendments of the Senate to the said bill, except so much of said amendments as relates to imported cotton.

On motion by Mr. Morton, to amend the resolution by striking out the words "except so much of said amendments as relates to imported cotton" and inserting in lieu thereof the words "and agree to a proposition to suspend the entire tax on cotton during the year 1868, and that the tax on cotton thereafter shall be 1 cent per pound,"  
It was determined in the negative—yeas 18, nays 23.

On motion by Mr. Morton,  
The yeas and nays being desired by one-fifth of the Senators present, Those who voted in the affirmative are: Messrs. Cole, Conkling, Cragin, Drake, Edmunds, Ferry, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Morton, Ramsey, Sumner, Thayer, Tipton, Wade.

Those who voted in the negative are: Messrs. Anthony, Bayard, Buckalew, Cattell, Conness, Davis, Dixon, Doolittle, Frelinghuysen, Grimes, Hendricks, Johnson, Morgan, Norton, Patterson of Tennessee, Pomeroy, Sherman, Sprague, Trumbull, Van Winkle, Willey, Williams, Wilson.

So the amendment was not agreed to; and  
On the question to agree to the resolution, as submitted by Mr. Sherman,  
It was determined in the affirmative—yeas 25, nays 18.  
[Senate Journal, January 22, 1868, pp. 119 and 120.]

Mr. RAYNER. Mr. President, I desire to take the time of the Senate for only five minutes upon the proposition of the Senator from Massachusetts. I always thought that the words "or willfully" ought never to have gone into this law. I think it is a great mistake to leave the word "willfully" in there. I am not so confident—

Mr. LODGE. Does the Senator object to the word "knowingly" too?

Mr. RAYNER. I was going to say I am not quite so confident about the word "knowingly." The word "knowingly" has a very ambiguous construction, but there is no ambiguity about the word "willfully" at all. I do not think you will ever be able to convict anybody under this statute if you require proof of willfulness.

Mr. LODGE. If the Senator will allow me a moment, the instruction which I shall move later, if necessary, is that the Senate conferees on House bill 12987 be instructed to insist upon the retention of the word "knowingly."

All I have asked is to retain the word "knowingly."  
Mr. RAYNER. I am not quite so certain about the word "knowingly." The words "knowingly and willfully" sometimes have the same construction. Let me give just a few examples of the word "willfully." I think it must be done knowingly. The carrier could not possibly give a rebate and the shipper could not receive a rebate without its being done knowingly. The very act itself implies that there is consciousness.

Mr. LODGE. There is a great deal more than a rebate. There is a discrimination, a departure from the published rate, which a clerk might make by mistake.

Mr. RAYNER. Let me suggest to the Senator a few authorities on the word "willfully."

"Willfully" is defined by Webster to mean "in a willful manner; obstinately; stubbornly; by design; with set purpose." (Whitman v. State, 22 N. W., 459, 460; 17 Neb., 224; Huff v. Chicago, I. & L. Rwy. Co., 56 N. E., 932, 934; 24 Ind. App., 492; 79 Am. St. Rep., 274;

Miller v. Miller, 47 N. E., 338, 339; 17 Ind. App., 605; Dull v. Cleveland, C. & St. L. Rwy. Co., 52 N. E., 1013; 21 Ind. App., 571; Chicago, St. L. & P. R. Co. v. Nash., 27 N. E., 564, 565; 1 Ind. App., 298.)

The word "willfully" means not merely voluntarily, but with a bad purpose. (Potter v. United States, 15 Sup. Ct., 144, 147; 155 U. S., 438; 39 L. Ed., 214; Commonwealth v. Kneeland, 37 Mass., 20 Pick., 206; Williams v. People, 57 Pac., 701, 702; 26 Colo., 272.)

Bad motive is not necessary to make an act willful, and the fact that the act of omission is done in obedience to the will is not enough. (State v. Alcorn, 14 S. W., 663, 664; 78 Tex., 387.)

The word "willfully" as used in act of Congress of July 12, 1882, section 13, imposing a penalty upon one who shall willfully violate, as well as upon one who shall resort to any device to evade, the provisions of the act, means not merely voluntarily, but with a bad purpose. (Spurr v. United States, 19 Sup. Ct., 812, 815; 174 U. S., 728; 43 L. Ed., 1150.)

The word "willful" as used in a statute providing that the act of cutting trees must be willful to authorize punishment therefor means intentionally, malevolently, with a bad purpose, an evil purpose, without ground for believing the act to be lawful. (Hateley v. State, 44 S. E., 853; 118 Ga., 79 (citing King v. State, 103 Ga., 265; 30 S. E., 30).)

The word "willfully," when used in a statute creating a criminal offense, means not merely voluntarily, but with a bad purpose. (State of North Carolina v. Vanderford (U. S.), 35 Fed., 282, 287.)

"Willfully," in the ordinary sense in which it is used in the statutes, means not merely voluntarily, but with a bad purpose. A "willful act," in the usual sense of the words, is one done designedly, intentionally, or purposely; and also "willful misconduct" means misconduct to which the will is a party. Hence it is held that, in an action against a railroad for killing stock an allegation in the complaint that the killing was willfully done is sufficient to show an intentional killing. (Chicago, St. L. and P. R. Co. v. Nash, 1 Ind. App., 298, 300; 27 N. E., 564.)

One Mills' Ann. St., § 2170 (Gen. St. 1883, § 787) defines perjury as testifying willfully, corruptly, and falsely. "Willfully" is a word of stronger meaning than either "corruptly" or "falsely." "Willfully," as employed in criminal and penal statutes, usually means something more than intentionally and voluntarily. It implies that the act done which it characterizes is designedly done, with some bad purpose or without justifiable excuse. (Williams v. People, 57 Pac., 701, 702; 26 Colo., 272.)

And so on.  
There is a whole line of cases. I do not pass upon the word "knowingly," because there are a number of cases here that hold that "knowingly" is the same as "willfully," but I think it would be utterly impossible to obtain a conviction if you leave the word "willfully" in the statute.

Mr. BAILEY and Mr. FULTON addressed the Chair.  
The VICE-PRESIDENT. The Senator from Texas.

Mr. BAILEY. Mr. President, I know what the Senator from Oregon is going to speak about, and in attempting to answer the Senator from the State of Washington I anticipate the Senator from the State of Oregon. They both complain because upon the insistence of the House conferees the Senate conferees agreed to eliminate the exception in favor of timber and its products in what is known as the coal amendment, No. 5.

Mr. President, I can not myself conceive of any commodity which was less entitled to the benefit of this exception than lumber. Coal, so far as the known quantity is concerned, in spite of its vast consumption, is not seriously diminishing in quantity. New discoveries are bringing to the use of the world great coal fields every twelve months, until the amount of coal now in sight is greater than ever before in the history of the Republic. The same is true in some measure of iron, of copper, and of other metals, and their related products.

But the timber supply of this country is rapidly disappearing, until to-day the price of lumber presents a serious question to every man who comes to build his home. If there is any reason and any justice in forbidding the carrier to engage in interstate commerce when it likewise engages in the monopolization of coal and iron land, that reason applies with equal or with greater force to the timber lands of the United States.

We are not in the midst of a timber famine, but we have reached a point where the woods are thin, and we are almost in sight of the day when the price of timber will be double what it is to-day. In the great Northwest within thirty years they have seen the stumpage rise from two dollars a thousand to eight, nine, and ten dollars a thousand. In the great Southwest we have seen the yellow-pine timber there, because of its diminishing quantity, increase in price from a dollar and two dollars an acre, until to-day it commands twenty-five and thirty dollars, and in some cases \$40 and \$50, where it is especially convenient to transportation lines.

Now, for this Congress, after putting its prohibition upon the ownership of coal and iron and zinc and lead and copper mines, to invite the railroads of the country to acquire the remaining timber lands is to commit, in my judgment, a grave crime against the next generation of American citizens. This law will not be as old as the law which it amends until the price of timber in this country will be well-nigh double what it is to-day, and no man ventures to believe that such a circumstance is likely to occur with respect to the price of coal, or iron, or lead, or zinc, or copper.

So, Mr. President, it seems to me that if there is one commodity whose monopolization by the railroads of this country ought to be discouraged, it is the one which we can stand and see disappearing before our very eyes.

But, Mr. President, I hardly think it worth the while of the Senate to argue that. I assume that exception will be eliminated.

Before I resume my seat I want to complain because of another elimination from this bill, and in making this complaint I intend no criticism of the Senate conferees, because I declare my belief that they have faithfully and well sustained the action of the Senate. It was to be expected that they would yield something to the judgment of the House, and surely they have been compelled to yield as little as any of us could have hoped. But I sincerely regret, Mr. President, that the conferees of the House should have chosen, as one of their demands, to eliminate sleeping-car companies from the provisions of this bill. They leave in the express companies and they take out the sleeping-car company, and yet, Mr. President, I declare in the presence of this Senate and this country that the sleeping-car company of the United States is the only absolute and complete monopoly in this Republic. The railroads suffer some competition at each other's hands.

There are several express companies competing with each other for the price and privilege of carrying packages. The Pullman Car Company alone is free from all competition. There was a competing company a few years ago, but, with the rapacity that characterizes this particular corporation, it bought out its competitor and consolidated the two companies.

Mr. McCUMBER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from North Dakota?

Mr. BAILEY. I do.

Mr. McCUMBER. May I ask the Senator if it is not true that several of the transcontinental lines run their own sleepers and Pullman cars? I think that is true of the Great Northern and that it is true of some of the others.

Mr. BAILEY. I take it for granted, Mr. President, that that is true in two or three instances; possibly more. But that does not militate against the statement which I have just made. Not only did the Pullman Car Company absorb its rival and competing company, but three or four years before it accomplished that absorption it watered its own stock to the extent of \$18,000,000, increasing it from \$36,000,000 to \$54,000,000, and then added another \$20,000,000 when it purchased the competing Wagner Company. What was the price it paid for its competitor's property I do not know, but this I do know, that the Pullman Car Company is one enterprise in this country whose charges to-day are in many respects and over many routes of travel higher than they were twenty years ago.

Twenty years ago when a citizen of our own State came to travel from Fort Worth, Tex., to the city of St. Louis the trip occupied thirty-six hours—two days and one night. The price was \$1 per day for a seat and \$2 a night for the bed, the thirty-six hours aggregating \$4. Now the distance is traveled in twenty-two hours, and the Pullman Car Company charges \$5 for its accommodation.

Remember, too, Mr. President, that the railroads pay the Pullman Company for the privilege of hauling its cars by the mile, and the 750 miles from Fort Worth to St. Louis, which formerly occupied thirty-six hours, are now traversed in twenty-two hours. Thus from the railroad the Pullman Car Company receives as much for the use of its car twenty-two hours as it formerly received in thirty-six hours, and from the passenger it receives more for the accommodation covering twenty-two hours than it formerly received for the accommodation covering thirty-six hours.

Even to-day I take the train at Fort Worth on my way to St. Louis, and I am compelled to pay \$5. If I go into the open coach of the common carrier and wait until I reach Fort Scott, in Kansas, I pay \$2 from there to St. Louis. The distance from Fort Worth to Fort Scott is traveled in about eleven hours, while the distance from Fort Scott to St. Louis is traveled in about eleven hours; and yet they charge \$3 from Fort Worth to Fort Scott through the daytime and charge only \$2 for the night, including the bed, from Fort Scott to the city of St. Louis, requiring an equal time for the travel.

I could instance many other iniquitous injustices like this, but they are as familiar to all Senators who use this convenience as they are to me.

Mr. President, why should this corporation be exempted from the law which is to govern other common carriers? Are they less prosperous? Their earnings, according to their own reports, exceeded, in 1904, \$24,000,000. Their fixed charges, including their dividends, amounted to only about \$17,000,000

after paying a dividend of 8 per cent—a dividend which every great common carrier in this country would gladly accept as a return upon its capitalization. Indeed, the other common carriers would be glad to get an assurance of 8 per cent upon their fair and honest value. Yet this corporation, after paying an 8 per cent dividend upon its entire capital stock, much of which represents no actual investment, carried over \$5,000,000 to its surplus fund—\$5,000,000 as I see stated in one report, and more than \$3,000,000 as I see stated in another.

Mr. President, it will not do to say that but few people use the sleeping-car accommodations. The reports show that they carried over 12,000,000 passengers last year. And it is not true that the rich and prosperous alone contribute to swell their revenue. Many of those who are none too well to do, when upon errands of sickness or mercy or duty, are compelled to use them for their comfort; and there can be no justification to allow this absolute and complete monopoly the only exemption accorded to any common carrier by rail under this law.

Sir, we talk of trusts and monopolies. None of them have yet been able to make themselves an undisputed master in their field of enterprise. The great Standard Oil trust is in many sections subjected to the competition of independent refiners and producers. The great beef trust in almost every town and village in the land must encounter the competition of the local butcher. The sugar trust has not yet perfected its monopoly, nor has the tobacco trust. The great steel trust, the greatest in its capital and in its extent ever organized since the foundation of this Republic, must meet its weaker competitors in the open markets of the world and sell its wares in competition with them.

Look over the entire field. There is no absolute and complete monopoly under this flag except only the Pullman Palace Car Company, and yet the conferees of the House—fair-minded and honorable men—for some inscrutable reason demand that while we are regulating carriers which meet competition there shall be no regulation of this single carrier without competition.

Mr. President, the country will be disappointed, and the country will have a right to be disappointed, if when the Senate disagrees to this conference report the conferees of the House still insist upon this exemption of the Pullman Palace Car Company.

Mr. NELSON. Mr. President, I rise simply for the purpose of stating that I think the conferees have acted wisely and done well in striking out the words "knowingly and willfully." If those words are inserted practically those paragraphs of the bill are of no value, for in every case the offending carrier will seek immunity under the guise that he did not do it knowingly or willfully. He will claim that it was done by some subordinate, some man who had no business to do it, and in that way seek to escape the force of those provisions of the statute.

In respect to the corporation itself, if those words are retained you never can convict a corporation of violating the statute, because there is no such thing as proving that the corporation did it knowingly and willfully. It is a soulless, bloodless being, and you can not furnish any proof that that soulless, bloodless identity did it knowingly and willfully.

So in respect to the higher officers, the presidents and the general managers, they would seek immunity under it, because they would say that some clerk, some man working for \$1,000 or \$1,200 a year did it, and, "bless your soul, we did not know a thing about it. This thing escaped our attention." If you leave those words in the bill I do not believe you can convict a single carrier of any violation of those provisions of the statute. I therefore trust that the Senate will adhere to the action of the conferees, who have acted wisely in this matter, and stand by the conferees on that point.

I desire to speak on another subject for just a moment. A good deal has been said in reference to the pass amendment. I will not take up the time of the Senate to go into any details, but it seems to me that the proper solution of that matter is to adhere to the law of 1895. That law has been in force for ten years, and, so far as I know, there has been no complaint against it of any serious character from anybody. The people of the country have become accustomed to the provisions of that law. The only thing I could suggest in connection with it would be an amendment incorporating the addition of a penal clause to it.

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

Mr. NELSON. Certainly.

Mr. DANIEL. I find this language at the bottom of page 16 of the bill:

Every person or corporation, whether carrier or shipper, who shall, knowingly and willfully—

"Knowingly and willfully" being erased—

offer, grant, or give, or solicit, accept, or receive any such rebates, con-

cession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$1,000 nor more than \$20,000.

Now, I ask this question: Suppose the Senator or any other shipper were to ask for a rate, and it be given to him, and he received or accepted it and paid his money, and suppose it were to turn out that he and others received in such rate what in fact was a discrimination against other classes or persons, would he not be guilty under this act, if "knowingly" were left out, and would he not be fined and punished for misdemeanor when he had no means of knowing and did not in fact know that he was violating the law?

Mr. NELSON. In that case he would be doing it, and not an employee—

Mr. DANIEL. I have not quite finished.

In the case of the corporation, it is true they have no flesh and blood; but the shipper has flesh and blood, and the shipper may or may not have a purse, and where a person had, with entire innocence accepted or received a rate in fact discriminatory, but not so known to him, if he were punished, would it not be wrong?

Mr. NELSON. I think so.

Mr. DANIEL. Then if you strike out—

Mr. NELSON. We have an illustration of how it works in a recent case.

Mr. DANIEL. If you strike out the word "knowingly," the shipper would be punished, would he not?

Mr. NELSON. Not necessarily.

Mr. DANIEL. Why not?

Mr. NELSON. He would not be punished if he did not do it, if it was done by an employee or by a subordinate.

Mr. DANIEL. But suppose the man received it, and received it unknowingly, would he not be punished under the terms of the act if you leave "knowingly" out?

Mr. NELSON. How would you reach such cases as we have had lately investigated in the Southwest?

Mr. DANIEL. I am not talking about those cases.

Mr. NELSON. In those cases the shippers received money in packages by mail or express without any indication from whom it came or for what it was given. The carrier would in some secret way send the rebate money to the shipper in an envelope or in an express package, without letting him know from what source it came. In such cases of rebate the shipper can come in and say, "Bless your soul, I do not know from where this money came."

Mr. DANIEL. But that is not what we are discussing now.

Mr. NELSON. The shipper says: "I did not receive this money intentionally; it came to me like manna from heaven; and I accepted it."

The terms "knowingly" and "willfully" in this connection mean in law a criminal intent; and you would have to prove in every instance what amounts in law to a criminal intent in case of the violation of the provisions of this law; and if you retain those words in the law, in my opinion, it will be utterly impossible to secure a single conviction.

Mr. McCUMBER. Mr. President, if this pass amendment was ridiculous in the form in which it was adopted by the Senate, it seems to me that it is even more ridiculous and certainly more unjust in the form in which it has passed the scrutiny of the committee of conference.

The Senate has put itself upon record, Mr. President, as being against the free pass generally. It has also put itself on record that it does not intend to demand the entire elimination of free transportation to the extent of doing injustice to the employees of the companies or an injustice to those persons who, under every dictate of conscience and humanity, would naturally be granted free transportation. We expressed those two ideas clearly and definitely when the matter was before the Senate. Now, why should we go further than that, and attempt to do such a ridiculous thing and such an injustice as is attempted and insisted upon by the conferees of the House of Representatives?

Mr. President, what offense is it against the public when a great section of the country, which does not demand laborers during a certain season of the year, and where laborers are not naturally located during a certain season of the year, suddenly for one month or six weeks requires a great amount of labor, and the railways furnish reduced transportation in order to bring the laborer from where he is out of employment and out of means—it may be a thousand or 1,500 miles away—and place him where there is a demand for his services, to the benefit not only of the railroad, which is to look after the output of the crop, or whatever else is to be secured by his labor, but of the community as well? We need in the western country at certain seasons of the year a great number of

laborers. They are not located there during the winter, but they are in the great cities; they are in the lumber camps; they are not upon the plains; but at certain seasons of the year we do need them, and they have hitherto been granted either free transportation or else transportation at greatly reduced rates. Is the public complaining about that? Has the Senator from South Carolina heard any complaint upon that proposition? If there is no complaint, if it is for the benefit of the country, why should that right be denied to the railway companies and also to the great sections of the country that are to be benefited by it?

If you pass this law just as it comes from the committee of conference, in the case of a great railroad wreck, when men are maimed and injured, it may be their legs or arms cut off, you deny the right of the company to take a maimed passenger, whose legs or arms have been cut off, or who has been otherwise injured by reason of a collision or getting under the wheels of the train, to his destination, if that destination be on its own line, or off the line on which he has bought a ticket, unless he has got money to pay his fare—if the company does that the fine is from \$1,000 to \$20,000; and if there should happen to be a hundred persons, that would be a hundred thousand dollars in a single day, or twenty hundred thousand dollars in the matter of fines against the railway company. I do not believe in enacting a law which the dictates of humanity and common sense would revolt at and say that it should not be enforced.

We had a great calamity at San Francisco a very short time ago. For days and weeks the railroads were compelled to take out the homeless people from that city and to give free transportation. Had this law been in force, and had it been enforced as well as being in force, there could not a single railway company have stood up against the fines that would have been imposed upon it. Are the people demanding that we should enact such ridiculous laws?

Let me give you another illustration. There were recently immense fires in San Francisco, as there were immense fires in Baltimore a few years ago, and there have been other great fires, and, as has already been suggested, the railway companies take any person who is willing to go where such fires are in progress and assist in putting out the flames; and yet if the railway companies should do that under the law as it is proposed by the committee of conference, they would be guilty of a great offense and would be heavily fined. Is there any demand for any such a law as that?

Let me give you still another case, Mr. President—

Mr. TILLMAN. Will the Senator allow me?

Mr. McCUMBER. Certainly, I will allow the Senator.

Mr. TILLMAN. I have already said twice, and I will now say for the third time, if the Senator will pardon me—perhaps he did not hear me—that the conferees brought in this report in order to secure an agreement. It was this or nothing. But we knew from the terms of it that it could not go into effect until January next, and we never expected for a moment that either the Senate or the House would stand by it.

Mr. McCUMBER. That certainly shows the good judgment of the Senator. Neither House ought to stand by it, and I am simply trying by my voice to support the Senate conferees when they go into conference the next time.

Let me give you another illustration. There are, perhaps, today out in the mountains of Colorado, in New Mexico, in Arizona, in Nevada, and in California close on to 100,000 people who have gone there for their health. I can safely say, from the best information I can get, that there are tens of thousands of persons afflicted with tuberculosis who have gone there to regain their health simply because some of their friends induced the railroad companies to give them free transportation. Otherwise, they would have been unable to go there, and half of them would have been in their graves to-day had not that kindness and courtesy been granted by the railroad companies. Is there any complaint on the part of the public because this is being done? It seems to me that if the public understood and fully comprehended the good being done and the lives being saved by those little acts of courtesy it would rise and would demand of us that we allow the railroad companies to engage to that extent in granting free transportation.

There are many children, cripples from infancy, who are sent to institutions in some of our great cities for the very purpose of being attended to, and it is necessary in most cases that they secure free transportation. We have societies that are looking after the interests of such people all the while. Would you deny them the right of having free transportation for these little sufferers? It seems to me that we are going wild upon this matter of the restriction of free transportation.

Again, concerning live stock. Has there been any demand, let me ask any Senator here, that transportation should not be

given to the owners of stock, or their employees, who are to accompany and look after the cattle? If there has been no complaint and if that privilege has not been abused, what occasion is there to prohibit the granting of free transportation to those persons?

I want to say a word about the word "knowingly," which has been stricken out. Let me call the attention of the Senator from South Carolina [Mr. TILLMAN] to this provision. I especially invite his attention, because the Senator from South Carolina has charge of this bill. I note that at the bottom of page 17 we have enunciated a rule for the construction and enforcement of these provisions. What is that rule?

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier, or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person.

Now, note that under the bill as it stands, with the words "willfully" and "knowingly" stricken out, if an agent at some way station should make a mistake and should charge either too much or too little every day for a month, through an error, thinking that he had the rate between two places right, when in fact he was in error, he could be brought up and fined a thousand dollars a day for each day that this error was being committed.

That is bad enough; that is hard enough, I think the Senator and the Senate will agree; but when you go further than that and say that the corporation itself, which had no knowledge whatever of this error—and over a mighty line of railroad it is probable that a hundred such errors of no more importance might be made in a week—should be fined, without any knowledge whatever of the fact that the employee had made a mistake, to the extent of from one to twenty thousand dollars for every error, it is going very far. If that be true, and it certainly is true, under the provisions of this bill ought we not at least to retain in that sentence the word "knowingly?" It seems to me that word should be in all laws of this kind. I am speaking now of the criminal, not of the civil action.

Mr. TILLMAN. Let me ask the Senator a question. It is impossible from the criminal standpoint for anybody to do any of these things without knowing it.

Mr. McCUMBER. The local agent may have known it, and he would be fined. The next officer above him might not have known it, and the corporation through its agencies generally would have no knowledge of it. Would it be just, would it be fair to fine that company \$20,000 for a mere mistake that might not have involved more than a single dollar and that was made without its knowledge?

Mr. TILLMAN. What are the things, however, that are to be knowingly and willfully done? To "grant, give, solicit, accept, or receive any rebate." We are trying, or we are pretending to try, to stop this pernicious practice of discrimination by granting rebates. The words "knowingly and willfully," if left in the bill, would make it practically impossible to convict. I do hope the Senate will not consent to tie the hands of the conferees by any attempt at instruction; but if, when we get through in conference and bring the report back after calmly considering all the arguments that have been made here and the enlightenment which has been offered us—if we bring in a report to the Senate that the Senate does not like, the Senate can reject it and then instruct.

Mr. McCUMBER. But the Senator has not read even all the provision to which he refers. It is as follows:

Every person or corporation, whether carrier or shipper, who shall offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$1,000 nor more than \$20,000.

Each day that this error or mistake, innocently made by a single one of the employees, is continued constitutes a new offense, and a one thousand or a twenty thousand dollar fine will follow.

The Senator must necessarily see that, in addition to rebates, in addition to a mere error in estimating what the cost of transporting a carload of cattle or a carload of goods from one point to another will be—in addition to that, I say, sometimes the agent must determine what the law does not determine, and if he makes a mistake he comes under the ban of the provisions of this act.

Mr. TILLMAN. The trouble, Mr. President, is that the Senator is very solicitous to take care of the exceptions—the incident or accident of somebody once in a thousand times doing this thing innocently. In taking care of that exception, however, he would leave a loophole in the other 999 times for the scoundrel to keep out of the penitentiary.

Mr. McCUMBER. I do not think, Mr. President, that there

would be any loophole in it whatever. If the agent knowingly and willfully takes more or takes less than what is due, he is punished. If he takes it, in nine cases out of ten it will be known that he took it willfully and knowingly. If he makes an error in the case, and makes it in favor of one person and does not make the error in favor of another person, it is rather conclusive evidence that it was not an error at all.

But I was going to call the Senator's attention to another provision, and that is discrimination as between localities. That is made an offense, and yet the discrimination must be one which is a reasonable discrimination. I do not know just what the words are, because I have not the particular section before me, but there is allowed a certain discrimination as between certain localities, and the agent is compelled often to determine whether that discrimination is a just discrimination. Does the Senator understand me on that? The agent must determine whether it is a just discrimination; and if the court determine, or a jury determine, that it was unjust, then, of course, he must stand the penalty that is prescribed by the law. If he must determine that, then should we not at least throw around him the protection that it should be done knowingly and willfully, and not be a mere mistake as to what is a just discrimination and what is not a just discrimination?

Mr. TILLMAN. Mr. President, does not the Senator see that in a case where it was self-evident that there had been a mistake made, and it was nothing but a mistake, while the man might be guilty technically, the judge would be compelled to notify the jury that the man had committed no crime, because there was no intent to commit a crime, and, therefore, there would be no conviction?

Mr. McCUMBER. The Senator is mistaken. Under this proposed law the judge will give no such instruction. He could not give this instruction under this proposed law, if you give any effect whatever to the law which makes one person responsible for the act of another. Here we have a civil action by which a person is fined three times the amount that has been received. If that fine is imposed, it seems to me proper at least that "knowingly" should be retained. It is not so important as it would be in a case entirely criminal in its nature and not quasi criminal. But I want to call attention—

Mr. CARTER. Mr. President—

The VICE-PRESIDENT. Does the Senator from North Dakota yield to the Senator from Montana?

Mr. McCUMBER. I yield.

Mr. CARTER. I desire to call the attention of the Senator to the fact that the act is not only declared a misdemeanor, and there is a forfeiture of three times the amount received because of the commission of the offense, but in the same section it is provided:

That any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Therefore it follows, I submit to the Senator, that under this section as amended, striking out the words "knowingly and willfully," we would have the curious spectacle of a person being sent to the penitentiary for not to exceed two years for an act of which he had no knowledge and which was not willfully done. It seems to me that this is equivalent to branding with the ordinary brand of felony, under the misnomer of a misdemeanor, without any criminal intent being required by the statute at all.

Mr. McCUMBER. When we want an effective measure we can get it effective by making the fines and penalties strong and sufficient. We can destroy its effectiveness by making it so unjust that a jury will never convict. In passing any criminal law we ought to keep both of these matters carefully in mind. You can not get a jury to convict, even though the evidence be clear, where the punishment is out of all proportion to the crime, or where the person is to be convicted for merely making an error. You merely weaken the law.

Before I resume my seat I wish to call attention to one other provision. I do not know how strenuous the efforts of the House conferees were in attempting to retain upon this bill the salary of \$10,000 for the members of the Commission and five or six thousand dollars for a clerk and \$4,000 for an assistant clerk. But I do wish to submit to every Senator who has an idea of justice on the matter of fixing salaries the inconsistency of this bill.

The Senator from Massachusetts first proposed to raise the salary because he desired the very best men that could be secured for the personnel of that Commission, and yet we are

compelled in this instance to pay \$10,000 to a Commissioner and then provide for an appeal by this Commissioner to a \$6,000-judge. It does seem to me that the judge, who is to pass upon the intelligence and the acumen of the Commissioner, ought to have as great intelligence as the Commissioner, and if he is to revise and to correct his errors, then what objection is there to saying that, in order to get a good judge, we have got to pay him \$15,000?

Mr. MALLORY. Mr. President—

Mr. McCUMBER. Just one moment. It is equivalent to fixing the salaries of the heads of divisions in the Departments at a greater sum than is given to the members of the President's Cabinet, who must review and consider all the acts of their employees. I for one, and I believe there will be others here, will insist that the salaries of the Commissioners are now sufficient as long as we pay judges \$6,000, as long as Senators, who receive only \$5,000, are compelled to stay by that salary; so long as the clerks of our committees receive twenty-two hundred dollars; and no one will deny that you need a better man for clerk of one of these great committees, because he must be an all-around man, with knowledge on every subject that may come up before him, than you need in one who is to keep the records in a special class of cases.

Mr. President, I hope that the Senator from South Carolina, who certainly understands and comprehends the injustice and the inconsistency of this, will insist upon the Senate amendment.

Mr. MORGAN. Mr. President, I do not feel as if I had much right to criticize any part of this measure or the action of the committee of conference, because I stood amongst a very small minority—myself and two other Senators—in voting against the entire bill. I found in the bill many difficulties, some of them of a very grave constitutional character, in my judgment, which compelled me to vote against it. I would not now take the floor upon this bill except to try to explain to some of my constituents in Alabama my reasons for the vote I shall now give on a certain section of this bill, which comes to us from a conference committee.

I hold a telegram, signed by a large number of very respectable people in my State, many of whom I know—there are seventeen hundred and forty-five signatures to a single telegram—asking me to vote against the provision reported by that committee in regard to passes. I did not know that my people were so intimately wound up in this business until I commenced getting the returns from the country. I did not have an idea that this great measure, over which the Senate has spent five or six months of lucubration, agitation, and strife, would become suddenly so extremely unpopular as it seems to have done. I expected it to march forth with a flourish of trumpets and to recommend itself to the farthest ends of the earth for its wisdom and patriotism. But the first thing we hear is this tornado of telegrams, coming from all parts of the United States, in regard to its injustice and inequality with respect to certain large numbers and certain large classes of people.

The trouble with that feature of the bill is the same trouble we will find further on in regard to a number of its provisions. It is that the Congress of the United States is here interfering with the rights of the sovereign States of this Union. Unnecessarily, not unwittingly, but purposely, they are tearing down the constitutional borders which protect the people of the different States in the guardianship of their own sovereignties, in taking care of their own households, their lives, their property, and all that belongs to them. The American people will have this as an object lesson for reflection, which, I trust, will instruct them to go back to the days of the fathers and to learn to have a proper appreciation of the value, power, excellence, and eminence of the several respective sovereignties which have sent Senators to sit in this Chamber. I hope Senators will also have better conceptions of the rights of the States they represent, than are manifested in this railroad rate measure.

Besides this single telegram that I have just adverted to, which I will not ask to have printed in the RECORD, because it is so very voluminous, almost like a census, I have hundreds of others, imploring me and instructing me to vote against the interruption of the existing law in regard to passes on railroads.

There is a law in existence in respect to passes on railroads, a pretty strict one. The Senator from Wisconsin [Mr. SPOONER] had it here to-day, and I want to lay my hand on it, so that I may put it in the RECORD. I will ask leave, without now taking the time of the Senate to look up the statute, to insert one section of the act in my remarks to explain the situation of the law as it is.

The VICE-PRESIDENT. Without objection, leave will be granted.

Mr. CULLOM. Will the Senator allow me to suggest that, if

he puts in the section, he get the section of the act of 1887 as amended by the act of 1895?

Mr. MORGAN. That is what I am going to do.

Mr. KEAN. What section of the statute does the Senator want?

Mr. MORGAN. I want to put in the RECORD the status of the law to-day on the question of passes.

Mr. KEAN. It is section 22 of the present law.

Mr. MORGAN. I will get it right in the RECORD. I want to show the people of Alabama the state of the law as it exists to-day under which these privileges have sprung up in their favor, and about the proposed deprivation of which they complain so much.

Section 22 of the act approved February 4, 1887, as amended March 2, 1889, and February 8, 1895, is as follows:

That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the Boards of Managers of said Homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act: *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable 5,000-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles; but before any common carrier, subject to the provisions of this act, shall issue any such joint interchangeable mileage tickets with special privileges as aforesaid it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section 6 of this act; and all the provisions of said section 6 relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section 6. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section 10 of this act shall apply to any violation of the requirements of this proviso.

Mr. MORGAN. Mr. President, the privileges which the people of Alabama enjoy by the condescension and favor of Congress heretofore under its legislation are those mentioned in this act, under which they have received these benefits and in respect of which they have arranged all their contract relations with the railroad companies, which they now do not wish to have disturbed. They are satisfied with them; the railroad companies are satisfied with them; and I do not know that it is any of our business to produce dissatisfaction between them. I suspect that some Members of Congress are not exactly satisfied with the report of the committee of conference because it will cut them off from some privileges which they enjoy and will be compelled to surrender. They will be so compelled under the force of public opinion, which, I think, is entirely unjust. I have no personal interest in the matter.

We have resolved ourselves into a reform association here in the Senate—a great radical reform association—and our head reformers have been out in a committee of conference for some days and have come back and have reported that they have agreed to a certain report, which is presented here in a most admirable form, perfectly intelligible. They do not tell us about the tribulations they had in coming to that agreement, but, judging from their anxieties exhibited on the floor of the Senate, I suppose they must have suffered a good deal in their combat with each other in the committee room. They are back here with a full agreement in regard to every single item in the bill. Nothing is disagreed to in the committee.

Then a Senator who was a member of the committee rises in the Senate and asks us to disagree to all they have done. "Disagree to all we have done. We have done our best; we have acted righteously, according to what capacity the Almighty has bestowed upon us in the way of mental ability; we have acted up to the top gauge of our ability. Here is the result, and we ask the Senate of the United States to disagree to every word

of it and send it back to the committee." They seem to be alarmed at the thoroughness of this startling reformation. I share their worst apprehensions, and they have my condolence.

I suppose we are obliged to do this out of deference to them. But it looks to me very like a case of merely shifting the responsibility. Why did not these conferees stand up in committee and battle for their convictions, like we have been battling here to-day and trying to give them enlightenment, as the Senator from South Carolina says, and information upon these questions? If they had stood to their posts and fought for their principle in that committee room, instead of this being a unanimous report from the entire committee as to every feature of this bill we would have had, perhaps, an agreement as to some features and a disagreement as to others.

But this is a most remarkable proceeding. On the motion of the Senator, a member of the conference committee, to disagree, we find ourselves entering with them into the conference room and resolving the Senate into a sort of committee of the whole on conference, the time spent to-day and yesterday in giving them advice, no two of us agreeing on any matter of importance. This is a conference that only confers, but does not attempt to decide anything.

Some Senators say we can instruct the conferees and others say we can not. My opinion is we can instruct the conferees whenever we choose to do it. We can not offer an amendment to what they propose, but we certainly can instruct them. But we have deliberately declined to offer any instructions. We have offered a great deal of enlightenment, a great deal of information, and a great deal of wisdom and perhaps some unwisdom, and they must take it back and digest it as best they can, and come to another conclusion, which I suppose will be just what it is now—to agree to every feature of the bill, according to what they think is best and right, and advise the Senate to reject their report.

In this report they have found that it is necessary for them to legislate on matters that have not passed either House, and very properly they come out and state that they have taken the function of legislation in their hands in order to make this bill what it ought to be. Well, it needed it, Mr. President. There never was a bill that needed legislation any more than this bill, and I am extremely obliged to the conferees for having entered upon these new suggestions of a legislative sort, which were also agreed to by the House conferees.

I have been all day trying to work out a puzzle in my own mind, and that is what would happen to this bill if the House should agree to the report and the Senate should disagree to it. There is a deadlock I am unable to see through. I can not imagine how we are ever going to get along with that.

Mr. TILLMAN. I will state that under the custom the House is awaiting our action, and the report has not been presented over there. So the unfortunate deadlock which the Senator foresees is not likely to occur.

Mr. MORGAN. In these later days the best of customs are those that are most abused, and perhaps the House will take a different view. I do not know of any parliamentary law that requires that they shall not act. But suppose they wait until we have acted and we disagree to the report and they take it up and say, "We agree to the whole of it." Where are we? Here is every amendment of the conferees agreed to by them, agreed to also by the House, and the Senate stands by itself, at the invitation of its conferees, disagreeing to all of them. I admit that it is a good deal deeper pit than any heretofore contained in this bill, and some of those have been the most inscrutable of all the holes I have ever tried to look into.

I notice on page 14 the conferees have struck out amendment No. 26 entirely and have substituted in place of it another amendment, as follows:

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in this act, unless, etc.

I had supposed that this bill was dealing entirely with common carriers, but the committee have reached out and included all carriers—personal, private, Government carriers. It does not say a word about common carriers. But they take the entire family of carriers and put them in this section.

Mr. CULLOM. The Senate put this in.

Mr. KEAN. That was put in by the Senate.

Mr. MORGAN. I am sorry that it has been visited back on the Senate, because I had hoped the Senate, in its wisdom, had escaped the difficulty and the grotesque situation in which we are put in this legislation. What did the Senate mean by putting personal or private carriers under restrictions that apply to common carriers? The reformation seems to be very sweeping.

There is, nevertheless, in that proposition the real merit, the real foundation of the only interstate-commerce legislation that

we can impose upon the railroads of the different States, chartered by them under their own laws and subject to their own regulations. What is that?

No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in this act, unless, etc.

Put that at the foundation of your law when you are again reporting it, if you find that you must legislate in order to support the reformation, that the Government of the United States intends to take charge under the Constitution of all interstate transportation and make interstate transportation mean interstate commerce, and that no railroad or other common carrier shall participate in this interstate transportation except upon the terms and conditions which the Congress chose to prescribe, and you will have had a law which would obligate every railroad company that undertakes to prosecute the business after the passage of that law to accept and obey every provision in the act, because it would be a contract between it and the United States, or a quasi contract. I am very sorry that while they were dealing with this question—if the Senate is responsible, I am sorry for the Senate; if the committee are responsible, I am sorry for them and the country—that they did not adopt that proposition, and instead of saying—

Unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this act—

They had said, "You shall not engage in interstate transportation unless you obey all the provisions of this act, of every kind and character." You would have eliminated from consideration every constitutional question except the single one as to whether the subject-matter is within the control of Congress; that is, whether transportation is a feature actually of interstate commerce. Everything would have been settled right there. All the trouble we have been having for five months would have been avoided, and Congress would have been building its legislation for the control of railroads upon a principle that is perfectly plain and undeniable.

Referring, however, to the mere matter of posting up placards about the depot, in this act it is proposed to say that if the railroads fail to do that they shall not engage in interstate commerce. An inspector goes around and does not find these bills of freight placarded about the depots, and that railroad company must go out of business. It shall not engage in interstate commerce. It can not do anything. Standing just as it is and without any elaboration, this provision is an absurdity. It is an absurdity to say that a railroad company shall go out of interstate commerce because it does not placard its rates of freight upon the walls of its stations.

I have merely indulged in that criticism in order to bring the Senate to some consideration of what is really the foundation principle of all legislation by Congress in regard to interstate commerce conducted by railroad corporations, which are the creatures of the law in the different States and which are entirely and exclusively under their control. If they are excluded from interstate commerce for not accepting and obeying the acts of Congress, they will accept them.

I wanted, also, to call attention to the great number of difficulties suggested by this provision in amendment 17 that we are going to encounter in regard to all these matters.

Now, in regard to the matter of passes, the committee of conference have acted wisely and patriotically in striking out entirely the section enacted by the Senate on the subject. That was a confused section. It was very partial and very unjustifiable upon any principle of law. I do not speak about the particular people that they tried to accommodate, but on any principle of law it is entirely unjustifiable.

If the Congress of the United States is to prevent the giving of passes by railways to certain classes of people, suppose we change the picture and look at the other side of it. Congress, let us suppose, will make an enactment that you shall give passes to every Member of Congress and to his family. You shall give passes to all Young Men's Christian Associations and to all the beneficent public enterprises, including the negro visitations that they make by tens of thousands on excursion trains in the South. It is a very enlightening and a very cheerful thing to see going through a country 2,000 negroes on a train making an excursion either as deadheads or at a very low rate of freight. It improves conditions. Even the atmosphere seems to be better and more homelike from the fact of their passing through. I dislike the idea that our northern friends are to find this happy recreation cut off by this bill.

Now, Mr. President, what right have we got to say to a railroad company, "You shall not give a pass to a certain person, although he may be in your employment?" You can not give it without in some way or other committing some possible

immorality or setting a bad example, one of the two. We are going to take charge of you in a moral sense. We are going to arrange it so that you shall not be tempted to give a pass to anybody either for pity, charity, or religion, or politics, or any other cause. We will fix it so that you shall be absolutely true and upright in all your transactions in regard to giving out passes. At the same time you must remember that we are putting shakels by the shovelful into the treasury of the railroads, for we are making these people pay them money, whereas they would not pay any money when passing free over the interstate railway. We are robbing Peter to pay Paul. I do not know which was the poorer of the two of those great disciples, but we are robbing the poorest that we can find to put money in the treasury of the richest that we can find. The railroads do not seem to complain of this reformation.

Now, that is reform, Mr. President, but it is wrong end foremost. It is not rational reform. It is not what is so frequently described in this bill as "reasonable." Everything that is "unreasonable" connected with railroad transactions throughout the whole country is denounced as being unlawful. We are thus doing an unlawful thing in the proposed amendment by compelling the railroads to collect money for fares, for instance, out of the poor woman who lives here in Pennsylvania and has a splendid husband who runs on a railroad as engineer between Omaha and San Francisco. Winding through the mountain peaks of that region of country, his engine is toppled over into a gulch and he is wounded. She goes piteously to the railroad company that has these through connections. "Will you not give me a pass to go to see my husband?" "No; the law of the United States fines us \$1,000 and puts you in jail for asking it."

That is what we are doing here to-day in regard to passes. People who are entitled to the charities of the railroads and receive them abundantly and who are entitled to the charity and benevolence of Congress are turned away for fear somebody might say, "Yes, you conferred a pass and privilege upon a poor woman who wanted to go to see her husband, who had been thrown over the precipice, and you fine her for making the request." Such tears, Mr. President, as she would shed are not going to receive the compulsion of my vote. They are soft enough when they come from the deep, unutterable moving of the heart, but I do not want to crystal them into block salt as a memento of this reformation while she is looking back over her shoulder in despair and in fear of some following evil, as did Lot's wife. I do not want to do that. I do not intend to unite in promoting such a reformation in railroad practices.

The bill is a stigma upon justice, humanity, and charity, and it is done in the name of reform. When reform gets to be radical and persecuting, and gets our committees to doing wrong, I am against reform. Reform has no element of that sort where it is in connection with the slightest tinge of Christian sentiment and love.

This bill, Mr. President, murders every honest sentiment that is connected with charity and benevolence when it denies to these poor people the privilege of accepting from a railroad company such benevolences as that road can confer without the slightest possible loss, and makes the penalty of the application for a pass a cell in a jail or the penitentiary. The committee did very wisely, very patriotically, very justly, and acted in a Christian sense in striking out of this record the provision the Senate had put in. But, Mr. President, it acted also with a great deal of talent in finding a substitute for it. There is the remarkable part of it. There is where my friend from South Carolina is entitled to great credit. I will read that talented production. It is put in capital letters here:

No carrier subject—

Mr. TILLMAN. Will the Senator pardon me for an interruption?

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

Mr. MORGAN. Certainly.

Mr. TILLMAN. It was put in capitals, as all the other amendments made by the conferees were put in capitals, for the purpose of having the attention of Senators directed immediately to what we had done rather than the ordinary method in which conference reports are presented here, where you have to shuffle around and "dig like fits" to know what they have done. We have not concealed anything, whereas in the average conference report you do not know what the conferees have brought about.

Mr. MORGAN. I am delighted with these capitals, Mr. President. They draw my attention to the subject, and more than that, they do honor to the committee for putting them in here, because they call sharp attention to the real distinctions

that ought to exist and do exist in the proposed law in regard to this matter of giving passes.

Mr. KEAN. Mr. President—

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

Mr. MORGAN. Yes, sir.

Mr. KEAN. I wish to ask the Senator from South Carolina whether he disclaims the authorship of the amendment?

Mr. TILLMAN. Most assuredly I disclaim the authorship, because it is a House amendment. The Senate added an amendment and the House would not accept it, but proposed this as a substitute.

Mr. KEAN. I thought the Senator from Alabama had said that the Senator from South Carolina was the author of the amendment.

Mr. MORGAN. No; the Senator from South Carolina never claims anything that does not belong to him. If he wants anything he has no title to, he goes and takes it. [Laughter.]

Mr. KEAN. I am glad to know the Senator from South Carolina is not the author of the amendment.

Mr. TILLMAN. The Senator from New Jersey knew that before he asked the question.

Mr. KEAN. I only wanted to have it in the RECORD.

Mr. MORGAN (reading)—

No carrier subject to the provisions of this act shall, after January 1, 1907, directly or indirectly, issue or give any interstate free ticket.

There is no carrier subject to the provisions of this act that has got any right to give an interstate free ticket. A railroad company in Alabama can not give an interstate free ticket outside of the borders of that State to anybody. They may make some arrangement by which they will recognize the privileges that are conferred and adopt them in the State of Georgia, for instance, after the man has passed out of Alabama on an Alabama railroad until he gets to Columbus, Ga. But the words "interstate free ticket" are here and they appear again:

Any interstate free ticket, free pass, or free transportation for passage. Any carrier violating this provision shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not exceeding \$1,000; and any person who uses, solicits, or accepts for himself or for another any such interstate free ticket, free pass, or free transportation, shall be deemed guilty of a misdemeanor, and upon conviction thereof be subject to a like penalty.

A person goes to a railroad office in Alabama and asks for a State ticket, under State law and State permission, to go to Decatur, Ala., which is near the border of the State, or farther up to Athens, in Alabama. "Certainly, we will grant you that." Congress does not pretend to punish that. The State has the right to authorize the pass. It authorizes the issue of the pass. The railroad has the right to issue it and does issue it, and there is no harm done, and no law of Congress violated. It is only when the office in Mobile undertakes to give interstate transportation, transportation reaching into Tennessee and Kentucky, that this law is violated.

"Why," says the poor applicant for a pass, "I do not want it—I do not ask for it any farther than the State line of Alabama. I happen to have here, through the influence and assistance of a friend in Kentucky, another one in Tennessee, passes also through those States, and I have nothing to do but to show them to the conductor and go along," and there need not be any interstate agreement about it.

Now, that is the talented part of this new provision. It does not do a bit of harm; and I want to explain to my people that these gentlemen on this conference committee have not been trying to deprive them of any right or privileges they have enjoyed heretofore, but they have merely put the railroad companies to the inconvenience of issuing separate tickets for each State through which they pass.

Now, what will be done with an indictment for giving an interstate pass? When you come to prove your case you find that the pass did not go beyond the limits of the State.

Mr. TILLMAN. Will the Senator allow me?

Mr. MORGAN. Certainly.

Mr. TILLMAN. The Senator is a great lawyer and he knows that Congress has no power to prohibit or regulate railroads within a State. The Supreme Court has said time and time again that Congress can do nothing.

Mr. MORGAN. The Senator must allow me to say the Supreme Court have said so in so many different ways I do not think I know it.

Mr. TILLMAN. I am only standing by what I understand to be the law. Now, then, if we are allowed here to regulate only interstate commerce and traffic or passenger rates between States where the railroad crosses the State line, does the Senator think, as a lawyer, that the issuance by a railroad of State passes good within the State would not come within the provisions here of interstate traffic? In other words, would not

the man receiving and undertaking to pass over from one State into another and using the State pass in a different State from the one in which he lived be liable to punishment, and would not the railroad be liable to punishment?

Mr. MORGAN. That would be a conspiracy to violate the law of the United States. It would take two consenting parties, the railroad, if you please, the recipient of the pass, and the next railroad conductor or railroad company that might take a pass that was given in the other State.

Mr. TILLMAN. Nevertheless, Mr. President, if a resident of Alabama receiving a pass from the Mobile and Ohio road, good in Alabama, lawful in Alabama, travels to the Mississippi State line and then pulls out a pass in Mississippi over the same road, he has become an interstate passenger and the railroad which issued two passes with a view to allowing him to evade the act of Congress would be liable for punishment, and the man himself would be liable also.

Mr. MORGAN. That would be about as hard a case to make out in law or before a jury as could well be conceived of, if the prosecutor knew with absolute certainty of such a situation as that.

Mr. TILLMAN. If the Senator from Alabama is correct, then Congress is helpless to stop this abuse.

Mr. MORGAN. It is not an abuse. It is a kindness. It is justice. It is a rightful act. I have not said it was "righteousness."

Mr. TILLMAN. It is considered to be an abuse by the people for public officers—Senators and Members of Congress and legislators and judges—to ride on free passes while they have to pay; and that is really at the root of all the agitation to do away with the free-pass evil, if it is an evil. The Senator says it is not an evil. There are millions of people in the United States who think it is, and I think they are going to continue to demand that Congress shall do something to stop it.

Mr. MORGAN. It is a sort of dog in the manger policy that never had any acceptance in my philosophy, and certainly not in my legislative action, that a man should get angry because another man had received benefaction from some friend. He might as well get angry at him for having received a legacy.

Mr. FORAKER rose.

Mr. MORGAN. If the Senator will excuse me just a second. Apply it to other public functionaries, for whom this same law would apply with full force. Suppose the keeper of a great hotel, or a little one, either, invites a friend to come and spend the night with him, and he charges the man that travels along with him \$5 or \$2.50 for the night's lodging and his food, has that man any right to complain that this innkeeper invited his friend to come and spend the night with him? Congress has got just as much power to punish an innkeeper for doing a thing of that sort as it has to punish a railroad. The morality of the proposition is exactly the same.

Mr. SPOONER. The Senator ought not to say that after the concession the other day by the Senator from West Virginia [Mr. ELKINS] that the Shoreham Hotel is not a common carrier.

Mr. MORGAN. I have not heard about that. Most of the hotels in Washington appear to be judged as common carriers by the various descriptions of things and people they entertain. I should say they were all common carriers.

Mr. GALLINGER. They carry all our money away.

Mr. MORGAN. I am not merry about this. I am as much in earnest about this as I possibly can be in view of a subject that is so grotesquely ridiculous.

Mr. FORAKER. Mr. President—

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

Mr. MORGAN. Yes.

Mr. FORAKER. May I interrupt the Senator from Alabama only to ask him if he would not prefer to continue his remarks to-morrow? I do not want them cut off.

Mr. MORGAN. No; I am now just about through.

Mr. FORAKER. I am enjoying them very much, as everyone else is; but it is getting to be a very late hour.

Mr. MORGAN. I think I have demonstrated that the Senator from South Carolina has made an escape for my people which they can avail themselves of without any difficulty, by simply getting a pass across the State of Alabama, it being about 250 miles across the State of Alabama, and they can go perfectly safe on the Alabama pass, and then have a Mississippi pass for the other part of the journey, which would practically be 5 miles or 10 miles into the State of Mississippi. The Senator from South Carolina has provided against that; and I do not want to see anybody criticise the Senator who has been making such manly efforts to try to escape the results of association with gentlemen who are engaged in a great moral crusade, and who began this crusade by tearing out of the present law of the

United States express provisions of the Constitution of the United States in amendment No. 7 of the Constitution, providing for that, which this Senate and this committee so far seems to have entirely ignored and thrown aside—that great right of the people to demand a trial by jury.

Put the people on the jury bench to try all these cases, and you will have the law properly administered; and, in the end—not in every case, but in the great average of cases—you will have it right. They will settle all questions as to the reasonableness of rates, and they will settle them after all Congress can do to prevent it. This Congress may try every power and faculty of absolutism that it can conceive of, but it can not take away from any court of the United States the right to determine whether a rate charged by anybody is reasonable—I do not care whether it is charged by a direct act of Congress or by a railroad company or by a railroad commission. That reasonableness that enters into the contract itself, into the essence of the employment, stands there, and the courts, as far back as courts have sat anywhere in Christendom, have always assumed the right to exercise their judgment in regard to the reasonableness of any rate that might be charged by any carrier to a shipper; and they will never give it up. Unless you intend to enforce these rates at the end of a bayonet, instead of enforcing them through the courts of justice, you will find the courts of justice will never accept from the Congress of the United States any rate that, according to the conscience of the courts, is not reasonable. You can not prescribe it in such a form as to compel the courts to accept it.

I think, Mr. President, that explains all I wish to say to my constituents on the subject of this bill. I am really addressing the thousands of my constituents who deplore our action on this bill. I honor them, because they are worthy of honor.

Mr. TILLMAN. Mr. President, I am very anxious to get this interesting and enlightening debate finished and to get the bill back into conference; but a half dozen Senators, or something like that number, have indicated that they want to speak. So I can not hope to get a vote to-night without great discomfort and the possibility of the loss of a quorum. Therefore, I give notice that to-morrow, when the Senate meets at 2 o'clock, I shall ask that we proceed immediately with the consideration of the conference report without any morning business or any other matter intervening; and I will try to get a vote before we adjourn, if the Senate will stand by me.

I move that the Senate now adjourn.

The VICE-PRESIDENT. Will the Senator from South Carolina withhold that motion for the present, while the Chair lays before the Senate certain messages from the House of Representatives?

Mr. TILLMAN. Certainly.

#### MISSISSIPPI RIVER DAM IN MINNESOTA.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 5357) permitting the building of a dam across the Mississippi River above the village of Monticello, Wright County, Minn., which were on page 3, line 15, to strike out "three years" and insert "one year;" and on page 3, line 16, to strike out "six years" and insert "three years."

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

The motion was agreed to.

#### REGULATION AS TO SPONGES.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 4806) to regulate the landing, delivery, cure, and sale of sponges, which were, on page 1, line 3, to strike out "the passage of this act" and insert "May 1, A. D. 1907;" and, on page 1, line 10, after "act," to insert:

*And provided further,* That no sponge shall be landed, delivered, cured, or offered for sale at any port or place in the United States of a smaller size than 4 inches in diameter.

Mr. CULLOM. I move that the Senate disagree to the amendments of the House of Representatives and ask for a conference with the House on the bill and amendments, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. CULLOM, Mr. LODGE, and Mr. BACON as the conferees on the part of the Senate.

#### CERTAIN LANDS IN IDAHO.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 4862) allowing settlers with permanent improvements on the town sites of Heyburn and Rupert, in Idaho, to buy lots on which said improvements are located at an appraised price for cash, which were, in lines 6 and 7 to strike out "the approval of this

act" and insert "March 5, 1906;" in lines 7 and 8, to strike out "and with substantial improvements;" and in line 9 to strike out "occupied by them" and insert "so built upon."

Mr. DUBOIS. I move that the Senate disagree to the amendments of the House of Representatives and ask for a conference with the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. ANKENY, Mr. CARTER, and Mr. DUBOIS as the conferees on the part of the Senate.

#### INDIANS OF RICHARDSON COUNTY, NEBR.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2418) to enable the Indians allotted lands in severalty within the boundaries of drainage district No. 1, in Richardson County, Nebr., to protect their lands from overflow, and for the segregation of such of said Indians from their tribal relations as may be expedient, and for other purposes, which was, on page 3, line 14, after "discretion," to insert "upon application."

Mr. BURKETT. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. TILLMAN. I now renew my motion that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 23 minutes p. m.) the Senate adjourned until to-morrow, Thursday, June 7, 1906, at 2 o'clock p. m.

### HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 6, 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.

Mr. PAYNE. Mr. Speaker, I move that the Journal be approved.

The motion was agreed to.

#### SUPPLEMENTAL REPORT MERCHANT MARINE COMMISSION.

Mr. GROSVENOR. Mr. Speaker, I ask unanimous consent to file a supplemental report from the Merchant Marine Commission, which I ask to have printed as a document, and at the same time I ask unanimous consent that the minority may present their views at the same time.

The SPEAKER. The gentleman from Ohio asks unanimous consent to file a supplemental report upon the Merchant Marine Commission; also that the minority may have leave to file a report.

Mr. SULZER. What is the title of the bill?

The SPEAKER. It is no bill; it is a supplemental report from the Merchant Marine Commission.

Mr. WILLIAMS. Mr. Speaker, I suggest to the gentleman from Ohio if the request is put that way the minority would have only this legislative day in which to file the minority report.

Mr. GROSVENOR. Oh, they may have ten days.

The SPEAKER. That they may have ten days in which to file the report and the same be printed as a document. Is there objection? [After a pause.] The Chair hears none.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 18030) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1907, and for other purposes, 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. SCOTT, Mr. HEMENWAY, and Mr. PETTUS 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. 5924. An act to extend the provisions of the existing bounty-land laws to the officers and enlisted men, and the officers and men of the boat companies, of the Florida Seminole Indian war; and

S. 6299. An act for the relief of Pollard & Wallace.

The message also announced that the Senate had passed with amendments bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 18750. An act making appropriations for the naval service for the fiscal year ending June 30, 1907, and for other purposes.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 1160) granting an increase of pension to Eliza Swords, 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. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 19432) to authorize additional aids to navigation in the Light-House Establishment, 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. NELSON, Mr. GALLINGER, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 9813) granting a pension to Harriet P. Sanders, 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. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO as the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments the bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 239. An act 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.

#### SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6299. An act for the relief of Pollard & Wallace—to the Committee on Claims.

#### SUNDRY CIVIL APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 19844) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill in Committee of the Whole House on the state of the Union be limited to two hours, one hour to be controlled by the gentleman from Massachusetts [Mr. SULLIVAN] and one hour to be controlled by myself, and pending the submission of that request I will state the reason for it is this: As most Members know, the time of final adjournment of Congress depends more now upon the speedy consideration and passage of the sundry civil appropriation bill than perhaps any other bill or subject that is before Congress at this time, and Members who desire to deliver speeches on other topics will have an opportunity of doing so on the bill which will follow this, which, I am informed, is a bill reported by the Ways and Means Committee revising or amending the administrative tariff act, and also on the general deficiency appropriation bill, which will be the last appropriation bill presented to the House for consideration, and I trust, therefore, that unanimous consent for closing general debate after two hours will be granted.

The SPEAKER. The gentleman from Minnesota moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the sundry civil appropriation bill; and, pending that, asks unanimous consent that general debate be limited to two hours.

Mr. SULLIVAN of Massachusetts. Mr. Speaker, reserving the right to object, I wish to state that before the necessity for closing up debate on this bill became apparent I had promised time in general debate on this bill. If those promises were fulfilled, it would consume twelve hours of time. I therefore feel constrained to object to closing general debate.

Mr. LIVINGSTON. I think if my colleague will state to the House that when the deficiency bill comes these twelve hours can be provided for, he will have no more trouble.

Mr. TAWNEY. Well, of course I can not make a promise here that would bind the House or the Committee of the Whole.

Mr. LIVINGSTON. I do not ask you to do so.

Mr. TAWNEY. I understand there will probably be two days of general debate on the bill reported from the Committee on Ways and Means. The general deficiency bill is generally held in the House until the light of adjournment is visible at the other end of the Capitol, which time is consumed largely in general debate. I can not make any promise. I can merely

make a statement of the custom in the consideration of the general deficiency bill, and also the information which I have received that opportunity for general debate will be given on the customs administrative bill, reported by the Committee on Ways and Means. It is very necessary, if we are to facilitate the work that must be done before Congress adjourns, that this bill be considered as speedily as possible. There is a great deal in this bill that will provoke legitimate debate, and wide latitude will be allowed in the consideration of the various provisions of the bill under the five-minute rule.

Mr. UNDERWOOD. I would like to ask the gentleman from Minnesota a question with reference to the consideration of the bill. There is a provision in the bill providing for an investigation of the structural material matter. It is very important, and it could not be discussed fully under the five-minute rule. I would like to ask the gentleman, if we will make this consent order on general debate if he would be disposed to allow some latitude on that question?

Mr. TAWNEY. It will not be my purpose to prevent latitude of discussion of that question or of all other questions where the debate is limited and confined to the subject-matter before the Committee of the Whole at that time; but in view of the objection of the gentleman from Massachusetts, it is not necessary to waste any further time.

Mr. WILLIAMS. Mr. Speaker, in connection with this hope that we would have time for general debate later upon other bills, I desire to ask the gentleman from Minnesota if he has heard that there has been any meeting of the leaders of his side of the House with a view to cutting off all general debate for the balance of this session?

Mr. TAWNEY. I have not heard of any such meeting, have no knowledge of any meeting, and do not believe there has been a meeting of that kind nor for that purpose.

Mr. WILLIAMS. I am very glad to hear it, because it has been rumored, and I did not know whether it was true or not.

Mr. GROSVENOR. There are several propositions involved here upon which speech is desired on this side of the House, and it will be impossible to make any combination of that sort.

The SPEAKER. Objection being made, the question is on the motion of the gentleman from Minnesota, that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the sundry civil appropriation bill.

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

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. WATSON in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 19844—the sundry civil appropriation bill.

The Clerk read as follows:

A bill (H. R. 19844) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes.

Mr. TAWNEY. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Minnesota, the chairman of the committee, asks unanimous consent that the first reading of the bill be dispensed with. Is there objection? [After a pause.] The Chair hears none.

Mr. TAWNEY. Mr. Chairman, I wish to announce to the House now, in order that Members may know what the purpose of the committee is in respect to the matter of closing debate, that I intend to occupy only about twenty-five minutes in my opening statement, and will yield twenty-five minutes remaining of my hour to the gentleman from Massachusetts [Mr. SULLIVAN], and at the conclusion of the hour I will move that the committee rise, go into the House, and endeavor to close debate by motion in the House. I do this, Mr. Chairman, because I am confident that every Member of the House who wishes to deliver a speech upon any subject foreign to the bill under consideration will have ample opportunity to do so after this bill passes and goes to the Senate. We all know that more time is consumed in the consideration, and properly so, of the sundry civil appropriation bill in the Senate than in the consideration of any other appropriation bill that is considered by Congress; and during that time I feel confident that there will be ample opportunity for everybody who desires to speak to be heard on the floor of the House.

Mr. ADAMSON. Will the gentleman from Minnesota yield for an interruption?

Mr. TAWNEY. I yield for a question.

Mr. ADAMSON. I wish to make a statement, not a question, just for a moment.

Mr. TAWNEY. I must beg the gentleman's pardon.

Mr. ADAMSON. It is affecting this bill.

Mr. TAWNEY. I have reserved to myself only twenty-five minutes, with the understanding that I am going to yield twenty-five minutes to the gentleman from Massachusetts [Mr. SULLIVAN].

Mr. ADAMSON. Then I will ask a question.

Mr. TAWNEY. I have no time to yield to gentlemen to make statements, but I yield for a question.

Mr. ADAMSON. I am sorry the gentleman seems to doubt my sincerity when I say that the statement is one affecting this bill, and it will be shorter than the question would be, and it is pertinent.

Mr. TAWNEY. Go ahead.

Mr. ADAMSON. I wish to call the gentleman's attention to the fact that there are some gentlemen in this House who will speak to the pending bill and who do not always seek an opportunity to publish to their constituents, and that there are a great many things in this bill which affect the conduct of this Government for the next year which some gentlemen wish to talk about, and it is not fair to assume that all of us want to speak to the galleries or to the newspapers, and it is not fair to limit the time to one hour on this, one of the greatest and most important bills before Congress.

Mr. TAWNEY. Mr. Chairman, in reply to the gentleman from Georgia, I will say that I feel quite confident that when items in which Members are interested are reached in the consideration of this bill in the committee, under the five-minute rule, there will be ample opportunity for any Member who desires to discuss the provision under consideration to do so. I do not wish to take advantage of anybody, but I want, if possible, to expedite the consideration and passage of this bill as much as possible.

Mr. ADAMSON. I will say to the gentleman that I never consume more than a few minutes of the time of this House, and those who speak to the bill do not generally consume a great deal of time.

Mr. TAWNEY. Mr. Chairman, the gentleman from Georgia is entirely right in saying that there is perhaps no appropriation bill submitted to the House of Representatives, or that originates in this body, of greater importance than the sundry civil appropriation bill. This bill carries appropriations for all the sundry civil expenses of the Government. It is a bill that comes closer to the people than almost any other appropriation bill enacted by Congress; a bill that affects more directly the material welfare of the people than any other. It is the bill that provides for all the aids to commerce and navigation which the Government of the United States furnishes. It is also the bill that provides all the facilities that enable the people of the United States to conveniently transact their business with the various branches of the Government. The bill therefore affects directly the interests of more of the constituents of Members of this House than any other appropriation bill, and it is for that reason, Mr. Chairman, that I have desired to confine the debate to the bill.

Mr. Chairman, my time is very limited, and I shall have to confine myself as briefly as possible to a general statement of the appropriations recommended by the bill, and also to a statement respecting some of the legislative provisions which the committee have recommended.

The total appropriation for the sundry civil expenses for the current fiscal year is \$67,163,600.66.

The estimates submitted by the Departments for the next fiscal year aggregate \$105,416,576.89.

The total appropriations recommended by the committee for sundry civil expenses for the fiscal year 1907 is \$94,342,156.42, being \$11,074,420.47 less than the regular and supplemental estimates.

Of the total amount carried in this bill \$25,456,575.08 is for the construction of the Panama Canal and is reimbursable from the proceeds of the sale of bonds.

In addition to this sum, the amount carried for river and harbor improvements made necessary by river and harbor acts, and especially by the act passed at the last session of Congress, is in excess of the amount appropriated in the current law for that purpose by \$6,774,844.14.

Adding, therefore, the Panama Canal appropriations to the excess over the current law for river and harbor improvements, and deducting that amount from the aggregate amount carried in this bill, leaves \$62,110,737.20, or \$5,052,863.46 less than the amount appropriated for sundry civil expenses for the current fiscal year.

The above-mentioned items, namely, for construction of the isthmian canal and to meet river and harbor contract obligations, are to meet the demands of previous legislation and upon which the committee had no opportunity to revise or reduce.

By comparing the other items upon which the committee used their discretion, a reduction of \$5,052,863.46 is made under the current law.

Mr. Chairman, in the investigation of the estimates submitted by the various Departments for the sundry civil expenses for the next fiscal year, the committee gave those items the most careful investigation and consideration. I think the subcommittee having charge of the preparation of this bill consumed at least six weeks in the hearings before the committee, if not more, and the printed stenographic report of the hearings contains over 1,500 pages of printed matter.

I do not intend to take up the time of the committee in presenting any further details. The report of the committee gives a full and complete statement of all increases and decreases recommended. I have made an analysis of the bill, however, which I will print in connection with my remarks, which shows that there are sixteen items in the bill carrying \$82,277,767.42, and four of these items aggregate \$54,649,551.22. This leaves a balance of \$12,064,389, and this sum is distributed among 176 different items, as follows:

Assistant custodians and janitors	\$1,466,666.00
Engraving and printing	3,296,433.00
Fuel, lights, and water, public buildings	1,200,000.00
Geological Survey	1,138,320.00
Home for Disabled Volunteer Soldiers	4,202,944.00
Homes for soldiers in States and Territories	1,150,000.00
Isthmian canal construction	25,456,575.08
Light-houses, beacons, and fog signals	1,875,050.00
Light-House Establishment	3,850,000.00
Public buildings, contracts	5,170,583.20
Public lands, collecting revenue from, etc.	1,013,220.00
Public Health and Marine-Hospital Service	1,185,000.00
Public printing and binding	5,325,000.00
Revenue-Cutter Service	2,080,000.00
River and harbor contract work	17,318,976.14
United States courts	6,549,000.00
Sixteen items	82,277,767.42
Carried by remaining items	12,064,389.00
<b>Total</b>	<b>94,342,156.42</b>
Isthmian canal construction	25,456,575.08
River and harbor contract work	17,318,976.14
United States courts	6,549,000.00
Public printing and binding	5,325,000.00
<b>Four items</b>	<b>54,649,551.22</b>

Object.	Appropriations for 1906.	Estimates for 1907.	Recommended for 1907.	
			Amount.	Page of bill.
Agriculture, Department of, building	\$700,000.00		\$300,000.00	157
Alaska Commercial Company		\$5,080.00		
Alaska, reindeer for	15,000.00	15,000.00	9,000.00	82
Boundary line between Canada and	65,000.00			
Court-house and jails in			40,000.00	139
Education in	50,000.00	100,000.00	100,000.00	81
Insane in, support of	17,232.00		23,000.00	84
Seal fisheries	12,950.00	11,430.00	11,430.00	61
Relief of native inhabitants of	19,500.00	19,500.00	19,500.00	62
Traveling and incidental expenses	10,000.00	10,000.00	10,000.00	141
Appraisers, local expenses, meetings of	1,200.00	1,200.00	1,200.00	31
Armories and arsenals	331,000.00	477,842.00	555,617.00	86
Army Medical Museum and Library building	8,000.00			
Arrears of pay and allowances, war with Spain	100,000.00		200,000.00	135
Artificial limbs and appliances for soldiers	425,000.00	145,000.00	145,000.00	120
Appliances for disabled soldiers	2,000.00	2,000.00	2,000.00	121
Appropriations, preparing statement of	2,000.00		2,000.00	158
Astrophysical Observatory	15,000.00	15,000.00	14,000.00	19
Atlanta, Ga., penitentiary	50,000.00	100,000.00	80,000.00	137, 153
Attorney-General, publishing opinions of			500.00	143
Botanic Garden	7,000.00	7,000.00	7,000.00	158
Boundary line, United States and Canada	50,000.00			
Building where Abraham Lincoln died, repairs to	400.00	200.00	200.00	97
Buildings and grounds in Washington	152,850.00	144,050.00	166,450.00	89
Buck, George M.	750.00			
California Débris Commission	15,000.00	15,000.00	15,000.00	121
Canceling United States securities	200.00	200.00	200.00	27
Capitol, building and grounds, lighting	42,500.00	42,500.00	42,500.00	65
Building, repairs, etc.	30,000.00		30,000.00	64
Building, reroofing terraces			28,000.00	64
Building, revolving doors for entrances to			6,000.00	64
Cleaning works of art in	1,500.00	1,500.00	1,500.00	65
Repairs of building, Court of Claims	7,500.00			

Object.	Appropriations for 1906.	Estimates for 1907.	Recommended for 1907.	
			Amount.	Page of bill.
Capitol, buildings and grounds, lighting—Continued.				
Flags for	\$100.00	\$100.00		
Repairs of fire-engine house and stables	1,500.00	1,500.00	\$1,500.00	65
Grounds, improvement of	25,000.00	25,000.00	25,000.00	64
Casa Grande ruins, repairs to		3,000.00		
Chickamauga and Chattanooga Park	31,000.00	31,000.00	30,000.00	118
Chinese-exclusion act, enforcement of	600,000.00	500,000.00	500,000.00	62
Claims, back pay and bounty to soldiers	200,000.00		250,000.00	135
Claims for damages, army maneuvers		24,052.68		
Coast and Geodetic Survey	851,975.00	861,515.00	843,915.00	40
Committee on Department Methods, expenses			25,000.00	157
Court-house, District of Columbia, repairs	5,000.00	5,000.00	5,000.00	137
Court of Claims building, repairs			3,500.00	137
Crater Lake, National Park	3,000.00	5,000.00	5,000.00	80
Custody of dies, rolls, and plates	11,000.00	11,000.00	11,000.00	27
Customs service, scales for			25,000.00	31
Deaf and Dumb Institution	60,000.00	62,500.00	62,500.00	84
New buildings	30,000.00			
Repairs to buildings, etc.	3,000.00	5,000.00	4,000.00	84
Maintenance and tuition of colored deaf mutes		4,500.00		
Defending suits in claims	55,000.00	55,000.00	55,000.00	139
Defense of suits before Spanish Treaty Claims Commission	112,000.00	92,000.00	112,000.00	142
Defense of Indian depredation claims	40,000.00	40,000.00	40,000.00	140
Distinctive paper for United States securities	250,000.00	260,770.28	308,900.00	26
Executive Mansion, expense of	53,000.00	53,000.00	113,000.00	93
Executive Mansion and grounds, lighting	25,525.00	25,525.00	26,160.00	94
Ethnology, American	40,000.00	50,000.00	40,000.00	19
Fish Commission	715,320.00	687,160.00	670,970.00	49
Fort Monroe, Va., sewer system	8,340.50	10,327.08	8,686.00	116
Freedmen's Hospital, support	28,000.00	28,000.00	27,500.00	85
New building	250,000.00	188,994.00		
Furniture, public buildings	400,000.00	455,400.00	720,400.00	28
Garfield Hospital	19,000.00			
General Grant National Park	2,000.00	2,500.00	2,000.00	80
Gettysburg Military Park	57,000.00	57,000.00	72,000.00	119
Governors Island, N. Y., buildings and improvements	100,000.00			
Howard University	47,600.00	47,600.00	47,600.00	84
Hospital for the Insane	362,550.00	425,480.00	357,800.00	82
House of Representatives, office building	980,000.00		500,000.00	64
House of Representatives, office-building power house	363,000.00			
Hot Springs Reservation, Ark.	6,000.00			
Immigration stations	350,000.00		100,000.00	35
Independent Treasury, contingent expenses	240,000.00	240,000.00	200,000.00	24
Inspector of supplies for public buildings	5,000.00	5,000.00		
Inspector of furniture, salary and expenses	5,500.00	5,500.00	5,500.00	27
Assistant inspector, salary	1,600.00	1,600.00	1,600.00	28
Insular and Territorial expenses, Department of Justice	25,000.00			
Interior Department and Pension buildings	10,000.00	10,000.00	12,500.00	64
Improvement of heating old Post-Office building	24,000.00			
Preservation and repair of heating and lighting plants, etc.	5,000.00	5,000.00		
International Catalogue of Scientific Literature			5,000.00	18
International Waterways Commission			20,000.00	116
International exchanges, Smithsonian Institution	28,800.00	28,800.00	28,800.00	18
Interstate Commerce Commission	365,000.00	385,000.00	375,000.00	21
Justice, Department of:				
Traveling and miscellaneous expenses	8,500.00	8,500.00	8,500.00	141
Care of rented buildings	10,000.00	10,000.00	10,000.00	141
Klocker, Oscar		30.00	30.00	63
Lands and other property of the United States	400.00	400.00	200.00	31
Leavenworth, Kans., Penitentiary	240,000.00	250,000.00	200,000.00	137
McKay Steamship Line		40.00	40.00	63
McNeil Island Penitentiary		6,000.00	6,000.00	138
Malloy, William M.	1,000.00			
Maps for War Department	3,000.00	5,000.00	3,000.00	120
Milan, Italy, exposition at		40,000.00		
Military prison, Fort Leavenworth, Kans.			17,480.00	118
Military posts, enlargement of	1,200,000.00	973,750.00	750,000.00	114
Army general hospital	100,000.00			
American Lake, Wash.		30,000.00		
Presidio Reservation, San Francisco, Cal.	7,500.00	15,000.00		
Presidio of Monterey, Cal., target range	10,000.00			

Object.	Appropriations for 1906.	Estimates for 1907.	Recommended for 1907.	
			Amount.	Page of bill.
Military posts, enlargement of—Continued.				
Fort Getty, R. I.		\$11,000.00		
Fort Greble, R. I.		100,000.00		
Fort Logan, Colo., target range	\$8,640.00			
Fort Hamilton, N. Y., harbor		250,000.00		
Fort Wetherill, R. I.		75,600.00		
Fort H. G. Wright, N. Y.		175,000.00		
Fort McIntosh, Tex.		3,000.00	\$3,000.00	114
Fort Niagara, N. Y.	150,000.00			
Fort Monroe, Va.		27,650.00	27,650.00	115
Fort Moultrie, S. C.		26,000.00	26,000.00	116
Fort Stark, N. H.		40,000.00		
Fort Sheridan, Ill.		200,000.00		
Fort Ethan Allen, Vt.		25,000.00		
Fort Wright, Wash.			8,000.00	114
Fort Screven, Ga.			50,000.00	114
Fort Crockett, Tex.			158,953.75	115
Fort Snelling, Minn.			50,000.00	116
Fort Worden, Flagler, and Casey, Wash.		25,000.00		
Yokeka Point, Wash.		2,500.00		
Sandy Hook, N. J.	40,000.00			
Fort Oglethorpe, Ga.		20,000.00	20,000.00	115
Whipple Barracks, Ariz.		9,000.00		
Mission Indians, California, counsel for	1,000.00	1,000.00		
Moeties, compensation in lieu of Mosher, Robert Brent, payment to	20,000.00	25,000.00	20,000.00	30
Mount Rainier National Park, improvements		2,600.00	2,500.00	80
Road in			50,000.00	118
National cemeteries, headstones, etc.	308,810.00	320,847.25	323,847.25	109
National currency, expenses of	28,000.00	38,820.00	50,000.00	26
North American Transportation and Trading Co.		5,158.80		
National Museum	249,080.00	297,288.80	240,060.00	20
National Museum, new building	1,500,000.00	750,000.00	500,000.00	19
New York Harbor, preventing deposits in	85,260.00	85,260.00	80,260.00	121
Paper and stamps, internal revenue	65,000.00	65,000.00	65,000.00	23
Peking, China, legation buildings	30,000.00			
Philippine insurrection, publication of records		15,000.00	15,000.00	121
Prevention of epidemics	100,000.00	300,000.00	200,000.00	34
Prosecution of crimes	45,000.00	65,000.00	65,000.00	140
Providence Hospital	19,000.00			
Public lands, surveying, including private land claims, etc.	406,480.00	432,035.00	423,555.00	69
Punishing violations of internal-revenue laws	100,000.00	100,000.00	100,000.00	23
Punishing violations of intercourse acts and frauds	4,000.00	4,000.00	4,000.00	141
Quarantine service	340,000.00	300,000.00	340,000.00	33
Recoinage of gold coins	6,000.00	7,000.00	7,000.00	25
Reform School, District of Columbia, buildings			50,000.00	138
Repair of water pipes	2,500.00	2,500.00		
Sealing and separating United States securities	1,500.00	1,750.00	2,000.00	26
Senate office building	580,000.00			
Sequoia National Park	10,000.00	12,200.00	10,000.00	79
Shiloh Military Park	24,000.00	25,000.00	24,000.00	119
Shipping service, contingent expenses	7,000.00	7,000.00	7,000.00	63
Rent, quarters for shipping commissioners		2,100.00	2,100.00	63
Special witness, destruction of United States securities	1,565.00	1,565.00	1,565.00	26
Survey of northern and north-western lakes	100,000.00	100,000.00	75,000.00	120
Supreme Court reports	2,145.00	3,770.00	3,770.00	80
Suppressing counterfeiting and other crimes	125,000.00	125,000.00	125,000.00	29
Telegraph lines connecting Capitol and Departments	1,500.00	1,500.00	1,500.00	96
Transportation of minor coin	18,000.00	18,000.00	12,000.00	24
Transportation of reports and maps to foreign countries	100.00	100.00		
Transportation of silver coin	120,000.00	120,000.00	75,000.00	24
Treasury building, placing cables underground	1,200.00			
Vicksburg Military Park	75,000.00	70,000.00	70,000.00	120
Washington Monument	11,520.00	11,820.00	11,520.00	96
Wind Cave National Park	2,500.00	6,400.00	4,400.00	80
Wisconsin, land for target range in			150,000.00	115
Wright, Henry John		250.00	250.00	62
Yellowstone Park, protection of, etc.	7,500.00	13,540.00	7,500.00	79
Additional fencing, feed, etc.		5,800.00		
Improvement of	133,000.00	75,000.00	55,000.00	118
Yosemite National Park	5,400.00	5,750.00	5,750.00	79
Construction of road		181,000.00		
Zoological Park	95,000.00	118,000.00	95,000.00	21

One hundred and seventy-six items, carrying \$12,064,389.

The committee has also reported in this bill various legislative provisions, and I beg the indulgence of the House while I explain briefly these provisions.

I know the Committee of the Whole has in times past criticized the Committee on Appropriations for reporting legislative provisions in appropriation bills. I want to say, in respect to these provisions, there is not one of them that, if adopted, will enact any rule of action for the people, and therefore are not in that sense legislative provisions. There is no provision recommended in this bill that concerns the fundamental principles of government in the least. They are restrictive and wholly remedial in their character.

Mr. HULL. Will the gentleman yield?

Mr. TAWNEY. I will.

Mr. HULL. Because I should like a little information. On page 115 of the bill there is an appropriation of \$150,000 which will probably be for an artillery post (they call it a target range) in a place where there is no post established now, and in a locality where there is no authorization by any committee of the House for such an appropriation. Will the gentleman please explain it? I should like light.

Mr. TAWNEY. I will say to the gentleman from Iowa that when that item is reached in the bill I will explain the matter to him. The appropriation is recommended on the basis of the estimates submitted by the War Department. The amount has been reduced, but the matter will be discussed and explained fully, and I hope to the satisfaction of the gentleman from Iowa when the item is reached.

Mr. HULL. The reason I ask the question is simply because the Department requested the Military Committee to authorize the establishment of certain camps, this among others, and that committee refused to authorize them, and then the Department went to your committee.

Mr. TAWNEY. I may say in reply to the gentleman from Iowa that the item was submitted in the original estimates to the Committee on Appropriations and is not for the establishment of a "camp."

The first legislative provision to which I will call attention is one that will doubtless provoke some discussion. It may be subject to a point of order; but I want to explain to the committee the facts, and before I do that I want to call attention generally to these provisions and to say that they are the result of the investigation which the committee had made, not only of the estimates for the next fiscal year, but of the expenditures made in the current and previous years. This investigation disclosed some features of administration (I might call them abuses of administration in some instances) that ought to be remedied, concerning which no other committee in this House could have information, for the reason that they would not have occasion to investigate the subject, and all these provisions result from that fact.

While it is true the letter of the rules of the House prohibits the reporting of legislative provisions on an appropriation bill, nevertheless when that committee, which is the only committee of the House that is required in the preparation of its bills to investigate methods of administration and public expenditure, find abuses that should be remedied, it is its duty to call to the attention of the House not only the necessity for legislation, but the provisions that in the judgment of the committee would correct such abuses and promote better and safer administration.

Therefore, Mr. Chairman, these provisions are all remedial and restrictive in their character, and relate only to administration and economy as well as safety in the expenditure of the public money. For example, take the transportation of notes, bonds, and other securities of the United States and the fractional and minor coin. This recommendation provides that these securities and this coin shall, when practicable, be transported by registered mail and in such sums as the Secretary of the Treasury may determine, under such rules and conditions as may be agreed upon by him and the Postmaster-General.

During the current year there is appropriated for the transportation of currency, of Government securities, transportation of silver coin and minor coin about \$350,000 in all.

Mr. OVERSTREET. Mr. Chairman, will the gentleman submit to a question?

Mr. TAWNEY. Certainly.

Mr. OVERSTREET. I am not sure that I understood the gentleman's first statement. You recommend that the coin shall, under proper conditions and agreement between the Treasury and the Postmaster-General, be transmitted by mail?

Mr. TAWNEY. By registered mail.

Mr. OVERSTREET. Is the gentleman familiar with the provision which the House has adopted taking all such matters away from the mail and transmitting them by other methods?

Mr. TAWNEY. Coin and currency?

Mr. OVERSTREET. Matters that are really freight and express.

Mr. TAWNEY. I do not know to what provisions the gentleman refers. I knew there was some provision of that kind. Does it apply to the shipment of money by registered mail?

Mr. OVERSTREET. It seeks to keep out everything that is not properly mailable.

Mr. TAWNEY. Is not money properly mailable?

Mr. OVERSTREET. Not in bulk.

Mr. TAWNEY. Is it not a fact that the banks all over the country are transporting money by registered mail?

Mr. OVERSTREET. Not at the expense of the Government, but at the expense of the banks. You propose to require the postal department to accept that expense?

Mr. TAWNEY. No; we make an appropriation to defray the expenses of transporting this coin and currency.

Mr. OVERSTREET. At what rate?

Mr. TAWNEY. At such rate as may be agreed upon by the Secretary of the Treasury and the Postmaster-General and under such rules and regulations as they may jointly make.

Mr. OVERSTREET. Why not take the regular rate?

Mr. TAWNEY. They can do that, but the objection to taking the regular rate is that there is a regulation that a registered package shall not weigh over 4 pounds.

Mr. OVERSTREET. What prevents them to-day from doing that?

Mr. TAWNEY. Simply because if you take a thousand dollars of silver, weighing about 60 pounds, it would have to be split up into as many different packages as 4 goes into 60.

Mr. OVERSTREET. Doesn't the gentleman know that money has been transported by the Treasury Department through the mails, freight in bulk, weighing more than 60 pounds?

Mr. TAWNEY. Yes; I know that there was a whole train load of gold brought from San Francisco to the Philadelphia mint as a result of a holdup on the part of the express companies, and thereby the Government saved \$25,000.

Mr. OVERSTREET. In what way?

Mr. TAWNEY. By the difference in the cost of transportation.

Mr. OVERSTREET. But the Government had to pay for it at Government rates.

Mr. TAWNEY. Yes; but not at express rates.

Mr. OVERSTREET. In some of the instances the Government rates are higher than the express rates, but not necessarily so.

Mr. TAWNEY. As a result of this provision we were able to reduce the expenses of transportation of currency and coin about \$91,000, all of which has heretofore gone to the express companies, and it will result in the money being taken from one pocket of the Government and put into the other.

Mr. GAINES of Tennessee. I would like to ask the gentleman a question.

Mr. TAWNEY. Very well.

Mr. GAINES of Tennessee. Heretofore we have had an appropriation to pay for the express charges in transporting silver coin. Now the gentleman proposes to send it by mail. How are you going to haul it and who is going to take care of it? I think the gentleman's proposition is a good one.

Mr. TAWNEY. The same as money in the bank is transported by registered mail.

Mr. GAINES of Tennessee. How is it going to be taken care of?

Mr. TAWNEY. The same as money is being taken care of that is transported by registered mail by the bank.

Mr. GAINES of Tennessee. To go by freight?

Mr. TAWNEY. It is to be transported by registered mail, under such rules and regulations as the Secretary of the Treasury and the Postmaster-General may agree upon. Heretofore the appropriations for this purpose have always read "for the transportation of silver coin," or other money and securities of the Government, "by registered mail or otherwise," and not a dollar, so far as the committee could ascertain, has ever been shipped by registered mail. It has all been shipped by express, and the express companies have received the amount appropriated.

Mr. GAINES of Tennessee. And it eliminates the excessive express rates altogether.

Mr. OVERSTREET. I understand that the real effect will be to permit this transportation by mail regardless of the 4-pound limit of weight.

Mr. TAWNEY. Provided the Postmaster-General and the Secretary of the Treasury agree.

Mr. OVERSTREET. But now the banks are not permitted to send by registered mail in excess of the 4-pound limit.

Mr. TAWNEY. This changes the law to that effect as to the Government only.

Mr. GAINES of Tennessee. Do you make any provision

there for the dirty money that we had up in the sundry civil bill once?

Mr. TAWNEY. No.

Mr. OVERSTREET. What kind of an appropriation is allowed there for the expense of that transportation?

Mr. TAWNEY. It is the difference between, I think, \$320,000 and \$91,000.

Mr. OVERSTREET. That is to say, you reduce the amount of the appropriation heretofore carried to \$80,000.

Mr. KEIFER. To about \$91,000. That is the total reduction.

Mr. TAWNEY. On page 6 of the report it will be found that reference is made to the fact that there is a limitation of \$100,000 for school purposes in the district of Alaska, under which limitation it will be impossible to employ a special agent for investigating the schools of Alaska at a compensation in excess of \$1,200 a year, including the traveling expenses and a per diem of \$4 a day. I presume that Members of the House are familiar with the reason for that limitation. In the hearings it developed that about a year ago a gentleman named Churchill, who was then employed in the Interior Department receiving an annual compensation of \$2,500, resigned and was appointed a special agent to go to Alaska for the purpose of investigating the schools of the district of Alaska and the propagation of reindeer.

Mr. MANN. By whom was he appointed?

Mr. TAWNEY. By the Secretary of the Interior, at a compensation of \$751 per month and his traveling expenses. The gentleman was also authorized to go by way of Boston and Montreal. He spent about three and one-half months in Alaska and about four and one-half months in the States at that compensation, preparing his reports, and the committee felt that that was an unjustifiable expenditure. In order to prevent a repetition of such an extravagant expenditure from this appropriation we have recommended this limitation.

There are a number of other minor provisions recommended. There is one provision which will require the heads of all of the Executive Departments within thirty days after the close of each fiscal year to submit to the Secretary of the Treasury a statement of all moneys received during the year from the sale of public property or from any other source and not deposited in the Treasury of the United States. Then the Secretary of the Treasury will be required to submit that statement to Congress with the reasons for the failure to deposit such funds in the Treasury. The reason for that grows out of the fact, as will be seen from the hearings, that the Secretary of the Interior, under an act approved March 3, 1901, sold some town lots in the Territory of Oklahoma, as he was authorized to do. The proceeds of the sale of these lots aggregated \$738,000. In the judgment of the Auditor for the Interior Department, in the judgment of the Comptroller of the Treasury, and also in the judgment of the Committee on Appropriations that fund should have been deposited in the Treasury of the United States to the credit of the Secretary of the Treasury or to the credit of the general fund. Instead of that, the money was deposited in the subtreasury of the United States at St. Louis to the credit of the Secretary of the Interior, upon the theory that Congress had authorized that out of the proceeds of the sale of these lots certain improvements should be made in these various towns, such as the building of schoolhouses, court-houses, bridges, streets, etc., and that therefore this money need not be deposited in the Treasury. These expenditures were made under the direction of the Director of the Geological Survey, the vouchers transmitted to the Secretary of the Interior, and the money paid on the check of the Secretary.

The Auditor for the Interior Department informed the committee that none of these expenditures had been audited. There was an investigation some time ago of the transaction, but there has been no official audit of the expenditures made prior to the time the Auditor for the Interior Department appeared before the committee. Members of the House will find in the hearings a full and complete statement of the facts.

The committee in reporting this provision does not do so because it has reason to question either the amount received or the amount or legality of the expenditures made on the official check of the Secretary. His integrity or honesty is not questioned. The committee exonerates him from any blame in the premises, except his acknowledged ignorance of the law requiring the deposit in the Treasury of all public moneys and his failure to have the expenditure of these funds audited as the expenditures of all other public funds are required to be audited.

For that reason, Mr. Chairman, the committee have recommended the following provision:

Sec. 9. Hereafter the Secretary of the Treasury shall require, and it shall be the duty of the head of each Executive Department or other

Government establishment to furnish him, within thirty days after the close of each fiscal year, a statement of all money arising from proceeds of public property of any kind or from any source other than the postal service, received by said head of Department or other Government establishment during the previous fiscal year for or on account of the public service or in any other manner in the discharge of his official duties other than as salary or compensation, which was not paid into the General Treasury of the United States, together with a detailed account of all payments, if any, made from such funds during such year. All such statements, together with a similar statement applying to the Treasury Department, shall be transmitted by the Secretary of the Treasury to Congress at the beginning of each regular session.

If this provision had been the law, the Secretary of the Interior would have been obliged to submit a statement of that transaction to the Secretary of the Treasury and the Secretary of the Treasury would have been obliged to transmit that statement to Congress with the reason of the Secretary for his failure to deposit the sum of \$738,000 in the Treasury.

The CHAIRMAN. The Chair desires to notify the gentleman in accordance with his request that he has consumed twenty-five minutes' time.

Mr. TAWNEY. I will yield twenty-five minutes to the gentleman from Massachusetts [Mr. SULLIVAN] and reserve the balance of my time.

Mr. GAINES of Tennessee. Before the gentleman yields the floor, I understand there is an item in the bill of \$25,000—

Mr. TAWNEY. We will get at that under the five-minute rule.

Mr. GAINES of Tennessee. But I desire ask—

Mr. FITZGERALD. I wish to suggest to the gentleman from Minnesota that a member of the committee desires to discuss this under general debate.

Mr. TAWNEY. I can not hear the gentleman from New York.

Mr. FITZGERALD. A member of the committee desires time to discuss this bill under general debate, and I think the gentleman ought to give it to him. I refer to the gentleman from Arkansas [Mr. BRUNDIDGE].

Mr. TAWNEY. I still do not catch what the gentleman says.

Mr. FITZGERALD. The gentleman from Arkansas [Mr. BRUNDIDGE], a member of the committee, desires about forty minutes to discuss this bill under general debate. I think the gentleman from Minnesota should give him that time.

Mr. TAWNEY. I yield twenty-five minutes to the gentleman from Massachusetts [Mr. SULLIVAN].

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I think before beginning a discussion of some features of this bill that the attention of the House ought to be called to the extraordinary manner in which the debate upon this bill has been cut off. I do not mean to assert anyone is guilty of bad faith in the premises, but I assert that it is a most unfortunate happening. A bill that ought to give to the Members of this House (touching, as it does, every portion of the United States in vital parts) almost unlimited opportunity of debate is cut down under the method proposed by the chairman of the committee to one hour. I do not know what the influences were which were set in motion to bring about this result. I do know, however, that upon this side of the House a very important speech was made early in the session showing clearly that the watch trust of the United States sold its product abroad cheaper than it did in this country. That speech had a great effect upon the country. It was answered upon the Republican side by two or three critics. The gentleman from Illinois [Mr. RAINEY] intended in the general debate upon this bill to close his remarks upon that subject and demonstrate absolutely the truth of the assertions which he made. I know that the request was made of me to do all in my power as a Massachusetts man to prevent the gentleman from Illinois from making his speech upon that subject. I do not say those influences were exercised upon the Republican side of the House, but at all events the extraordinary result has happened, the first time I have ever heard of it, of shutting off all debate beyond one hour upon this most important bill.

Mr. MANN. Will the gentleman yield to a question?

The CHAIRMAN. Does the gentleman from Massachusetts yield?

Mr. SULLIVAN of Massachusetts. Yes, sir.

Mr. MANN. Does the gentleman think the House at this time in the session ought to devote twelve hours to political debate on each side of the House, thereby preventing the consideration of the pure-food bill?

Mr. SULLIVAN of Massachusetts. I do not think, Mr. Chairman, any course should be adopted which would exclude from consideration any important measure.

Mr. MANN. The gentleman must be aware that general debate upon this bill would have that effect.

Mr. SULLIVAN of Massachusetts. I am not aware of that, Mr. Chairman, any more than general debate which has heretofore taken place has had that effect.

Mr. MANN. Well, it has had that effect up to date.

Mr. SULLIVAN of Massachusetts. For myself I would prefer we would remain in session until all subjects of legislation were properly debated and properly considered by this House; and if we upon this side had our way, sir, we would amend the rules so as to give the people of this country as well as the Members of this House the advantages of full and free debate upon all measures. [Applause on the Democratic side.]

Mr. MANN. The gentleman and I would probably stay, but when it comes to staying the gentleman's side of the House will probably disappear.

Mr. FITZGERALD. You have a majority of a hundred and twelve, and you should stay and do business.

Mr. MANN. The gentleman knows well you can not keep them all here—

Mr. SULLIVAN of Massachusetts. The gentleman will pardon me if I proceed, as under the rule I have only twenty-five minutes and I would like to discuss some questions which arose in the consideration of the bill. The first matter that this House ought to decide is the question of the type of canal which we will construct at Panama. The hearings developed the fact that the engineers are now seriously embarrassed in the work by reason of the failure of Congress to decide what kind of a canal should be constructed. We all assumed that the President had exercised the supposed discretion, under the Spooner Act, and decided in favor of the lock type; but Engineer Stevens has informed us that he has received no instructions; that the question is still an open one; that the prosecution of the work from now on will be seriously impeded, many delays will be caused, and much money will be wasted unless Congress at this session shall determine which type of canal we shall construct.

Another matter of great importance is the question of the purchase of supplies for the Panama Canal. An attempt will be made here on the part of the ultraprotectionists to limit the free exercise of the power of the Canal Commission to purchase its supplies under circumstances of the greatest competition. The purchasing agent of the Commission, Mr. Ross, and the president of the Commission, Mr. Shonts, both informed the committee that such a policy would result in the waste of a great deal of the nation's money. I understand that the amendment will give to the President the right to permit the canal authorities to purchase their supplies from abroad only in those cases where the prices charged by American manufacturers are "unreasonable and extortionate." The word "unreasonable," of course, would have no meaning whatever in such connection, for the word "extortionate" would control the meaning of that clause; and inasmuch as "extortion" is an unlawful exaction, the President would have to be convinced that an unlawful attempt to compel exorbitant prices was being made as the result of some combination among domestic manufacturers.

The result of that amendment would be that the President would never exercise that discretion. The Canal Commission would be compelled to purchase its supplies from American manufacturers, and the result would be that the taxpayers of the nation would have an immense amount of money added to the bill for the digging of the canal. Both of these Republican officials stated that at the present time 98½ per cent of the canal supplies were purchased from American manufacturers. The amendment would add, therefore, only the balance, or 1½ per cent, to sales of American manufacturers; but this would follow: On the 100 per cent or 98½ per cent which they would purchase the people of the United States would be compelled to pay an immensely enlarged amount. Both Mr. Shonts and Mr. Ross testified that they used their ability to purchase in the markets abroad merely as a club to compel American manufacturers to sell at their export prices, namely, at reasonable prices, fixed under competitive conditions.

Now, I trust the House will not hamper the Canal Commission in its endeavor to build for us in the quickest possible manner and at the lowest possible cost the canal that we all desire to see finished.

Another matter that came before the committee was the question of extending the investigation of structural materials and analyzing coals, peats, lignites, and other fuel materials. The committee has made an appropriation of \$50,000 and \$100,000, respectively, for these purposes.

The present high prices of building materials, steel, and lumber have made it absolutely necessary for the people of the United States to find some cheap substitutes for these. Reinforced concrete seems to be the hope of the industrial classes of the United States that are engaged in building enterprises. There are immense deposits of sand and stone in the United States suitable for making cement, which will be used in this concrete. The testimony of the experts before the committee, particularly that of the Supervising Architect of the Treas-

ury and Professor Holmes, of the Geological Survey, has shown the immense value of this building material to the United States Government and the people generally; but it is necessary that science shall take some more steps before the business world shall follow and complete the investigation. There is no corporation, notwithstanding the marvelous extent of the resources of some, that is to-day fitted to conduct this experiment upon the large scale which is necessary for the final determination of the value of these materials. The Government alone is capable of doing it; and I trust, therefore, that the House will support the action of the committee and appropriate the \$50,000 required for the further investigation of the structural materials of the United States.

The coal of this country is not being mined to the extent that it should be. Much of the coal is not taken from the mines at all. Much of that which is taken is not consumed. We are consuming only a small percentage of the heat units in coal. Science has taken hold of this problem. It is conducting experiments, it is finding ways to utilize more of the heat units of coal and to render available to commerce much of the coal which now remains in the mines, which is now thought to be commercially unprofitable to extract. It is necessary to conduct these analyses of coal and peat and lignite, of which there are large deposits in the United States, in order that later commerce may take advantage of the investigations which science has made and give to the people of the United States relief from the present high prices of fuel.

Now, in my remaining time, Mr. Chairman, I will call attention to some violations of the law by heads of Departments who are members of the Cabinet of the President. Three specific violations of the law were called to the attention of the committee. One of them has been narrated by the chairman of the committee, namely, the improper manner of handling the town-lot funds of Oklahoma by the Secretary of the Interior, Mr. Hitchcock, and it is not necessary for me to do more than briefly sketch that transaction.

Under the act of March 3, 1901, the Secretary of the Interior was given authority to sell town lots in the Territory of Oklahoma, and with the proceeds to construct roads, erect bridges, court-houses, jails, and other public buildings. Over \$730,000 was realized from the sale of these town lots, and the public works mentioned were erected out of the sum. The course of the Secretary of the Interior in the collection and disbursement of the fund is marked by that high regard for honesty and economy for which he is justly distinguished. The committee recognized this fact, and therefore expressly disclaims any intention to reflect in the slightest degree upon his personal honor or integrity. The charge I make is that he violated the law in two important particulars. The money received was not paid into the United States Treasury as a part of the general fund of the Government, and no account of it was rendered to the Treasury Department. Section 9, clause 6, of the Constitution of the United States provides that—

No money shall be drawn from the Treasury but in consequence of appropriations made by law, and a regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time.

The object of this provision is to secure to the people of this country a proper statement upon the books of the Treasury Department of the receipts and expenditures of all public funds. The Secretary of the Treasury is required by law to render to Congress at each session a statement of his accounts showing the receipts and expenditures of all public moneys, and the law also requires him to report to Congress "such officers and administrative departments and offices of the Government as were, respectively, at any time during the last preceding fiscal year, delinquent in rendering or transmitting accounts to the proper offices in Washington and the cause therefor." (29 Stat. L., 179.)

Notwithstanding the law, the Secretary of the Interior failed to deposit the Oklahoma town-lot funds in the Treasury of the United States as part of the Government funds; he failed to render an account of receipts and expenditures to the Treasury, and the Secretary of the Treasury neglected his duty to report such delinquencies to Congress. The money in question was deposited in a subtreasury, at St. Louis, to the credit of the Secretary of the Interior and disbursed by him. The Secretary defends his course on the ground that the statute made the Oklahoma town-lot funds a special fund of which he was the trustee, and that he was therefore excused from depositing the money and accounting for the same in the regular manner provided by the Constitution and the laws. An examination of his testimony before the committee will convince every Member of the House that his defense is not tenable under a proper reading of the statute. Furthermore, it is certain that if the acts under consideration were committed by a dishonest Secretary instead of the honest Secretary we are

dealing with, the most dangerous results might have followed. It would be much easier to misappropriate public funds under the practice established in this case than it would be if the money were paid into the Treasury to the credit of the United States, disbursed therefrom, properly audited by the Auditor for the Interior Department, and the whole accounted for in the regular manner to the Treasury Department. The regular system of accounting would quickly subject an attempted fraud to detection, for that system sets up the officers of one Department as a check upon the officers in another Department, and Congress then scrutinizes both Departments. Under the system established in the collection and disbursement of the Oklahoma town-lot funds the whole transaction was under the sole direction and control of the Secretary of the Interior from the beginning to the end, unrestrained and unexamined by the officials of any other Department of the Government or by Congress.

Another violation of the law, to my mind more flagrant and with far less excuse, was committed by the Secretary of Agriculture, Mr. Wilson.

On February 9, 1903, Congress passed an act authorizing the Secretary of Agriculture to construct a commodious and fire-proof building for the accommodation of the Department of Agriculture, including all of its bureaus and offices now occupying rented quarters in the District of Columbia, and directed him to remove the present building upon the grounds of the Agricultural Department. The Secretary had previously asked Congress for \$2,500,000, to be spent in the execution of a plan for the erection of all necessary buildings for his Department. Such a bill passed the Senate, but failed to pass the House, and in the next Congress the act was passed which I have mentioned, authorizing the expenditure of \$1,500,000 as the total limit of cost. The Secretary is erecting two wings upon the Agricultural grounds, upon which will be spent the \$1,500,000 which Congress clearly intended should house the entire forces of the Department of Agriculture. The Secretary admits that the building he is constructing will not accommodate the entire Department, but only the laboratories and the library, and that the remainder of his force, including the administrative force, will be obliged to remain in the old administration building, which the law expressly says should be removed. Now, the result of this proceeding is that Congress will be obliged at a later day to appropriate another million or a million five hundred thousand dollars to execute the plans which the Secretary of Agriculture had in mind from the beginning. It will be necessary to erect these additional buildings to accommodate the entire Department.

I went upon the grounds yesterday and saw these two wings there upon B street. I asked a common employee what was the plan for further buildings, and this wayfaring man told us that it was the intention to go across B street and erect two more wings, and subsequently to connect the four wings and make them one entire building, for the accommodation of the entire Department.

The Secretary of Agriculture came before the committee and said that he was not going to ask Congress for additional money, but the common laborer upon the grounds knows better. He knows the plan, and every Member of this House, if he reads the RECORD, will know that not only has the Secretary violated the law, but that he has violated it deliberately, and that he intended to violate it from the very beginning.

I insert here an extract from his testimony, which proves this proposition completely:

[Hearings on May 10, 1906.]

Mr. SULLIVAN. Did they not advise you that the construction of that law required you to build a building to take care of the administrative forces as well as the laboratories and the library?

Secretary WILSON. No; they did not talk along that line at all. I never had any such advice from them. But as regards the administrative feature, the administrators can go into the building now erected just as well as any other proposed occupants of the building.

Mr. SULLIVAN. If they do, what will you do with the laboratories?

Secretary WILSON. We will put the dangerous laboratories at one end and the library and the offices that have women, and so forth, at the other end. There will be plenty of room there for administrators; plenty of it.

Mr. SULLIVAN. Do you mean this, that you could take this building which you are constructing and so arrange matters that it would take care of the entire force of your Department?

Secretary WILSON. If I am not required to pull down the present old building, if the library is taken out of the building it occupies at present, we can use that and the brick building that accommodates the three bureaus.

Mr. SULLIVAN. Do you not understand that the act requires you to pull down those three buildings?

Secretary WILSON. Yes; but we have a growth.

Mr. SULLIVAN. Did not the act require you to arrange matters so that you would not have to pay any more rent?

Secretary WILSON. At that time, certainly; and if the Department had not grown we would not have had to pay more rent.

Mr. SULLIVAN. In consequence of that the act will have to be violated in at least two particulars?

Secretary WILSON. Yes; it is an act impossible of execution in view of the requirements of the present date. That is what the fact is. If I could have foreseen that the Department would have grown as rapidly as it has grown, I certainly would have come back to Congress and said: "Gentlemen, I can not meet the requirements of that act at all." But, estimating the number of feet we are getting with an expenditure of \$1,500,000, we could accommodate the force we had at the time the act was passed.

Mr. SULLIVAN. If the Department head is authorized to construe an act for the authorization of a public building with reference to its present needs alone, is there any safety for Congress at the hands of an administrative officer?

Secretary WILSON. Do these other people do other than make a complete building? I had that in mind, pardon me, and arranged it so that Congress could without expense add to it.

Now, Mr. Chairman, I can fancy the Secretary of Agriculture gleefully chuckling when, later, Congress appropriates another million or two to execute the plan which he, and not Congress, had in mind. Perhaps the Secretary has acted wisely and perhaps the plan of Congress was a foolish one; but I deny the right of the head of an Executive Department to say to Congress: "The law which you have enacted is unwise, impracticable, unwarrantable, and therefore I shall be a law unto myself." [Applause on the Democratic side.]

Mr. KEIFER. Mr. Chairman, in this denunciation of the Secretary—

Mr. SULLIVAN of Massachusetts. Let us have the question and not a speech, if you please.

Mr. KEIFER. I want to know whether this Congress did not last year make an appropriation to continue the construction of these very buildings he is now condemning?

Mr. SULLIVAN of Massachusetts. Mr. Chairman, the Congress did, and the committee recommends it this year, and another committee will recommend it next year, and the Secretary of Agriculture knew that they would be obliged by the logic of events to execute his plan and not the plan of Congress. [Applause on the Democratic side.]

The committee felt that inasmuch as contracts had been awarded for the entire amount authorized by law, less the trifling amount of \$7,000, it would be a great hardship upon the contractors, who had dealt with the Secretary in good faith, to refuse to appropriate sufficient money to carry on the work in the next fiscal year, and that it would be an additional hardship upon the taxpayers of the nation to leave an unfinished and consequently valueless structure upon their hands.

Mr. TAWNEY. Will my colleague permit a question?

Mr. SULLIVAN of Massachusetts. If you will extend my time.

Mr. TAWNEY. You stated that the present bill carried the appropriation just as it was in the current law.

Mr. SULLIVAN of Massachusetts. I was mistaken about that, for the money is given, though the language is changed. If it had been carried with the same language as last year, it would have given an implied sanction by the committee of the legality of the Secretary's procedure. The committee refused that sanction and deliberately changed the language of the appropriation, simply carrying the amount requested by the Secretary. There is not a member of the committee who considered the question who entertains the slightest doubt of the illegality of the Secretary's procedure from the very beginning.

Now, Mr. Chairman, perhaps the Secretary has acted wisely, as I have said, but is that the question for Congress? He is a member of this Republican Administration, he is a member of the President's official family. Whether he has had the sanction of the President in his violation of the law I am not prepared to state, for I do not know, and I believe that the Secretary is too loyal to his chief to tell the truth if the President has sanctioned that violation of the law. At all events the fact remains that a law of Congress has been deliberately violated by a Department head, and the question now is, What do you gentlemen of the majority, who are charged with the responsibility for legislation, propose to do with this executive officer who deliberately and contemptuously flouts the solemn mandate of Congress? [Applause on the Democratic side.]

If the President was not aware of this violation of law before, he is aware of it now. If he fails to call for the Secretary's resignation it will be because he advised this violation and does not dare to remove him. On the other hand, if he did not know of it before, he does now, and if he fails to call for his resignation it is because he himself has contempt for Congress and its laws, and therefore upholds a member of his official family who expresses that contempt for Congress and its laws. [Applause on the Democratic side.]

The third violation is not without an extenuating feature. It has at least the merit of being frankly acknowledged by the officer in question. Mr. Commissioner of Immigration Sargent, who is a plain, blunt, honest man, and scorns all subterfuge, told us that he was violating the Chinese-exclusion law. So

that there may be no misapprehension of his statement or its effect, I will read briefly from his testimony before the committee.

The chairman asked him if his estimates for the enforcement of the Chinese-exclusion law did not carry \$100,000 less than in the previous year.

He replied that it did. Upon being questioned as to the reason for the decrease, he made the statement that the Chinese-exclusion law was not being enforced at the present time, and that it was the intention of this Administration not to enforce it. This is his statement:

As you will see, February shows a good deal less expenditure in 1906, as compared with 1905, because we are returning few Chinese to China.

Question. That is, they are not violating the law as much as before?

Mr. SARGENT. No, sir; we were instructed not to make arrests of the Chinese found unlawfully in this country.

Question. The law is not enforced so rigidly?

Mr. SARGENT. We are not doing so active a business as we were a few months ago.

Question. From whom did you receive the instructions not to enforce the law?

Now, mark the answer:

Mr. SARGENT. I received the instructions from the head of my Department, the Secretary of the Department of Commerce and Labor. He said that during this agitation about the boycott in China he thought it would be unwise to make the arrests, as we had been previously doing, of Chinamen found unlawfully in this country, and of course I always obey instructions. We were expected under the law to take into custody those who had been here unlawfully, and that was what I was doing.

Now, the money spent and estimated to be spent for the fiscal year 1906 is \$134,000 less than the preceding year, and this \$134,000 does not adequately express the proposed laxity in the enforcement of the law, for Mr. Sargent made it plain by his testimony that all they were doing was maintaining the force without keeping that force busy in their duties. He made this statement:

Comparing the month of February, 1905, with February, 1906, our expenditures were in the former \$62,609 and in the later \$28,683. Now, in February, 1905, we had a large deportation, while now we are deporting scarcely any, so that our expenditures at the present moment are what might be termed merely the running expenses, maintaining the service, paying the salaries and incidental expenses of the Chinese service, with very few returning to China, for which, of course, the larger amount of the fund is used.

Now, gentlemen, what folly it is to maintain such a law upon the statute books if the administrative officers of the Government are determined not to enforce it. What folly it is to expend nearly \$400,000 for the maintenance of this branch of the service, when the head of the Department solemnly informs Congress that he has received instructions, which he intends to obey, that he shall not deport another Chinaman, that he shall not execute the law which the money is to be appropriated for.

I do not undertake to say here whether this law is a wise one or an unwise one. That is not a question for the executive branch nor for the judicial branch, but solely a question for the legislative branch of the Government. If Congress believes the Chinese-exclusion law ought to be repealed, then let Congress in its dignity repeal the law and save the people's money. But if Congress believes that the law ought to be executed as all laws ought to be executed, according to their intent, then let us insist that the money shall be spent, not in the maintenance of a useless bureau, but in the most diligent execution of that law. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. TAWNEY. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has ten minutes.

Mr. TAWNEY. I will yield three minutes more to the gentleman from Massachusetts.

Mr. SULLIVAN of Massachusetts. Three minutes will be sufficient. Now, Mr. Chairman, I do not think it is material to inquire the reason for this violation of the law. The fact is that it was violated. We all remember that there was a boycott in China upon American goods, and great pressure was brought to bear on the President and the officers of his Cabinet to relax the law so as to increase the exports of American goods to China.

I know that manufacturers from my section of the country clamored for a restoration of the conditions which would maintain unimpaired the volume of exports of textiles to China. I know that later the Department of Commerce and Labor ceased to execute the Chinese deportation law. I do not know whether the failure to execute the law was the result of a bargain between the President of the United States and the Chinese ambassador, but I know that the boycott existed in China and the boycott has ceased; that the exclusion law here was being enforced and that the law now is not being enforced. Whether

these are merely coincidences totally unrelated to each other is a question I leave to the judgment of the House. But the House ought not, if a bargain was made, to ratify such a bargain by leaving unpunished an executive officer of the Government—the Secretary of the Department of Commerce and Labor—who has willfully violated a law enacted by this body. Now, nothing has become more familiar to us than that ours is a government of laws and not of men. If we are to maintain a government of laws, we must stand vigilantly by the laws, or else a government of men will succeed and a despotism will ensue.

To prevent a government of laws from lapsing into a government of men unrestrained by law, it is necessary to exert constant vigilance. If some infractions of the law are allowed to go unpunished, a contempt for all laws will be bred that will eventually subvert the Government itself. This subversion is inevitable if violations of law are continued, whether they are committed by persons in humble walks of life or by those higher in the scale of society. Swiftly and certainly will that government proceed toward ruin wherein those appointed to execute the laws are themselves guilty of its violation. It is therefore in the interest of good government to call attention to a public official's neglect of a duty imposed by law to the end that even though the law's penalty be not visited upon him because of the indulgence of his party associates who enjoy political power, yet the force of public opinion will restrain him from similar breaches in the future.

The Secretary of Agriculture must not say to Congress, "Your law is folly, and therefore I shall do as I please, regardless of the law." The Secretary of the Interior must not say, "Your method of rendering accounts provided by the Constitution and the laws is not a practicable one, and therefore I shall deposit the money and account for it as I please." The Secretary of Commerce and Labor must not say, "The enforcement of the Chinese-exclusion law means the diminution of exports of cotton goods to China, and as trade is superior to law I will violate the law and restore the trade." Above all, the President of the United States, who is sworn to execute all the laws of Congress, ought not to remain idle now that these deliberate violations of the law by members of his own Cabinet are thus formally and publicly called to his attention. [Applause on the Democratic side.]

Mr. BRUNDIDGE rose.

Mr. TAWNEY. Mr. Chairman, I desire to say just one word in reply to the gentleman from Massachusetts [Mr. SULLIVAN]. The gentleman from Massachusetts stated at the outset of his speech that the purpose of closing debate was because the Republican side of the House feared the effect of a speech which the gentleman from Illinois [Mr. RAINEY] was to make in general debate. I presume this speech was to be upon the now famous subject of watches. The gentleman from Massachusetts [Mr. SULLIVAN] magnifies the importance of the gentleman from Illinois [Mr. RAINEY]. There is nobody on this side, either individually or collectively, who are quaking in their boots for fear of any speech that the gentleman from Illinois might make. We have withstood one speech from that gentleman of three hours on the subject of watches, and, notwithstanding the strain, we are capable of enduring a similar affliction. There was no secret meeting anywhere last night, or at any other time, as he claims, to prevent him from making a speech. I want to say also that in attempting to close general debate I have had to deny a request for time to a gentleman from Illinois [Mr. BOUTELL] on this side of the House, who requested three hours' time to discuss the subject which the gentleman from Illinois [Mr. RAINEY] has heretofore discussed, namely, the subject of timepieces.

Mr. Chairman, I move that the committee do now rise.

Mr. BRUNDIDGE. Mr. Chairman, I hope the gentleman will not make that motion just now, in view of the fact that this is a record bill, and also of the fact that as a member of the committee there are some matters in the bill which I desire to discuss. I do not want to discuss it under the five-minute rule, because I will not have the time. I will say to the gentleman now—

Mr. TAWNEY. Mr. Chairman, I will say to the gentleman that when the item in which he is interested and which he desires to discuss is reached under the five-minute rule, he will have ample time to discuss it, even if he should desire as much as forty or fifty minutes. I know the subject to which the gentleman has reference, and the subject can be discussed when it is reached, I think, more pertinently than now. My purpose now is to get at the consideration of the bill under the five-minute rule in order that we may expedite its passage through the House. There will be no attempt upon my part or upon the part of any other Members of the House, so far as I know,

to prevent the gentleman from discussing the subject which he has in mind.

Mr. BRUNDIDGE. Mr. Chairman, I appreciate the fact that the gentleman from Minnesota [Mr. TAWNEY] is anxious to get to the bill, and I have no desire to delay it, but I desire to explain to the gentleman that in all probability it will be utterly impossible for me to be in the House to-morrow.

Mr. TAWNEY. Oh, Mr. Chairman, the item which the gentleman has in mind will not be reached to-morrow, and it is doubtful whether it will be reached the day after.

The CHAIRMAN. The gentleman from Minnesota [Mr. TAWNEY] has moved that the committee do now rise.

Mr. BRUNDIDGE rose.

Mr. TAWNEY. Mr. Chairman, I have no time to yield, for if I yield the floor now, then, of course, I shall have no opportunity of further taking the floor.

Mr. BRUNDIDGE. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for thirty minutes.

Mr. TAWNEY. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent that he may be permitted to proceed for thirty minutes. The gentleman from Minnesota [Mr. TAWNEY] objects by moving that the committee do now rise. The question is on the motion of the gentleman from Minnesota that the committee do now rise.

The question was taken; and on a division (demanded by Mr. SULLIVAN of Massachusetts and Mr. WILLIAMS) there were—ayes 196, noes 53.

Mr. WILLIAMS. Mr. Chairman, I demand tellers.

Tellers were ordered; and the Chair appointed the gentleman from Minnesota [Mr. TAWNEY] and the gentleman from Massachusetts [Mr. SULLIVAN] tellers.

The House again divided; and the tellers reported—ayes 102, noes 57.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. WATSON, 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. 19844—the sundry civil appropriation bill—and had come to no resolution thereon.

Mr. TAWNEY. 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. 19844—the sundry civil appropriation bill; and, pending that motion, I move that all general debate on the bill be now closed, and on that motion I demand the previous question.

The SPEAKER. The gentleman from Minnesota moves that the House do now resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill; and, pending that motion, he moves that all general debate in the committee be closed. Upon that motion the gentleman from Minnesota demands the previous question. The question is on ordering the previous question.

Mr. WILLIAMS. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise? Mr. WILLIAMS. Mr. Speaker, I will ask the gentleman to withhold the previous question for a while.

The SPEAKER. But the previous question is not debatable.

Mr. TAWNEY. Mr. Speaker, I shall have to insist upon the question being taken upon my motion.

The question was taken; and on a division (demanded by Mr. WILLIAMS) there were—ayes 140, noes 73.

Mr. WILLIAMS. Mr. Speaker, I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were—yeas 149, nays 77, answered "present" 19, not voting 135, as follows:

YEAS—149.

Alexander	Campbell, Ohio	Driscoll	Hamilton
Allen, N. J.	Capron	Dunwell	Haugen
Ames	Chaney	Dwight	Hayes
Bannon	Chapman	Edwards	Hedge
Barchfeld	Cocks	Ellis	Henry, Conn.
Bede	Cole	Esch	Hermann
Beidler	Conner	Fletcher	Hill, Conn.
Birdsall	Coustins	Foss	Hinshaw
Bishop	Cromer	Foster, Ind.	Hogg
Bonyng	Crumpacker	Foster, Vt.	Howell, N. J.
Bowersock	Curtis	Fowler	Hubbard
Bradley	Cushman	Fulkerson	Hull
Brick	Dalzell	Fuller	Humphrey, Wash.
Brooks, Colo.	Darragh	Gaines, W. Va.	Jenkins
Brown	Davidson	Gardner, Mass.	Jones, Wash.
Brownlow	Davis, Minn.	Gardner, Mich.	Kahn
Buckman	Dawes	Gardner, N. J.	Keifer
Burton, Del.	Dawson	Gilbert, Ind.	Kennedy, Nebr.
Burton, Ohio	Denby	Gillett, Cal.	Kennedy, Ohio
Butler, Pa.	Dixon, Mont.	Goebel	Klepper
Campbell, Kans.	Draper	Graham	Knopf

Knowland	McMorran	Rives	Taylor, Ohio
Lacey	Mann	Roberts	Tirrell
Landis, Chas. B.	Miller	Rodenberg	Townsend
Landis, Frederick	Moon, Pa.	Scott	Volstead
Law	Mudd	Shartell	Vreeland
Lawrence	Murdock	Sibley	Waldo
Lilley, Conn.	Needham	Smith, Cal.	Wanger
Loud	Nevin	Smith, Ill.	Watson
Loudenslager	Norris	Smith, Iowa	Weems
McCarthy	Olcott	Smyser	Wharton
McCleary, Minn.	Overstreet	Southwick	Wilson
McCreary, Pa.	Payne	Sperry	Wood, N. J.
McGavin	Pollard	Stafford	Woodyard
McKinlay, Cal.	Powers	Sterling	Young
McKinley, Ill.	Prince	Stevens, Minn.	
McKinney	Reader	Sulloway	
McLachlan	Rhodes	Tawney	

## NAYS—77.

Adamson	Glass	Macon	Slayden
Bartlett	Goldfogle	Maynard	Smith, Ky.
Beall, Tex.	Goulden	Moon, Tenn.	Smith, Md.
Bell, Ga.	Granger	Moore	Smith, Tex.
Bowers	Hay	Padgett	Southall
Broussard	Heflin	Page	Spight
Brundidge	Henry, Tex.	Patterson, S. C.	Sullivan, Mass.
Burgess	Houston	Pou	Sulzer
Burleson	Howard	Rainey	Towne
Burnett	Hunt	Ransdell, La.	Trimble
Candler	James	Rhinock	Underwood
Clayton	Kelther	Richardson, Ala.	Wallace
Cockran	Lamar	Robinson, Ark.	Watkins
Davis, W. Va.	Lamb	Rucker	Webb
De Armond	Lee	Russell	Williams
Fitzgerald	Lindsay	Ryan	Wood, Mo.
Floyd	Livingston	Shackleford	Zenor
Gaines, Tenn.	Lloyd	Sheppard	
Garner	McLain	Sherley	
Gillespie	McNary	Sims	

## ANSWERED "PRESENT"—19

Andrus	Graff	Kitchin, Wm. W.	Murphy
Bennet, N. Y.	Greene	Kline	Robertson, La.
Boutell	Grosvenor	Le Fevre	Sherman
Cooper, Wis.	Hardwick	Lever	Small
Currier	Haskins	Mouser	

## NOT VOTING—135.

Acheson	Field	Lafean	Reynolds
Adams	Finley	Legare	Richardson, Ky.
Aiken	Flack	Lester	Rixey
Allen, Me.	Flood	Lewis	Ruppert
Babcock	Fordney	Lilley, Pa.	Samuel
Bankhead	French	Littauer	Schneebell
Bartholdt	Garber	Little	Scroggy
Bates	Garrett	Littlefield	Slemp
Bennett, Ky.	Gilbert, Ky.	Longworth	Smith, Samuel W.
Bingham	Gill	Lorimer	Smith, Wm. Alden
Blackburn	Gillett, Mass.	Lovering	Smith, Pa.
Bowie	Gregg	McCall	Snapp
Brantley	Griggs	McDermott	Southard
Brooks, Tex.	Gronna	Madden	Sparkman
Burke, Pa.	Gudger	Mahon	Stanley
Burke, S. Dak.	Hale	Marshall	Steenerson
Burleigh	Hearst	Martin	Stephens, Tex.
Butler, Tenn.	Hepburn	Meyer	Sullivan, N. Y.
Byrd	Higgins	Michalek	Talbott
Calder	Hill, Miss.	Minor	Taylor, Ala.
Calderhead	Hitt	Mondell	Thomas, N. C.
Cassel	Hoar	Morrell	Thomas, Ohio
Clark, Fla.	Holliday	Olmsted	Tyndall
Clark, Mo.	Hopkins	Otjen	Van Duzer
Cooper, Pa.	Howell, Utah	Palmer	Van Winkle
Dale	Huff	Parker	Wachter
Davey, La.	Hughes	Parsons	Wadsworth
Deemer	Humphreys, Miss.	Patterson, N. C.	Webber
Dickson, Ill.	Johnson	Patterson, Tenn.	Weeks
Dixon, Ind.	Jones, Va.	Pearre	Weisse
Dovener	Ketcham	Perkins	Welborn
Dresser	Kinkaid	Pujo	Wiley, Ala.
Ellerbe	Kitchin, Claude	Randell, Tex.	Wiley, N. J.
Fassett	Knapp	Reid	

So the previous question was ordered.

The Clerk announced the following pairs:

For the vote:

Mr. BABCOCK with Mr. BUTLER of Tennessee.

Until further notice:

Mr. ANDRUS with Mr. THOMAS of North Carolina.

Mr. BENNETT of Kentucky with Mr. HOPKINS.

Mr. DALE with Mr. BOWIE.

Mr. DEEMER with Mr. KLINE.

Mr. DOVENER with Mr. SPARKMAN.

Mr. GREENE with Mr. PATTERSON of North Carolina.

Mr. GRONNA with Mr. HILL of Mississippi.

Mr. HASKINS with Mr. LEVER.

Mr. HITT with Mr. LEGARE.

Mr. HOLLIDAY with Mr. WILEY of Alabama.

Mr. HUFF with Mr. WOOD of Missouri.

Mr. KETCHAM with Mr. McDERMOTT.

Mr. KNOPF with Mr. WEISSE.

Mr. LE FEVRE with Mr. CLAUDE KITCHIN.

Mr. LILLEY of Pennsylvania with Mr. GILBERT of Kentucky.

Mr. PEARRE with Mr. DIXON of Indiana.

Mr. POWERS with Mr. GAINES of Tennessee.

Mr. SOUTHARD with Mr. HARDWICK.

Mr. WEEKS with Mr. STANLEY.

Mr. WELBORN with Mr. GUDGER.

For the day:

Mr. ACHESON with Mr. BRANTLEY.

Mr. ADAMS with Mr. GREGG.

Mr. ALLEN of Maine with Mr. JOHNSON.

Mr. BINGHAM with Mr. BYRD.

Mr. BLACKBURN with Mr. SMALL.

Mr. BOUTELL with Mr. GRIGGS.

Mr. BURLEIGH with Mr. DAVEY of Louisiana.

Mr. CALDER with Mr. JONES of Virginia.

Mr. CALDERHEAD with Mr. CLARK of Florida.

Mr. CASSEL with Mr. GARBER.

Mr. COOPER of Pennsylvania with Mr. ELLERBE.

Mr. DICKSON of Illinois with Mr. WILLIAM W. KITCHIN.

Mr. FASSETT with Mr. HEARST.

Mr. FRENCH with Mr. GILL.

Mr. GILLET of Massachusetts with Mr. MEYER.

Mr. GROSVENOR with Mr. CLARK of Missouri.

Mr. HEPBURN with Mr. LESTER.

Mr. HUFF with Mr. AIKEN.

Mr. KNAPP with Mr. RANDELL of Texas.

Mr. LITTAUER with Mr. TAYLOR of Alabama.

Mr. LITTLEFIELD with Mr. RICHARDSON of Kentucky.

Mr. LONGWORTH with Mr. PUJO.

Mr. LOVERING with Mr. LITTLE.

Mr. MAHON with Mr. STEPHENS of Texas.

Mr. MINOR with Mr. BANKHEAD.

Mr. McCALL with Mr. ROBERTSON of Louisiana.

Mr. PALMER with Mr. HUMPHREYS of Mississippi.

Mr. PARSONS with Mr. LEWIS.

Mr. REYNOLDS with Mr. REID.

Mr. SCHNEEBEL with Mr. PATTERSON of Tennessee.

Mr. SAMUEL W. SMITH with Mr. RIXEY.

Mr. WM. ALDEN SMITH with Mr. BROOKS of Texas.

Mr. TYNDALL with Mr. VAN DUZER.

Mr. WACHTER with Mr. TALBOTT.

Mr. WILEY of New Jersey with Mr. FIELD.

Until June 10, 1906:

Mr. OLMSTED with Mr. FLOOD.

For the session:

Mr. CURRIER with Mr. FINLEY.

Mr. MOBRELL with Mr. SULLIVAN of New York.

Mr. MOUSER with Mr. GARRETT.

Mr. SHERMAN with Mr. RUPPERT.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the motion that general debate be now closed.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division!

The House divided; and there were—ayes 148, noes 65.

Mr. WILLIAMS. Yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 150, nays 74, answered "present" 17, not voting 139, as follows:

## YEAS—150.

Adams	Davis, Minn.	Hubbard	Norris
Alexander	Dawes	Hull	Olcott
Allen, N. J.	Dawson	Humphrey, Wash.	Overstreet
Ames	Denby	Jenkins	Payne
Babcock	Dixon, Mont.	Jones, Wash.	Pollard
Bannon	Draper	Kahn	Powers
Bartholdt	Driscoll	Keifer	Prince
Beldier	Dunwell	Kennedy, Ohio	Reader
Bennet, N. Y.	Dwight	Klepper	Rhodes
Birdsall	Edwards	Knopf	Scott
Bishop	Ellis	Lacey	Sibley
Bonyng	Esch	Landis, Chas. B.	Slemp
Bowersock	Fletcher	Landis, Frederick	Smith, Ill.
Bradley	Foss	Law	Smith, Iowa
Brick	Foster, Ind.	Lawrence	Smyser
Brooks, Colo.	Foster, Vt.	Lilley, Conn.	Southwick
Brown	Fowler	Lorimer	Sperry
Brownlow	French	Loud	Stafford
Buckman	Fulkerson	Loudenslager	Sterling
Burton, Del.	Fuller	Lovering	Stevens, Minn.
Burton, Ohio	Gaines, W. Va.	McCarthy	Sulloway
Butler, Pa.	Gardner, Mass.	McCleary, Minn.	Tawney
Campbell, Kans.	Gardner, Mich.	McCleary, Pa.	Taylor, Ohio
Campbell, Ohio	Gardner, N. J.	McGavin	Tirrell
Capron	Goebel	McKinlay, Cal.	Townsend
Chaney	Graham	McKinley, Ill.	Volstead
Chapman	Hamilton	McKinney	Vreeland
Cocks	Haugen	McLachlan	Wachter
Cole	Hedge	McMorran	Wanger
Conner	Henry, Conn.	Madden	Watson
Cousins	Hepburn	Mann	Weems
Cromer	Hermann	Miller	Wharton
Crumpacker	Higgins	Mondell	Wilson
Curtis	Hill, Conn.	Moon, Pa.	Wood, N. J.
Cushman	Hinshaw	Mudd	Woodyard
Dalzell	Hoar	Murdock	Young
Darragh	Hogg	Needham	
Davidson	Howell, N. J.	Nevin	

NAYS—74.

Adamson	Glass	McLain	Slayden
Bartlett	Goldfogle	McNary	Smith, Ky.
Beall, Tex.	Goulden	Macon	Smith, Md.
Bell, Ga.	Granger	Moon, Tenn.	Smith, Tex.
Bowers	Gregg	Padgett	Southall
Brundidge	Hay	Page	Spight
Burleson	Heflin	Patterson, S. C.	Sullivan, Mass.
Burnett	Henry, Tex.	Pou	Sulzer
Candler	Houston	Rainey	Towne
Clayton	Howard	Ransdell, La.	Trimble
Cockran	Hunt	Rhinock	Underwood
Davey, La.	James	Robinson, Ark.	Wallace
Davis, W. Va.	Kelher	Rucker	Watkins
De Armond	Lamar	Russell	Webb
Fitzgerald	Lamb	Ryan	Williams
Floyd	Lee	Shackleford	Wood, Mo.
Gaines, Tenn.	Lindsay	Sheppard	Zenor
Garner	Livingston	Sherley	
Gillespie	Lloyd	Sims	

ANSWERED "PRESENT"—17.

Andrus	Graff	Kline	Small
Boutell	Grosvenor	Le Fevre	Weeks
Bowie	Hardwick	Lever	
Cooper, Wis.	Haskins	Mouser	
Currier	Kitchin, Wm. W.	Richardson, Ky.	

NOT VOTING—139.

Acheson	Flack	Lester	Roberts
Aiken	Flood	Lewis	Robertson, La.
Allen, Me.	Fordney	Lilley, Pa.	Rodenberg
Bankhead	Garber	Littauer	Ruppert
Barchfeld	Garrett	Little	Samuel
Bates	Gilbert, Ind.	Littlefield	Schneebell
Bede	Gilbert, Ky.	Longworth	Scroggy
Bennett, Ky.	Gill	McCall	Shartel
Bingham	Gillett, Cal.	McDermott	Sherman
Blackburn	Gillett, Mass.	Mahon	Smith, Cal.
Brantley	Greene	Marshall	Smith, Samuel W.
Brooks, Tex.	Griggs	Martin	Smith, Wm. Alden
Broussard	Gronna	Maynard	Smith, Pa.
Burgess	Gudger	Meyer	Snapp
Burke, Pa.	Hale	Michalek	Southard
Burke, S. Dak.	Hayes	Minor	Sparkman
Burleigh	Hearst	Moore	Stanley
Butler, Tenn.	Hill, Miss.	Morrell	Steenerson
Byrd	Hitt	Murphy	Stephens, Tex.
Calder	Holliday	Olmsted	Sullivan, N. Y.
Calderhead	Hopkins	Otjen	Talbott
Cassel	Howell, Utah	Palmer	Taylor, Ala.
Clark, Fla.	Huff	Parker	Thomas, N. C.
Clark, Mo.	Hughes	Parsons	Thomas, Ohio
Cooper, Pa.	Humphreys, Miss.	Patterson, N. C.	Tyndall
Dale	Johnson	Patterson, Tenn.	Van Duzer
Deemer	Jones, Va.	Pearre	Van Winkle
Dickson, Ill.	Kennedy, Nebr.	Perkins	Wadsworth
Dixon, Ind.	Ketcham	Pujo	Waldo
Dovener	Kinkaid	Randell, Tex.	Weber
Dresser	Kitchin, Claude	Reid	Weisse
Ellerbe	Knapp	Reynolds	Welborn
Fassett	Knowland	Richardson, Ala.	Wiley, Ala.
Field	Lafean	Rives	Wiley, N. J.
Finley	Legare	Rixey	

So the motion was agreed to.

The result of the vote was then announced as above recorded.

The SPEAKER. The question is on going into Committee of the Whole.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. WILLIAMS. Division, Mr. Speaker.

The House divided; and there were—ayes 143, noes 52.

Mr. WILLIAMS. I ask for the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 135, nays 75, answered "present" 14, not voting 156, as follows:

YEAS—135.

Adams	Cromer	Hayes	McKinney
Alexander	Crumpacker	Hedge	McLachlan
Allen, N. J.	Cushman	Hermann	McMorran
Ames	Dalzell	Higgins	Mann
Babcock	Darragh	Hinshaw	Miller
Bannon	Davidson	Hoar	Moon, Pa.
Bede	Daves	Howell, N. J.	Needham
Beldler	Dawson	Hull	Nevin
Bennet, N. Y.	Denby	Humphrey, Wash.	Norris
Birdsall	Draper	Jenkins	Olcott
Bishop	Dunwell	Jones, Wash.	Overstreet
Bonyng	Dwight	Kahn	Payne
Bowersock	Edwards	Kelfer	Pollard
Bradley	Ellis	Kennedy, Ohio	Powers
Brick	Esch	Klepper	Prince
Brown	Foss	Knopf	Reeder
Brownlow	Foster, Ind.	Knowland	Rhodes
Buckman	Foster, Vt.	Lacey	Rives
Burton, Del.	Fowler	Landis, Chas. B.	Rodenberg
Burton, Ohio	French	Landis, Frederick	Shartel
Butler, Pa.	Fuller	Law	Sibley
Campbell, Kans.	Gaines, W. Va.	Lawrence	Slemp
Campbell, Ohio	Gardner, Mass.	Lilley, Conn.	Smith, Cal.
Capron	Gardner, Mich.	Loud	Smith, Iowa
Chaney	Gardner, N. J.	Loudenslager	Smyser
Chapman	Gillett, Cal.	Lovering	Southwick
Cocks	Goebel	McCleary, Minn.	Sperry
Cole	Graham	McCreary, Pa.	Stafford
Conner	Hamilton	McGavin	Sterling
Cousins	Haugen	McKinley, Ill.	Stevens, Minn.

Sulloway	Volstead	Watson	Wood, N. J.
Tawney	Vreeland	Weems	Woodyard
Tirrell	Wachter	Wharton	Young
Townsend	Wanger	Wilson	

NAYS—75.

Adamson	Gaines, Tenn.	Lloyd	Sheppard
Bartlett	Garner	McLain	Sherley
Beall, Tex.	Gillespie	McNary	Sims
Bell, Ga.	Glass	Macon	Slayden
Bowers	Goulden	Moon, Tenn.	Smith, Ky.
Broussard	Granger	Moore	Smith, Tex.
Brundidge	Gregg	Padgett	Southall
Burleson	Hay	Page	Spight
Burnett	Heflin	Patterson, S. C.	Sullivan, Mass.
Butler, Tenn.	Henry, Tex.	Pou	Sulzer
Candler	Houston	Rainey	Towne
Clark, Fla.	Howard	Ransdell, La.	Underwood
Clayton	Hunt	Rhinock	Wallace
Cockran	James	Richardson, Ala.	Watkins
Davey, La.	Kelher	Robinson, Ark.	Webb
Davis, W. Va.	Lamar	Rucker	Williams
De Armond	Lee	Russell	Wood, Mo.
Fitzgerald	Lindsay	Ryan	Zenor
Floyd	Livingston	Shackleford	

ANSWERED "PRESENT"—14.

Andrus	Grosvenor	Kline	Small
Boutell	Hardwick	Le Fevre	Sparkman
Cooper, Wis.	Johnson	Richardson, Ky.	
Greene	Kitchin, Wm. W.	Robertson, La.	

NOT VOTING—156.

Acheson	Flack	Lamb	Randell, Tex.
Aiken	Fletcher	Legare	Reid
Allen, Me.	Flood	Lester	Reynolds
Bankhead	Fordney	Lever	Rixey
Barchfeld	Fulkerson	Lewis	Roberts
Bates	Garber	Lilley, Pa.	Ruppert
Bede	Garrett	Littauer	Samuel
Bennett, Ky.	Gilbert, Ind.	Little	Schneebell
Bingham	Gilbert, Ky.	Littlefield	Scott
Blackburn	Gill	Longworth	Scroggy
Bowie	Gillett, Mass.	Lorimer	Sherman
Brantley	Goldfogle	McCall	Smith, Ill.
Brooks, Tex.	Graff	McCarthy	Smith, Md.
Burgess	Griggs	McDermott	Smith, Samuel W.
Burke, Pa.	Gronna	McKinlay, Cal.	Smith, Wm. Alden
Burleigh	Gudger	Madden	Smith, Pa.
Byrd	Hale	Mahon	Snapp
Calder	Haskins	Marshall	Southard
Calderhead	Hearst	Martin	Stanley
Cassel	Henry, Conn.	Maynard	Steenerson
Clark, Fla.	Hepburn	Meyer	Stephens, Tex.
Clark, Mo.	Hill, Conn.	Michalek	Sullivan, N. Y.
Cooper, Pa.	Hill, Miss.	Minor	Talbott
Dale	Hitt	Mondell	Taylor, Ala.
Deemer	Hogg	Morrell	Taylor, Ohio
Dickson, Ill.	Holliday	Mouser	Thomas, N. C.
Dixon, Ind.	Hopkins	Mudd	Thomas, Ohio
Dixon, Mont.	Howell, Utah	Murdock	Trimble
Dovener	Hubbard	Murphy	Tyndall
Dresser	Huff	Olmsted	Van Duzer
Driscoll	Hughes	Otjen	Van Winkle
Ellerbe	Humphreys, Miss.	Palmer	Wadsworth
Fassett	Jones, Va.	Parker	Waldo
Field	Kennedy, Nebr.	Parsons	Weber
Finley	Ketcham	Patterson, N. C.	Weeks
	Kinkaid	Patterson, Tenn.	Weisse
	Kitchin, Claude	Pearre	Welborn
	Knapp	Perkins	Wiley, Ala.
	Lafean	Pujo	Wiley, N. J.

So the motion was agreed to.

The Clerk announced the following additional pair: On this vote:

Mr. FLACK with Mr. TRIMBLE.

The result of the vote was announced as above recorded.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the sundry civil appropriation bill, with Mr. WATSON in the chair.

The CHAIRMAN. The clerk will report the bill.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—*

Mr. ADAMSON. Mr. Chairman, I move to strike out the enacting clause for the purpose of making a request. I have stated to the champions in debate, my friend from Minnesota [Mr. TAWNEY] and my friend from Massachusetts [Mr. SULLIVAN]—

Mr. TAWNEY. Can not the gentleman allow the first paragraph of the bill to be read?

Mr. ADAMSON. The Clerk has read the enacting clause, and I thought a motion to strike it out would be a good motion upon which to predicate my request.

The CHAIRMAN. The first paragraph must be read before the gentleman can make the motion to strike out the enacting clause.

The Clerk read as follows:

That the following sums be, and the same are hereby, appropriated, for the objects hereinafter expressed, for the fiscal year ending June 30, 1907, namely:

Mr. ADAMSON. Mr. Chairman, I have spoken to my friend from Minnesota [Mr. TAWNEY], the chairman of the committee,

and my friend from Massachusetts [Mr. SULLIVAN] in charge of the minority and have given them the reason for my request. I desire to talk about this bill, and I expect possibly to be called away from the city after to-day.

The CHAIRMAN. Does the gentleman make a motion to strike out the enacting clause?

Mr. ADAMSON. Yes.

The CHAIRMAN. The gentleman is entitled to five minutes.

Mr. TAWNEY. I suggest to the gentleman from Georgia that he substitute a motion to strike out the last word.

Mr. ADAMSON. In view of the disastrous consequences that might result from the prevalence of the first motion I yield to the importunities of my friend and move to strike out the last word.

The CHAIRMAN. The gentleman withdraws the other motion to strike out the enacting clause?

Mr. ADAMSON. Yes.

The CHAIRMAN. The gentleman now moves to strike out the last word, and is entitled to five minutes.

Mr. ADAMSON. Now, I ask unanimous consent that I may be allowed to proceed for fifteen minutes. I do not expect to take that much time, but if necessary I should like to have that long. I do not care to talk about this section of the bill, but about the bill.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to proceed without interruption for fifteen minutes. Is there objection?

There was no objection.

Mr. ADAMSON. Mr. Chairman, in the outset I wish to congratulate my distinguished friend from Minnesota [Mr. TAWNEY], the chairman of the Committee on Appropriations, and his collaborators on that committee, on the spirit of economy manifested by them. This spirit of economy extends not only to money, but the chairman of the committee adopts the thread-worn theory that time is money, and he economizes as to time, and he deliberately sticks a peg and limits himself to one hour, and then says, "I can not yield, because my time is limited," when he himself deliberately placed the limit which prevented him from yielding time which otherwise would have been his own.

I love economy. Especially do I love to see a sane moment on that subject among my friends on the other side of the aisle. But there is economy and there is economy. There is extravagance on one extreme and there is parsimony on the other. This great committee, Mr. Chairman, is charged with looking after the maintenance of the affairs of the Republic, only one other committee supplementing its efforts—the Committee on the Post-Office and Post-Roads, which looks to the necessary communication between individuals and sections of the country. Neither of these committees is expected to raise revenue, nor starve the industries and institutions of the country through parsimony. Every other committee of this House may more properly urge the doctrine of economy. It is always and everywhere proper to urge the doctrine of honesty and the exclusion of graft; but when it comes to the two great committees which are to dispense the household funds in such a way as to maintain the Republic, or the family, in decency and efficiency that is the time to study practicality, to study efficiency, to study how to spend money to do the most good and how to make the wheels of government revolve in efficiency and security, and the resources and conditions of the family improve.

But if any provide not for his own, and especially for those of his own house, he hath denied the faith, and is worse than an infidel.

I am not denouncing my good friend the chairman of the Committee on Appropriations, but I am simply giving him warning of what may be in store for him in the way of denunciation if his committee pushes that doctrine of economy too far.

There is that scattereth, and yet increaseth; and there is that withholdeth more than is meet, but it tendeth to poverty.

What we want the great appropriation committees to do is to be honest, but to provide for the efficient management of the affairs of this Republic, and supply everything that will benefit the people.

Now, there are two or three items in this bill which I desire to mention. I have not given great care to all the provisions of the bill. My attention has been called to one in regard to printing. They propose to save money in order to make reputations for economy in a committee which ought to make reputations for efficiency and honesty only. They propose to deprive the great Departments of this Government of doing the printing which they can do conveniently, expeditiously, without trouble, which would be disastrous to the Departments of the War and the Navy, and would cause them more trouble, delay, and inconvenience than the entire amount of money expended. It is the old folly of saving at the spigot and spending at the bung.

In the Geological Survey the very first item they strike is an item for topographical surveys. This House last year, by an overwhelming majority, increased the appropriation over the amount recommended by the committee, \$300,000, making it \$350,000. This year the committee, forgetful of what occurred one year ago, forgetful that the House is not here to tear down the Geological Survey, but to build it up, forgetful of the increase of \$50,000 last year, which ought to justify at least an increase of another \$50,000 to-day, have undone the work of last year and reported the old amount of \$300,000. I should like the celebrated economists on that committee to inform the House what use they think it is for us to increase by \$50,000, if they are coming along in their spasm of economy and destroying the benefit by reducing the appropriation to the first amount. Any old stinginess can make a reputation for economy if he will starve himself and his family and dress and live niggardly. This is too great a country for that. We have a right, our citizens have a right to the full services of the efficient corps now organized in the Geological Survey to extend the quadrangles that have covered as yet only a portion of our country. The same difficulty occurs in four or five other divisions in these operations. The measurements of streams, which are important in a thousand ways, have been once or twice put back entirely into the bill, when the Committee on Appropriations had left it out entirely. On two occasions, when the committee reported only \$100,000, we have, by tremendous majorities, increased the amount to \$200,000; but the economical committee, making a reputation by starving the country, in order to save a few dollars that ought to have been saved somewhere else, cut down the amount again to \$100,000.

The same is true as to the preparation of the report on mineral surveys, and as to every division in that Department. Now, I do not know whether these statesmen on that committee expect a deficit in the Treasury, and endeavoring to save it by denying necessities to the people, had heard that the Committee on Buildings and Grounds contemplated authorizing a building for the Geological Survey and accordingly cut this down to recoup or not, but I am here to say and every official of that Department will say they would rather work out doors and continue to do this work than to be deprived of the means of advancing the interests of the people by their researches and the excellent work of this splendid corps. If they must give up one, they would prefer to give up the building. If the Committee on Appropriations can afford to straggle by and look at that eyesore of a building in which this work is being done, the servants of the public would rather work there indefinitely than lose the means of carrying on their work.

Now, Mr. Chairman, there is another good and unanswerable reason why the items in the building should be increased. They have a magnificent force of excellent men, equipped with brains and experience and the necessary instruments to carry on all the branches of the work in the Geological Survey. It is necessary that that organization should be kept intact. If you cut the appropriations by proposed reduction to \$360,000 at this time, you disband and destroy their efficient organization, and whenever the committee determines it will be economical somewhere else and that it will give this Department a chance to catch up, it will take years to reassemble and reorganize the force in its present efficiency. It is unwise, it is not economical, it is wasteful to cut down this appropriation in this way. I will not say it is a mad, a reckless waste, because I know the gentlemen of that committee are all patriots and good citizens desiring to do right. I know that what they have done has been actuated by the highest patriotism and the purest desire to make a good showing. I do not care if my good friend from Minnesota does succeed in making such a record for efficiency and wise expenditure, and not for parsimony, that if we must be afflicted in the future by Republican domination, he will have a chance to make as good a Republican Speaker as other Republicans. [Applause.] I hope amendments will be adopted undoing all this damage, and thank the committee for its attention and courtesy.

The Clerk read as follows:

Chicago, Ill., post-office and court-house: The appropriation made in the urgent deficiency appropriation act approved February 27, 1906, for improvements and changes of a general nature is hereby made available also for the interior decoration of the building.

Mr. MANN. Mr. Chairman, I wish to offer an amendment.

The Clerk read as follows:

Amend on page 3 by inserting after line 4 "for repair of paving, \$15,000."

Mr. TAWNEY. Mr. Chairman, I reserve the point of order.

Mr. MANN. Mr. Chairman, I am willing that the gentleman should make his point of order.

Mr. TAWNEY. I will make the point of order if the gentleman desires me to.

Mr. MANN. I would like to have the point of order disposed of now.

Mr. TAWNEY. I make the point of order that it is not authorized by existing law and is new legislation.

Mr. MANN. Mr. Chairman, on the point of order: The amendment is to provide \$15,000 for the repair of the paving at the Federal building in Chicago. I may say to the Chair that the United States Government occupies the ground under the Federal building in Chicago by virtue of a purchase or exchange of ground and through an act of the legislature of Illinois. The act of the legislature is one which was approved March 7, 1872, and is as follows:

An act to amend an act entitled "An act to cede jurisdiction to the United States over certain land, and for the purchase and condemnation thereof," approved December 14, A. D. 1871.

SECTION 1. Be it enacted by the people of the State of Illinois, represented in the general assembly, That "An act to cede jurisdiction to the United States over certain land, and for the purchase and condemnation thereof," approved December 14, in the year of our Lord 1871, and which was and is as follows, to wit:

"SECTION 1. Be it enacted by the people of the State of Illinois, represented in the general assembly, that the United States shall have power to purchase or condemn, in the manner prescribed by law, upon making just compensation therefor, any land in the State of Illinois required for custom-houses, arsenals, light-houses, national cemeteries, or for other purposes of the Government of the United States.

"SEC. 2. The United States may enter upon and occupy any land which may have been or may be purchased or condemned, or otherwise acquired, and shall have the right of exclusive legislation and concurrent jurisdiction, together with the State of Illinois, over such land and the structures thereon, and shall hold the same exempt from all State, county, and municipal taxation.

"SEC. 3. Whereas by the burning of the United States post-office, custom-house, and United States court rooms in the city of Chicago an emergency exists requiring this act to take effect immediately; therefore this act shall take effect from and after its passage"—

be, and the same is hereby, amended by adding thereto as follows:

"SEC. 4. That in case there shall be any street or alley running through any block or tract of land so purchased or acquired by the said United States for any of the purposes described in the said act hereinbefore set forth, all that portion of such street or alley within such block or tract of land, shall, upon the purchase of the same by the United States, or the transfer of the same to the United States by condemnation or otherwise, for any of the purposes aforesaid, be, and the same is hereby, vacated and closed, and the lots or tracts of land abutting upon any such street or alley shall extend to the center line thereof, and vest in the said United States, and become the property thereof, with full right, power, and authority to use, occupy, and enjoy the same as its own property in fee, to the same extent as though the same had never been used or occupied as a street or alley; and the said act to which this is an amendment shall apply to the said portion of such street or alley so vacated to the same extent as to the block or tract of land so purchased or to be purchased or condemned for any of the purposes aforesaid."

Approved March 7, 1872.

It has been claimed that under that act of the legislature the title of the Government to the grounds extended to the center of the streets around the post-office building. In 1880, before the construction of the post-office building had ceased, the United States appropriated money for the paving of the streets. That was carried in the general deficiency appropriation bill, approved June 16, 1880, and provided, under the head of "public buildings," for the construction of the custom-house, court-house, and post-office building and approaches at Chicago, Ill., including steps, grading, sidewalks, and paving, \$125,000. Under that statute the Federal Government paved the half of the streets adjoining the Federal building on all four sides of the building, covering the entire square. That, as a matter of fact, was paved with cedar blocks.

In the latter part of the eighties the Government again paved all portions of these streets with granite blocks. These pavements are practically worn out. The item which I propose is for the repairing of these pavements laid by the Government on what it is contended is Government property.

Mr. TAWNEY. When were the streets paved and how many of them were paved?

Mr. MANN. The Government has paved all the streets around the buildings twice; that is, the half next to the Federal building.

Mr. TAWNEY. When were the streets paved, and was it done under a specific appropriation for that purpose?

Mr. MANN. The first time was under a specific appropriation, under an act which I have sent to the Chairman, in the general deficiency act of 1880, expressly providing for the pavement, and under that act the streets were paved. Subsequent to that time the streets have been again repaved by the Government. I may say to the gentleman, in all frankness, that I have been endeavoring to obtain from the Architect's Office the information how and under what appropriation the pavement was put down a second time, but the Architect informs me that he finds a trace of the record, but he had not been able to examine it. I have been trying to find out, but I have the first statute here. I know, as a matter of fact, that the streets were paved a second time by the General Government.

Mr. BURTON of Ohio. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BURTON of Ohio. I will suggest that this is an important inquiry. Is it not true that the General Government in the case of public buildings refuses to pave the streets adjacent to the buildings?

Mr. MANN. That is rather a question on the merits of the proposition.

Mr. BURTON of Ohio. Is not that the general rule, that the pavements are laid at the expense of the municipality?

Mr. MANN. I think that is so, but of course that has nothing to do with the point of order.

Mr. TAWNEY. Mr. Chairman, it is possibly true that the legislature of the State of Illinois has ceded to the Federal Government the fee to the center of the streets surrounding this public building in the city of Chicago. But it is also true that that cession has been made, as it is in all cases made, with the express limitation that it shall be entirely free from all taxes, local or otherwise, and free from any burden that the local authorities might otherwise impose upon it. I want to call the attention of the Chair to another fact, that while the State of Illinois has ceded to the Federal Government the fee to the center of the street, the Government can not use that property from the edge of the street to the center for the reason that it is burdened with an easement, which easement existed at the time the property was ceded to the Federal Government, and the Government accepted the cession subject to that easement or right of public use. Now, then, having made the cession with the limitation that it is to be free from any tax or burden, as all other cessions are made by all other States for all other public-building sites, it will be seen that that is the reason why the Government of the United States does not pave the streets surrounding the public buildings, because it has been expressly exempted from that burden or obligation.

The CHAIRMAN. Will the gentleman state to the Chair whether or not he has there the act of the Illinois legislature making the cession.

Mr. MANN. Mr. Chairman, I will state that I have read the act of the Illinois legislature under which the property was acquired. It is not a direct cession, but it covers that particular question.

Mr. TAWNEY. Mr. Chairman, in respect to the fact that these streets have been heretofore paved at the expense of the Federal Government, that should have no weight whatever in the determination of this question. There are only two post-office buildings in the United States that enjoy the distinction of having had the streets around them paved by a direct appropriation from the Federal Government—one in Chicago and the other in the State of Missouri—both places represented on the Committee on Appropriations at the other end of the Capitol by distinguished Senators from those two different States. Congress has never recognized, and the Government of the United States has expressly denied, that under the cession giving title to property for building purposes that that property was chargeable with the burden or obligation of paving the streets around the public building. If that can be done legally under the rules of the House in this instance, it can be done in every other instance throughout the United States.

Mr. CRUMPACKER. Mr. Chairman, I am incidentally and indirectly interested in this question. My interest lies in the direction of holding the gentleman's amendment in order, but not upon the grounds that he suggests. I do not believe the fact that the Federal Government has maintained improvements about the Federal property in the city of Chicago for twenty-five or thirty years gives it any advantage over communities where the Federal Government has never maintained or improved the streets at all. There is absolutely no force, in my judgment, in that position.

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

Mr. CRUMPACKER. It is not a public work or project in progress. I will yield for a question.

Mr. MANN. Does the gentleman think that from a parliamentary standpoint an appropriation for the repair of the Federal building in Chicago would have a better status than a proposition to put up a new Federal building on some vacant lot?

Mr. CRUMPACKER. Most assuredly, because from the standpoint of the Government, a public building is a public object already in progress, and the streets of the city of Chicago, from the standpoint of the Federal Government and from a parliamentary viewpoint, do not constitute a public work or object already in progress.

Mr. MANN. The gentleman probably did not understand the claim I made, that the legislature of the State of Illinois had

vacated this portion of the street around the Federal building, that the title to the property was vacated, so far as the public was concerned. The United States Government can close it up. It has taken possession and has closed up the sidewalks practically already.

Mr. CRUMPACKER. I understand that the title in public streets and alleys in the city of Chicago is in the city, but that must be by special statute, because I undertake to say that the doctrine is general all over this country that the public only has an easement in public thoroughfares, including streets and alleys, and that the title is in the owner of the adjacent property. In the city of Hammond—which, of course, is not just like the city of Chicago yet—there is a public building in process of construction. We would be very glad if we could find some way to get an appropriation from the Federal Treasury to build sidewalks and street pavements in front of the Federal building, but the title to the street is in the Federal Government. It bought in fee simple the lots upon which the building is being constructed, and under our law, and I think it is universal where it is not changed by special statute, the title is in the proprietor of the adjoining property. I understand that the street around the public building is likewise a public street.

Mr. MANN. I say that the act of the legislature vacated the streets to the center of the streets, and that the Government of the United States acts upon that; that it has built sidewalks; that it uses the space under the sidewalks, which similar space the city government elsewhere rents; that it has constructed large structures upon one of the sidewalks, so that practically part of them is almost impassable, and that the Government uses them for the handling of mails, and it is all just as much a part of the street as the balance.

Mr. CRUMPACKER. The public uses the streets around the public square in the same manner, of course, subject to the special use by the Federal Government. They use the streets and sidewalks under the same right that they do the streets and walks around other property.

Mr. MANN. Oh, they use the inside of the public building the same way, and walk through it to get out of the sunshine.

Mr. CRUMPACKER. They use the streets around it as a public thoroughfare in the same manner they do all the other streets.

Mr. MANN. That is permissive by the Government; the Government has a right to prevent it.

Mr. CRUMPACKER. I do not believe that a municipality or State legislature can cede a special right to a street to the Federal Government, and thereby secure immunity from street and sidewalk improvements. If it can do that, there will be several acts of cession when the legislatures meet next winter and the year after.

Mr. TAWNEY. Mr. Chairman, I want to ask the gentleman from Illinois a question.

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. MANN. I yield to the gentleman.

Mr. TAWNEY. Do I understand the gentleman to say this appropriation is for the repair of a street?

Mr. MANN. For the repair of pavement originally laid by the Government.

Mr. TAWNEY. For the paving of a street?

Mr. MANN. I did not say that.

Mr. TAWNEY. What is the fact?

Mr. MANN. The gentleman can have the item read from the Clerk's desk if he desires to do so.

Mr. TAWNEY. The gentleman knows what it is. I simply want to get at the fact. Will the Clerk report the amendment?

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again reported.

Mr. MANN. Now, I may say to the gentleman the purpose is to repair a portion of the paving now so worn out that mail wagons coming to the post-office can not take that side of the street, and can not get there in proper time, I may say to the gentleman. There is nobody in Chicago who cares about it except from a governmental standpoint, and nobody uses that portion of the street except wagons going to and from the post-office.

Mr. TAWNEY. On what street is it proposed to repair this pavement?

Mr. MANN. Clark street, Adams street, and Dearborn street.

Mr. TAWNEY. Is not the present pavement on these streets, on the portion of the street which you say the Government owns the fee, identically the same as the pavement on the opposite side of the street?

Mr. MANN. It is not.

Mr. TAWNEY. In what respect is it different?

Mr. MANN. It was laid at a different time. They are both

granite-block pavements. The city has long desired to pave the street, and the city has not been able to pave the street, because in Chicago no pavements are paid for out of the general fund. It is not possible to levy an assessment and confirm it even upon the other half of the street. The original pavements were laid at different times and by different methods, I may say to the gentleman. They are not laid of the same kind of block, except both are a species of granite block.

Mr. TAWNEY. Now, the purpose is this: The city, as I understand the gentleman, wants to have a new pavement on the whole street on all sides of this public building?

Mr. MANN. The city wants to have a new pavement on the outside of a portion of the street, and—

Mr. TAWNEY. And this proposes—

Mr. MANN. Will the gentleman—

Mr. TAWNEY. That the Government build a new pavement on this side of the street—

Mr. MANN. The gentleman asks a question and answers it himself, of which I am not complaining; but I would not answer it the same way.

Mr. TAWNEY. This is not a repair, but a reconstruction of an old pavement—

Mr. MANN. If it is not repair, and if they can not reconstruct it, it is all right; I do not say whether they can or not.

Mr. TAWNEY. Mr. Chairman, I want to submit to the gentleman from Illinois and also to his colleague this is a matter of very great importance—

Mr. MANN. It is a matter involving \$15,000 out of \$120,000,000.

Mr. TAWNEY. There are a great many other buildings, with all due respect to the gentleman, besides the one in Chicago, and they are all after us for pavements. In view of the fact that this is an important matter and this subject has been fully considered and discussed in previous Congresses, in which a decision of the Supreme Court was taken into consideration and had some weight with the Chair in the determination of the question at that time, I ask the gentleman from Illinois if he will not consent that the matter go over until I can have an opportunity to fully examine the discussion in that Congress?

Mr. BOUTELL. Mr. Chairman, I have no objection to that.

The CHAIRMAN. Does the gentleman from Illinois desire to discuss the point of order?

Mr. BOUTELL. Solely that.

The CHAIRMAN. The Chair will hear the gentleman from Illinois.

Mr. BOUTELL. The sole observation I wished to make was this: That in determining this point of order the Chair ought to consider the last precedent which was made on a question of this kind. In the diplomatic and consular appropriation bill—

The CHAIRMAN. The Chair has that in mind, he will state to the gentleman.

Mr. BOUTELL (continuing). There was an item for the re-erection of a building. Well, of course, an original erection of a building would have been out of order on that bill. The point of order was made against the paragraph for the reerection, and the point of order was sustained. Thereupon the item was amended to read, "For the repair of the American consular building at Tahiti, Society Islands, \$5,071.45," and the point of order to that item was overruled. It seems to me that that is exactly on all fours with the amendment that has been presented by my colleague from Illinois. Waiving for the present all discussion of the merits of this amendment, it seems perfectly clear to me, Mr. Chairman, that if the United States Government had assumed the right to the center of these four streets, and under that assumption had paved them, that then surely this item for repairs would now be in order. So far as I am concerned, I have no objection to postponing the discussion of the merits of this proposition, but it seems to me perfectly clear that it is not subject to the point of order.

Mr. HINSHAW. I would like to ask the chairman of the committee a question, in view of the situation developed here. There are a great many public buildings in the United States and a great many sites have been procured; and it appears that when the site is procured there is a cession by the State of the sidewalks and probably half of the street to the United States.

Mr. MANN. But this is not an ordinary case, I may say to the gentleman. This was an exceptional kind of legislation.

Mr. HINSHAW. I want to ask a question concerning the ordinary case. Well, now, if the sidewalks and half the street are paved, the city calls upon the adjoining property owners to construct their portion, and then calls upon the United States to construct its portion of the street adjacent to its building, and the United States Government refuses, I want to know

what the practice has been about recognizing that by appropriating money?

Mr. TAWNEY. It has never been the practice of Congress to appropriate money to defray the expense of paving around public buildings. As I stated a moment ago, there are only two instances, which I mentioned; one is the city of Chicago and the other in the city of St. Louis, or in some other city in the State of Missouri.

Mr. MANN. Has it not been the practice to keep up a walk around a public building?

Mr. TAWNEY. Yes; that is done by the Government of the United States, but not the street.

Mr. NORRIS. A little further, in answer to that question. In this particular instance there was no recognition, was there, by the Government of the right to concede in either case the demand, or to insist upon this improvement, and it was done by a direct appropriation in an appropriation bill, was it not?

Mr. TAWNEY. Well, I am not able to answer that question specifically, and it is for that reason, Mr. Chairman, I ask that this matter go over, in order that I may look up and inquire into the exact status and terms of these two appropriations that have previously been made for the pavement of these streets.

Mr. MANN. I would not endeavor to or insist, if I could, on taking any advantage of my distinguished friend, the able chairman of the Committee on Appropriations, for whose judgment I have great regard, nor take any advantage of the House, whether I be right or wrong. I am perfectly willing for all light to be thrown on the matter and perfectly willing for the matter to go over.

The CHAIRMAN. Do the gentleman from Illinois and the gentleman from Minnesota agree that it may go over without prejudice?

Mr. TAWNEY. I ask unanimous consent that the matter be passed without prejudice.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent that it be passed without prejudice. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. PRINCE. Mr. Chairman, I desire to offer an amendment at the same place and have it go over without prejudice.

The Clerk read as follows:

Page 2, line 4, after the words "fifteen thousand," "also \$10,000, or so much thereof as is needed to pay for the repair of brick pavement heretofore constructed in the streets around the Government post-office building in the city of Galesburg, Ill."

Mr. TAWNEY. I make the point of order on that.

Mr. PRINCE. I ask unanimous consent that it go over with the other.

The CHAIRMAN. Without objection, it is so ordered.

Mr. NORRIS. Mr. Chairman, I have an amendment I desire to offer, an amendment exactly the same as the gentleman from Illinois offered. I ask unanimous consent that I may have until the matter is taken up again, when we return to the consideration in the same place in the bill, to offer that amendment. It is a similar one to that offered by the gentleman from Illinois.

The CHAIRMAN. Without objection, it will be so ordered.

There was no objection.

Mr. CRUMPACKER. Will not amendments of this character be in order when the paragraph is recurred to? I have in mind an amendment which I desire to propose, for pavement around the public building at Hammond, Ind.

Mr. TAWNEY. In my judgment, when this paragraph is recurred to later on these amendments may all be considered.

The CHAIRMAN. The Chair thinks not, because you recur for a specific purpose, unanimous consent for which has been given by the committee.

Mr. CRUMPACKER. Then I ask unanimous consent that when the paragraph is taken up again, I may have the right to offer an amendment providing an appropriation for paving the street in front of the public building in Hammond, Ind.

The CHAIRMAN. If there be no objection, the request of the gentleman from Indiana will be granted.

Mr. BARTLETT. I desire to add a request that the same thing may be done with reference to the public building at Macon, Ga.

The CHAIRMAN. If there be no objection, the request of the gentleman will be granted.

Mr. LIVINGSTON. I ask the same privilege for Atlanta.

Mr. TAWNEY. I trust members of the committee will not become hysterical about this matter. If this delay is going to precipitate a discussion of questions of order in respect to all the amendments, I realize that it would be advisable to have the ruling of the Chair now, one way or the other, and dispose of these several amendments on points of order or on their merits. That will end the whole thing. I do not like this

idea of going into a promiscuous consideration of amendments that are not in order at this time.

The CHAIRMAN. The Chair sees no difficulty in the proposition.

Mr. PRINCE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PRINCE. Unanimous consent of the committee has been given to this amendment of the gentleman from Illinois [Mr. MANN], and also to the amendment offered by me in writing, and I do not see how we can do anything else than go on.

The CHAIRMAN. The point of order is well taken.

Mr. FITZGERALD. I ask unanimous consent that all members of the committee may have the right to prepare and offer similar amendments at this point.

The CHAIRMAN. If there be no objection, it will be so ordered.

Mr. MANN. What is the order?

The CHAIRMAN. That all gentlemen, when we recur in future to this section, may have the opportunity to offer amendments similar to the one offered by the gentleman from Illinois.

Mr. MANN. Unless that request is modified, so as to confine it to the items in the bill, I shall object.

The CHAIRMAN. To the items in the bill.

Mr. MANN. Yes; in relation to the buildings named in the bill.

The CHAIRMAN. Public buildings mentioned in the bill.

Mr. TAWNEY. Why, certainly. They all have to be there. They are all subject to a point of order, and if they do not relate to the bill, then they are subject to the point of order on the ground that they are not germane.

The CHAIRMAN. If there be no objection, the request as modified will be ordered.

There was no objection.

The Clerk read as follows:

Macon, Ga., court-house, post-office, etc.: For continuation of extension under present limit, \$100,000.

Mr. BARTLETT. This is the place where I want to offer my amendment, similar to the one offered by the gentleman from Illinois [Mr. MANN].

Mr. TAWNEY. Will the gentleman offer it and have it pending?

Mr. BARTLETT. Yes; I will. I have it here.

For pavement around the United States Government building and lot at Macon, Ga., \$2,000.

I just offer that to have it pending. I ask unanimous consent that it may be so considered.

Mr. TAWNEY. I shall make no objection to recurring to it.

The CHAIRMAN. If there be no objection, it will be so ordered.

There was no objection.

The Clerk read as follows:

New York, N. Y., rent of old custom-house: For rental of temporary quarters for the accommodation of certain Government officials, \$130,600.

Mr. SULZER. Mr. Chairman, this paragraph just read by the Clerk is the same old National City Bank custom-house rental fraud, and I move to strike it out of the bill.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. SULZER. Mr. Chairman, this is the same old annual scandal, the same old national disgrace, the same old hoary fraud, and I move to strike out of the bill this appropriation for \$130,600 to the National City Bank for rental for the old custom-house property in the city of New York. I have made this motion every year since this nefarious transaction was consummated. Last year, on my motion, the same paragraph, the same appropriation, was stricken out of the bill, and it ought to be stricken out again this year. There is absolutely no justification for this appropriation in law or in equity.

Mr. Chairman, most of the Members of this House are familiar with the facts in connection with this scandalous matter. They remember that in 1899 Lyman J. Gage, then Secretary of the Treasury, entered into an alleged contract with the National City Bank, of the city of New York, to sell the bank the old custom-house property, situate and occupying an entire block in Wall street, for \$3,265,000, about one-half the real value of the property. This National City Bank, as is well known, is the Standard Oil bank, and the chief financial agency of "The System."

The Members of this House know all about this bank and the tremendous power it wields in financial and political circles all over this country. This National City Bank is one of the principal depositories for the surplus funds of the Government, and has on deposit all the time Government moneys amounting to millions and millions of dollars, for which it does

not pay the people of the United States one single dollar of interest.

Now, sir, shortly after this alleged contract of sale was entered into between the National City Bank and Lyman J. Gage, the Secretary of the Treasury, by which the old custom-house property was sold for \$3,265,000, the bank is alleged to have paid the Government, on account of the purchase price, \$3,215,000, leaving a balance due the Government of \$50,000. The bank paid this money, so it is said, not directly to the Government, but indirectly, by transferring on the books of the bank the amount of \$3,215,000 from one account to another account. As a matter of fact, the bank never really parted with one dollar of its money on account of the payment of part of the purchase price, and no deed from the Government to the bank has ever been executed or recorded in the city and county of New York, so that the title to this custom-house property still stands, so far as the records go, in the name of the Government, and yet the Government has been paying every year to the bank, except last year, when the appropriation was stricken out, \$130,600 rental for the use, apparently, of its own property.

This custom-house property occupies one entire block in Wall street, in the city of New York, and is considered one of the most valuable pieces of property in the country. Competent real-estate experts estimate its value to-day at over \$10,000,000, and the National City Bank will soon get this most desirable piece of property from the Government without practically paying one dollar for it. What a shame! What a fraud on the people!

This one-sided agreement between the Government and the bank should never have been made. The whole transaction is one of the most scandalous things in the history of the country. It is an unconscionable contract and can not be justified in law or morals. It is a fraud upon its face, and, as Mr. HEMENWAY, the chairman of the Committee on Appropriations, said last year when this matter was before the House, if the contract had been presented to him he never would have entered into it. I understand that the present Secretary of the Treasury has practically said the same thing. All the proceedings leading up to and surrounding this transaction between Secretary Lyman J. Gage and President James Stillman, of the National City Bank, bear the earmarks of a conspiracy to defraud the Government out of its property, and the most charitably inclined from the testimony before us can not escape the conviction that it was and is a fraud upon the taxpayers of this country.

It is my opinion that if the Attorney-General were instructed to institute an action in equity to set aside this unconscionable contract on the ground of fraud the facts would sustain the proceeding and the contract would be judicially annulled and canceled. The Attorney-General ought to institute such a proceeding.

Now, sir, it further appears that it was understood and agreed between the Secretary of the Treasury, Lyman J. Gage, and the officials of the National City Bank that \$50,000 of the purchase price should be retained by the bank and that the deed for the property should not pass or be recorded, in order that the bank should escape the payment of taxes to the city of New York on this most valuable piece of property. It is well known that Government property can not be taxed by a State or by a municipality. I am reliably informed by the officials of the city of New York that the taxes on this property to-day would be about \$100,000 a year. The bank now escapes this taxation, and it is an injustice to the people of the city of New York, and yet the bank seeks to compel the Government to pay interest on the purchase price as a rental for the property. Think of this Standard Oil bank charging the Government interest on its own money—rent for its own property. What a farce it all is! It is one of the most outrageous and shocking things that has ever come to my notice. I do not believe that any honest man who will take the trouble to investigate the matter can possibly justify the transaction.

No Member of this House can now vote for this appropriation and ever justify his vote. [Applause.] The whole transaction is a scandalous one, a fraud on the taxpayers of the country, because it deprives them of this valuable piece of property without a dollar of compensation; and it is an outrage on the taxpayers of New York City, because it deprives them of the taxes on the property. The appropriation in the bill for this rental is an outrage and can not be justified in the face of the honest facts. I intend to get, if I can, a record vote on this steal, so that the people will know how their representatives vote on this matter.

Now, sir, I object to this appropriation of \$130,600 for rent, because the alleged contract is only an agreement to sell, and no title has as yet passed from the Government to the bank, no

deed has been delivered, and no deed has been recorded, and the Government should not pay an exorbitant rent for its own property. It is a fraud and a sham and you all know it. The "System" has been very slick in every phase of this deal. It gets the Government property for nothing, has the use of the people's money without interest, makes the Government pay rent, and beats the city of New York out of the taxes. What a get-rich-quick scheme—but only the "System" could do it. It is a double fraud, and every aspect of the transaction is as unjustifiable as it is unconscionable. Just see what the Standard Oil crowd, through its National City Bank, have thus far made out of this scheme without either risking or paying one cent:

In "interest" upon the \$3,215,000 "paid" to the Government .....	\$914, 200
In interest upon the same sum loaned on the street for seven years by the bank, about.....	914, 200
In profit on the property now worth fully \$10,000,000.....	6, 735, 000
Total profit.....	8, 563, 400

That is frenzied finance for you with a vengeance! No wonder the "System" thrives and grows fat! [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SULZER. Mr. Chairman, just a word more. I think the House understands this matter. But, sir, I say that the Attorney-General should take immediate action in this case to set aside this contract, because it can not possibly be justified in law or in morals. It is a fraudulent agreement and an unconscionable contract, and it is voidable. This appropriation for \$130,600 rent ought to be stricken out of the bill this year just the same as it was last year. I now move to strike it out—all the paragraph. [Applause on the Democratic side.]

Mr. TAWNEY. I do not care to occupy time in discussing this matter in opposition to the motion of the gentleman from New York. This transaction has been thrashed over in the House some three or four times since I have been a Member of this House, and there has been a full and complete report made of the entire transaction, explaining in detail the transaction and justifying the contract and all that has been done under it. One of the principal questions involved was whether or not the money received from the sale of this property was public money in the sense of the recipients being compelled to deposit it in the Treasury of the United States. That question was fully discussed in Senate Document 71, Fifty-sixth Congress. The Government of the United States owned this property. It sold it, and it deposited the money received with a Government depository in the city of New York. The condition of the contract was that when the consideration for the old custom-house was fully paid, the title to the property should be transferred by the Government. That was not to occur, however, until the new custom-house was completed, and this was, in substance, the provision of the law under which the sale was made. It will be completed in the near future and occupied, probably, by the 1st of next January. The matter will then be entirely closed up. The Committee on Public Buildings and Grounds, before whom the gentleman from New York [Mr. SULZER] recently appeared and discussed the matter, making the same speech that he has made here to-day—with which we are all familiar, having heard it so frequently—have considered the matter and are prepared to state to the House more completely and fully the facts in regard to the transaction than I am, and therefore I yield to the gentleman from Nebraska [Mr. NORRIS].

Mr. GAINES of Tennessee. I would like to ask the gentleman when this contract was entered into?

Mr. TAWNEY. I think in 1890.

Mr. GAINES of Tennessee. What were the conditions?

Mr. SULZER. I will say to the gentleman from Minnesota that the contract was entered into in August, 1890, between Mr. Stillman, of the National City Bank, and Lyman J. Gage, Secretary of the Treasury.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. Gentlemen are aware of the fact that we have had this matter before us several years. It seems to me every session of Congress for years we have had a great squabble about the rental of this building. My recollection is that the Government undertook to sell, and did sell, some property to a New York bank, and that the title is still in the Government, and that the bank is using the property and cheating the State of New York and the city of New York out of the taxes because it can not be taxed, although it is really owned by the bank, the legal title still being in the Government. Instead of New York getting its taxes, the bank claims, when the assessor comes around, that it is Federal property and can not be

taxed. I will ask the gentleman from New York [Mr. SULZER] if I am not right?

Mr. SULZER. The gentleman is correct.

Mr. GAINES of Tennessee. I do not see why the Government or why the Secretary of the Treasury does not go on and vest the title in the bank, so that the State of New York and the city of New York shall not be beaten out of the taxes and its right to levy tax on this valuable piece of property. I will ask the gentleman from New York why he objects to this rent being paid? I object to it also, but I would like to hear from the gentleman from New York.

Mr. SULZER. I will say to my friend that I object to the payment of this rent because I insist that the title to the property still remains in the Government, and that no rent should be paid until the Government gives the bank a deed and the deed is recorded, so that the title is in the bank.

Mr. GAINES of Tennessee. Why hasn't that been done?

Mr. SULZER. I tried to find out and I could not. I put in a resolution of inquiry early this session, which passed this House, asking the Secretary of the Treasury what he did with the deed—where it was—and the Secretary of the Treasury sent to the House a communication saying that no deed had ever been executed. There is no deed—and there is the shame of it all.

Mr. GAINES of Tennessee. How much money has been paid by the bank to the Government?

Mr. SULZER. The bank, a national depository, has transferred on its books from one account to another account \$3,215,000 of the purchase price, leaving a balance due the Government, on account of the purchase price, of \$50,000.

Mr. GAINES of Tennessee. Why doesn't the bank pay the \$50,000?

Mr. SULZER. Because the bank wants to deprive the city of New York of the taxes, and it has been doing it for seven years. The taxes on this property amount to over \$100,000 a year.

Mr. GAINES of Tennessee. Now, Mr. Chairman, the former Members of this House, I know, are just as familiar as I am with the history of this matter. Here Congress is, with these facts before us for years, absolutely particeps criminis in cheating the city and State of New York out of this taxable property simply because we are drifting along here and not making the bank pay the \$50,000, and the Government withholding a deed from this bank. The bank is a depository of the Government of the United States. I do not know the name of the bank.

Mr. SULZER. The National City Bank—the Standard Oil bank; the financial agency of the "system." It is a wonder—the this bank.

Mr. GAINES of Tennessee. It is the simple duty of the Government to give a deed to this land, demand full payment, and take the money that has been shifted over from one ledger to another by this bank and put it in the Treasury of the United States. I understand that no money has actually been turned over to the Government and placed in the Treasury. The bank has simply taken Government deposits and paid for this land, except \$50,000 yet due and not paid to avoid getting a deed and title, to avoid paying taxes. I say, gentlemen, that in all fairness there should not be any objection to demanding and collecting this balance and turning over the deed. There should be some consideration shown by Congress for the State of New York. There should be some consideration for the city of New York, and clean dealing, and, as it is, I contend and I charge that Congress has been particeps criminis in this outrageous fraud on the Government, the city of New York, and the State of New York, and in honest everyday morals and square dealing the Government of the United States, for itself and the people of New York, should compel the bank to pay this balance and give the bank a deed. As the matter stands, this bank has millions of Federal deposits—the people's money—lends it out and pays for this land, and more, the bank rents out this property to the people, and the Government of the United States, puts the rents in its coffers, and the State and city of New York is cheated out of taxing the land, all because the legal title is still, and purposely, in the United States, to avoid taxation. This is an outrage on the people I condemn most severely.

Mr. TAWNEY. Mr. Chairman, I want to say that the gentleman from Tennessee is very much exercised over the fact that this transfer has not been made.

Mr. GAINES of Tennessee. Why not?

Mr. TAWNEY. I was about to state why it has not been made. Under the act approved March 2, 1899, entitled "An act to supplement and amend an act entitled 'An act for the erection of a new custom-house in the city of New York, and for other purposes,'" approved March 3, 1891, contains among other things the following provision:

SEC. 4. That the Secretary of the Treasury is hereby authorized and directed to sell at public or private sale—

—This was after the act authorizing the construction of the custom-house—

to the highest bidder after due advertisement, but for not less than \$3,000,000, the present custom-house property in the city of New York bounded by Wall, William, and Hanover streets and Exchange place, and to deposit the proceeds of the sale, after payment of the usual incidental expenses, in the United States Treasury as miscellaneous receipts derived from the sale of Government property; and in case of such sale the Secretary of the Treasury shall lease said premises from the purchaser or purchasers thereof, at a rental which shall not exceed 4 per cent per annum on the purchase price, for use as a custom-house until the new custom-house shall be ready for occupancy, upon such terms as he may deem advantageous, and such sale shall be subject to such right of lease; and the Secretary of the Treasury is hereby authorized to accept the said purchase price in several payments from time to time as he may deem most advantageous: *Provided, however*, That the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation and final payment is fully made.

Now, the new custom-house will not be ready for occupation until about January 1, 1907. The full consideration for the purchase was not made because then the title to the property would have passed to the purchaser, and the Government of the United States would have been subject to the will of the owner as to its future occupancy of that property and as to the conditions of that occupancy. The Government had to continue its occupancy in order to transact its business, and could not surrender possession either under the law or because of its own necessities.

Mr. GAINES of Tennessee. Will the gentleman yield right there?

Mr. TAWNEY. I yield.

Mr. GAINES of Tennessee. Has not the Government retained possession or had a lease for a number of years on this property, and has it not now a lease on this property?

Mr. TAWNEY. Under the terms and conditions of the sale which were fixed by the act which I have just now read.

Mr. GAINES of Tennessee. If we have a lease on it, how in the world can anyone take the Government's right away from the Government?

Mr. TAWNEY. But we do not have a lease.

Mr. GAINES of Tennessee. I understood the gentleman to say that we did.

Mr. TAWNEY. I say that we are occupying it under the terms and conditions of sale, which terms and conditions were fixed by this act which I have just now read.

Mr. GAINES of Tennessee. Why does not the bank pay the balance of the purchase money?

Mr. TAWNEY. Simply because the Government of the United States must occupy that building until the new custom-house is completed, and until that time it can not give title to the property.

Mr. GAINES of Tennessee. But if we have a lease on it we certainly can continue to occupy it.

Mr. SULZER. Mr. Chairman, just a few words right here.

Mr. GROSVENOR. Mr. Chairman, I understood the gentleman from Minnesota [Mr. TAWNEY] to be explaining this matter, and just about the time we got to where we would get a very intelligent idea of the situation he was broken in upon, and I would like to have him go ahead and tell us a little more.

Mr. SULZER. Now, Mr. Chairman, I will tell the gentleman what he wants to know, I think, in a few minutes. Let the gentleman content his soul in peace for just a little while longer. I want to say to the gentleman from Tennessee [Mr. GAINES] and inform the House in regard to one of the most sinister features of this whole transaction. Let me read a few extracts from the letters of Mr. Stillman, the president of the National City Bank, and from Mr. Gage, then the Secretary of the Treasury. These letters are contained in Senate Document No. 71, which the gentleman from Minnesota [Mr. TAWNEY] has in his hand. That document is an indictment of Lyman J. Gage. It drove him out of the Treasury Department. On the 18th of August, 1899, President Stillman, of the National City Bank, wrote to Secretary Gage as follows:

We shall make the above payment of \$3,215,000 upon the understanding, of course, that we are not to be liable for any taxes upon the property, so long as you remain in possession.

Mr. GAINES of Tennessee. That is the milk in the cocoanut.

Mr. SULZER. "And the balance of the \$50,000 remains unpaid and the deed undelivered." Yes; that is the milk in the cocoanut—a conspiracy to defraud New York City out of its taxes and the Government out of its property. Only the "System" could get away with it.

Now let me read a little more. In answer to that letter, Secretary Gage, on August 21, 1899, wrote to President James Stillman a letter, of which this is an extract:

As to the taxes against said property, you are advised that the Department's understanding of this matter is just the same as yours, and that until we deliver you the deed you will not have to pay the taxes to the city of New York.

Mr. GAINES of Tennessee. Whose language is that?

Mr. SULZER. Secretary Gage's.

Mr. GAINES of Tennessee. Secretary Gage's?

Mr. SULZER. Yes. Now, on the 12th of September, 1899, President Stillman wrote to Secretary Gage as follows:

I am writing to you personally, as I desire to avoid all publicity of the contents of this letter, as the reporters seem to have access to everything that goes upon the files in connection with this custom-house matter.

Personally, indeed! Secrecy all along the line. No reporters wanted; no publicity, you see; all secrecy; all a damnable conspiracy between Gage and Stillman to defraud.

Now, Mr. Chairman, the facts in the case, which are well known to the newspapers of the country, and well known to most of the Members of this House who were here during those days, are to the effect that Secretary Gage sent for Mr. Stillman, and Mr. Stillman came to Washington and went to the Treasury Department, and Mr. Gage there told Mr. Stillman how much to bid for this property to get it. Mr. Stillman thereupon made the bid and the National City Bank got this property for about one-half of what it was actually worth. That was a fraud upon the taxpayers of the country. Then Mr. Gage entered into this nefarious contract of sale by which the National City Bank should practically get this property for nothing and compel the Government to pay rental for it—that was more fraud—and, furthermore, to cheat the taxpayers of the city of New York out of the taxes. That was more fraud.

Mr. GAINES of Tennessee. What is the tax value of that property?

Mr. SULZER. The value of the property is now about \$10,000,000, and the tax about \$100,000 a year. Now, here is an editorial in the New York World, an independent newspaper, which says that the National City Bank has already made over \$8,000,000 on this property deal. For rentals it has received \$914,200; for interest on the amount of money deposited with it in this matter it has made at least \$918,200, and as a profit on the increased value of the property \$6,725,000, making a clean net profit thus far on the deal of over \$8,000,000, which has come out of the taxpayers and gone into the capacious pockets of the system.

Mr. Chairman, I appeal to the Members of this House in all fairness and in all honesty and ask, Do you want to vote any more of the taxpayers' money to the Standard Oil System? If you do, vote to keep this appropriation in the bill, and if you do not, stand by the House last year and vote out again this uncalled for appropriation of \$130,600. It is unjust and dishonest, and ought not to be paid to the bank. No honest man can read the record of the transaction and then conscientiously vote for this appropriation. [Loud applause.]

But more; this was a good contract for the "System," and the "System" takes good care of its own. So let us see what it did for Mr. Gage and his assistant, Mr. Vanderlip. Well, after this contract of sale was made, after this bargain was consummated, Mr. Gage resigned as Secretary of the Treasury and went over to New York, and the "System" gave him \$50,000 a year as president of one of its trust companies; and his assistant, Mr. Vanderlip, who was then Assistant Secretary of the Treasury and familiar with all the details of this matter, because he has testified to it, and I have some of his testimony here in my hand, he, too, resigned and went over to the city of New York and the "System" made him vice-president of the National City Bank, at a salary, so I am informed, of \$25,000 a year, and he is still vice-president of the bank. So they fared pretty well at the expense of the people, and it is—

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I know nothing about the facts in this case—

The CHAIRMAN. Does the gentleman move to strike out the last word?

Mr. MANN. I move to strike out the last two words, if necessary. I know nothing about the facts in this case, because I have listened to a number of speeches during a series of years on both sides of the question, and my mind would be so confused on the subject that I could not express any opinion, but I do know Mr. Gage, who was Secretary of the Treasury. The gentleman from New York, I take it, would not reflect either upon his intelligence or upon his integrity. He was for many years the cashier and afterwards the president of the First National Bank of Chicago, and no citizen of Chicago, with knowledge or experience in that city, would hesitate to say that the First National Bank of that city had been conducted during all of its life upon grounds broad, liberal, and fully sustained by honest dealings, and if the gentleman from New York relies for his position upon attack upon Secretary Gage I would say that I would much rather trust the reputation and the knowledge of the dealings of Mr. Gage for honesty and fair dealing than the

gentleman's opinions, whatever his opinions may be founded upon. [Applause on the Republican side.] Mr. Gage, as a man, as a bank officer, and as Secretary of the Treasury of the United States never for a moment transcended the line of honest dealings, of absolute integrity, of fidelity to duty, both to himself and to the country. [Applause on the Republican side.] I would rather take that fact in behalf of this transaction—if it be true that it came under his personal knowledge and his personal consent—I would take that fact on the one side as outweighing all of the charges which the gentleman from New York indulges in in the House. [Applause on the Republican side.]

Mr. WILLIAMS. Mr. Chairman, I do not think this is a subject or the occasion for any vituperation, or any eulogy, either. Certainly, if Mr. Gage has nothing under the sun to entitle him to a eulogy except his part in this transaction, he is entitled to no eulogy at all from any man who possesses at one and the same time honesty and intelligence. He may be entitled to eulogy for other things, but certainly not for this. The gentleman from Minnesota [Mr. TAWNEY] says that he "has heard all this thing three or four times." Yes; and I have heard it three or four times; and every time I have heard it there is, to my mind, less and less ethical or honest excuse for this appropriation—less and less reason, reason specifically, can be given from one sensible man to another for continuing this appropriation under these circumstances. So thoroughly did the House hear it all the last time it was up that the House voted this appropriation out of the bill, and it was done by a Republican vote, without which it could not have been done; and it was done by them because they thought it was dishonest and wrong to keep it in.

Now, the gentleman from Illinois [Mr. MANN] says that he has never understood this transaction. If not then it must have been because the gentleman did not go back and read the contract and the testimony as to what the transaction is. Let us just take a barefaced view of it for a moment without looking at its bearing upon any man at all. The United States Government sells a piece of property belonging to the Government for \$3,500,000. After it sells it it gets paid by allowing the money to lie in the hands of the purchaser without interest. It is a fact that the purchaser, the landlord of the property and the depositee happens to be exactly the same person—the National City Bank. Moreover, while landlord, so far as to receive rent this bank is not landlord enough to pay taxes. The title is in us—the United States. The United States Government then enters into a contract that the title is not to pass until all the money is paid.

This bank then transfers upon its books to the credit of the United States Government in course of time all of the money due for the purchase except \$50,000. The Government permits it to keep the money by making it a Government depository. All the purchase money except \$50,000 is thus transferred and deposited. This is a rare bookkeeping. And we are told that Secretary Gage was a rare business man. I will wager he never would have entered into just this transaction if he, instead of the Government, had been the original owner of the Government depository. The \$50,000 is not transferred and deposited, because that would pass title, call for a deed to be recorded, and thus subject the City National Bank to taxation—State and municipal. Now, it would be just as easy for it to transfer that \$50,000 on its books as it was to transfer three millions and more, but it does not do it.

Mr. TAWNEY. Now, will the gentleman permit me to ask him a question?

Mr. WILLIAMS. Let me conclude this statement and then I will. These are part of the facts. The next salient fact is that this money is left upon deposit in the City National Bank, which does not pay one dollar of interest. Two per cent interest upon this amount of money would amount to nearly \$70,000 a year. This has been going on either seven or nine years—I have forgotten now which.

Several MEMBERS. Seven years.

Mr. WILLIAMS. Seven years. Seven times \$70,000 would be \$490,000 of this loss to the Federal Government of interest on its money, which is at least half, more than half, of the rental that the Government has paid per year during the entire time. The bank, we may safely say, has used the money at a profit of 6 per cent, which would amount to \$200,000 per year, in round numbers. Now, then, if the Secretary and these parties had wanted to do something that was equitable and right, this might have been done; it might have been possible to defend the paying to these people of \$130,600 a year as rent, if during that time they had paid the Government \$70,000 a year as interest.

Mr. TAWNEY. Will the gentleman now permit me?

Mr. WILLIAMS. I now yield to the gentleman.

Mr. TAWNEY. You have now proceeded so far beyond the point I wished to interrupt you that I will have to restate what I understood you to say.

Mr. WILLIAMS. I am trying to make a consecutive statement.

Mr. TAWNEY. The gentleman stated that this purchase was made in a private manner.

Mr. WILLIAMS. I did not state that.

Mr. TAWNEY. I so understood the gentleman.

Mr. WILLIAMS. I made no such statement.

Mr. TAWNEY. Or at least a private arrangement between the United States and the National City Bank. I want to ask the gentleman if he knows the circumstances under which this purchase was made?

Mr. WILLIAMS. I know just what the gentleman has read from, just a moment ago.

Mr. TAWNEY. I beg the gentleman's pardon.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIAMS. I move to strike out the last two words.

Mr. TAWNEY. I want to submit this to the gentleman, in the report. I read the law. This is not the law I am reading now. I am reading what has been done by the Treasury Department under the law as shown by this document:

Pursuant to the provision of said act—

Referring to the act which I read—

Proposals for the purchase of said property (copy herewith) were solicited by public advertisement inserted, under date of June 2, 1899, in eleven of the leading newspapers published in the city of New York, a list of which said papers is shown in the certificate date August 22, 1899, inclosed herewith.

In response to said advertisement the following proposals were received:

National Bank of New York, James Stillman, President, \$3,265,000.  
New York Realty, Bank, Exchange, and Trust Company, Henry Morganthau, president, \$3,075,000.  
Farmers' Loan and Trust Company, Edwin S. Marston, president, \$3,055,000.

Mr. SULZER. Will the gentleman permit me there?

Mr. TAWNEY (continuing):

The proposal of the National City Bank, having been regarded as the most advantageous to the Government, was duly accepted by the Secretary of the Treasury, in writing, under date of July 3, 1899, and a copy of said letter will be found attached to and forming a part of the contract hereinafter referred to.

Well, now I want to ask the gentleman—

Mr. GAINES of Tennessee. I call for order.

Mr. WILLIAMS. Mr. Chairman, I believe I have the floor. The gentleman's "question," with no interrogation in it, came very near taking up my five minutes.

Mr. MANN. We will extend your time.

Mr. WILLIAMS. What the gentleman has read is no news to me or to the House.

Mr. TAWNEY. I think it corrects an impression that perhaps was erroneously created by the remarks of the gentleman in respect to the manner in which this property was disposed of.

Mr. WILLIAMS. I never created any impression that that could possibly correct.

Mr. SULZER. Will the gentleman allow me?

Mr. WILLIAMS. If you will allow me to answer what the gentleman has put before the House I will then yield to you. What the gentleman from Minnesota has read is this: That there was a public advertisement for the sale of the property, and that there were several bids for the purchase of the property. Nobody that I know of has ever denied that. If they had bought the property and had really paid to the Federal Government the money, if the money had gone into the Treasury, and if the title had passed to the purchaser, and if the city of New York and the State had gotten from the City National Bank the taxes from the purchase date to the present time, this question would not have been here at all.

There is nothing in connection with what the gentleman has read that has any sort of possible bearing or connection with the wrong of which we are now complaining, and this wrong is that the purchaser, the same corporation which rents to the Government and is the depositee of the purchase money without interest, are all one person; and that during the entire time we have been paying rent upon what is virtually our own property, not a dollar for it has gone into the Treasury or has been used by the Federal Government, even for the purpose of getting interest upon it, during this entire time. As I said a moment ago, there is no use in being fanatical, there is no use in being demagogical, there is no use in being eulogistic. This plain fact remains, that we sold this property for that amount of money. We have entered into an agreement whereby we rented back from the party to whom we sold it, and to whom we have delivered no title. In law, it is ours to-day. No title has passed. During that time they have paid no in-

terest whatsoever upon the money which was due us. Now, that is all. This House, at the last session, struck this out.

The House struck it out, and it seems that the Senate agreed with the House. Both branches struck it out. The moral sense of the House was successfully appealed to against this thing. It is now put back here, not by the unanimous consent of the committee, I understand, but the Democratic members of the committee consented to its being placed in the bill merely for the purpose of allowing the House of Representatives to pass upon it, as I am informed by the gentleman from Massachusetts [Mr. SULLIVAN], a member of the committee.

One other word, Mr. Chairman. I can not conceive of any reason for continuing this, unless, perhaps, the National City Bank contributed very largely to the last Presidential campaign fund. I do not know whether it did or not.

Mr. CONNER. Mr. Chairman, I move to strike out the last two words. Some time ago, I think perhaps in the early part of this session, a resolution was introduced in the House to have this matter investigated, and was referred to the Committee on Public Buildings and Grounds.

Mr. SULZER. You are mistaken about that. There was not a resolution for an investigation, but merely a resolution calling upon the Secretary of the Treasury for information—

Mr. PAYNE. I make the point of order that the gentleman from Iowa has the floor.

Mr. SMITH of Iowa. I ask for order.

The CHAIRMAN. The Chair desires to remind Members of the committee that the only way to interrupt a speaker is to address the Chair.

Mr. CONNER. The resolution was to inquire why the Government had not made the deed that is mentioned here to-day. Now, the Committee on Public Buildings and Grounds took charge of that resolution, and a full investigation was had of the matters connected with the transaction of the sale of the old custom-house in New York City, and I am prepared to say that if the members of this committee will read the Senate and House reports showing an investigation of this matter, they will find they cover every phase of this question and show the transaction is as straight as a string from beginning to end; that the Government has been fairly treated; that no one has sought to take advantage of the Government, and that it has not been taken advantage of by anyone. These reports will absolutely demonstrate this fact. Our committee made a report to the House on this question, and that report is on file in the records of the House.

Mr. TAWNEY. Will the gentleman tell us what committee that was?

Mr. CONNER. The Committee on Public Buildings and Grounds.

Mr. TAWNEY. Was the report of the committee unanimous?

Mr. CONNER. The report of the committee was unanimous.

Mr. SULZER. The gentleman is entirely wrong about that. The committee made no report, except to report my resolution favorably. The resolution then went to the Treasury Department, and the Secretary of the Treasury sent a letter to Congress.

Mr. TAWNEY. I make the point of order that the gentleman from New York has not the floor.

The CHAIRMAN. The gentleman from New York is out of order.

Mr. PRINCE. Will the gentleman yield to me?

Mr. CONNER. Certainly.

Mr. PRINCE. Will you please state whether the title has passed from the Government to the bank for this property in controversy?

Mr. CONNER. It has not.

Mr. PRINCE. Why has it not?

Mr. CONNER. Because under the law and the contract of sale it was not to pass until the new custom-house is completed, and it will not be completed until about the 1st of next January, as I understand.

Mr. FITZGERALD. Will the gentleman yield?

Mr. CONNER. I have not the time to yield now. I wish to give something of the history of this transaction. This matter came up in Congress originally on the demand of the Members of Congress from the city of New York, who sought to have this arrangement entered into. They were then anxious to have a new custom-house, and it was their proposition that the old custom-house should be sold, and the act of Congress which was passed provided for its sale for not less than \$4,000,000. The property was afterwards advertised for sale in many of the newspapers of New York City, and no offer was obtained. The amount of \$4,000,000 could not be realized for the property. Afterwards by act of Congress permission was given to sell for not less than \$3,000,000. The property was advertised again

in eleven of the prominent newspapers of New York, by Mr. Gage, who was then Secretary of the Treasury, Mr. Manning having been Secretary of the Treasury during the prior proceedings. The Democratic Congressmen from the city of New York urged that this matter be carried through.

Mr. SULZER. Who were they?

Mr. GAINES of Tennessee. Give their names.

Mr. CONNER. Whoever they were at the time. That is the statement before our committee. The National City Bank finally bought it for \$3,265,000, which was the highest offer made for the property, no other bid being within \$190,000 of this offer. The transaction was closed up strictly in accordance with the act of Congress.

Mr. PRINCE. Was there anything said about the use of this property by the Government during the time that the new custom-house was being completed?

Mr. TAWNEY. The law expressly provides the manner in which that shall be done.

Mr. PRINCE. Was the Government to pay rent to the bank during that time?

Mr. CONNER. It was to pay 4 per cent on the value of the property.

Mr. FITZGERALD. Does not the contract provide that the title shall not pass, not until the new custom-house is completed, but until the entire consideration is paid to the Government?

Mr. CONNER. Both.

Mr. WILLIAMS. No, it does not say both.

Mr. CONNER. Yes, both. Section 4 of the act of Congress approved March 2, 1899, is as follows:

That the Secretary of the Treasury is hereby authorized and directed to sell at public or private sale to the highest bidder, after due advertisement, but for not less than \$3,000,000, the present custom-house property in the city of New York, bounded by Wall, William, and Hanover streets and Exchange Place, and to deposit the proceeds of the sale, after payment of the usual incidental expenses, in the United States Treasury as miscellaneous receipts derived from the sale of Government property; and in case of such sale, the Secretary of the Treasury shall lease said premises from the purchaser or purchasers thereof at a rental which shall not exceed 4 per cent per annum of the amount of the purchase price, for use as a custom-house until the new custom-house shall be ready for occupancy, upon such terms as he may deem advantageous, and said sale shall be subject to this right of lease; and the Secretary of the Treasury is hereby authorized to accept the said purchase price on several payments, from time to time, as he may deem most advantageous: *Provided, however,* That the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation and final payment is fully made.

The Secretary in advertising for bids upon the property, stated, in accordance with the act of Congress, that no offer of less than \$3,000,000 would be accepted. He further stated that the Government reserved the right to occupy said property until the new custom-house should be ready for occupancy, and the purchaser should receive as rental for the old custom-house an annual rental of 4 per cent upon the purchase price. After the acceptance of the bid of the National City Bank of New York, a contract was entered into between the Government and the bank wherein the bank was given the right to anticipate the payment of the balance of the purchase price at any time, in whole or in part, and the Government reserved the right to continue in possession of the old custom-house until the completion of the new custom-house. The National City Bank determined to exercise its option to make a larger cash payment than was required by the Department, and on the 28th of August, 1899, there was deposited to the credit of the Treasury of the United States, with the National City Bank of New York, a depository of public money, the full amount of the purchase price, except \$50,000, which is now unpaid, the bank having previously deposited with the Assistant Treasurer of the United States bonds to secure the proposed increase of the public deposit by reason of the deposit of the amount of the purchase money for the custom-house property. This was done with the knowledge and approval of the Secretary of the Treasury.

There was no irregularity whatever in the payment of the money by the bank in the manner it was paid. The National City Bank of New York was then a lawfully constituted depository bank, and payment made to it or a deposit to the credit of the United States was in law a payment into the Treasury of the United States. The Comptroller of the Treasury, whose decision is binding upon the executive branch of the Government, holds:

That money is paid into the Treasury of the United States by being deposited with the Treasurer of the United States, here in Washington, or to his credit with an assistant treasurer, or in a designated depository.

That has been the uninterrupted and universal rule governing the accounting officers of the Government for many years. The letter of Hon. R. J. Tracewell, Comptroller of the Treasury,

dated January 8, 1900, shows this to be the case. He is supported in this view by Hon. Maurice D. O'Connell, Solicitor of the Treasury, in a letter dated January 9, 1900, and also in a letter of Hon. J. F. Meline, Assistant Treasurer of the United States, of date January 6, 1900.

The fact that no deed has been made by the Government conveying the old custom-house to the bank can have no significance when attention is called to the correspondence had between the bank and the Secretary of the Treasury, showing that the delivery in escrow of a deed was subsequently waived, and the contract which was finally executed between the United States and the bank, dated August 18, 1899, expressly provides the waiver of this requirement. The Government could not compel the bank to accept the deed until the purchase price is fully paid, and the bank has not seen fit to pay the full amount of the purchase price. If complaint is to be lodged against anyone it should be against Congress for enacting the law under which the property was sold and those who were instrumental in having the act passed, and not against the Secretaries of the Treasury who in good faith carried out the letter of the law. There is but one thing for the Government to do, and that is to faithfully comply with its contract and pay the rent according to agreement until the new custom-house is completed and possession of the old one is surrendered to the bank.

The efforts which the minority are making to create political capital out of this matter will prove futile. I predict that this is positively the last appearance of the gentleman from New York [Mr. SULZER] to insist upon a further investigation of the conduct of the representatives of the Government in connection with the sale of the old custom-house.

Mr. FITZGERALD. Mr. Chairman, in January of the present year the comptroller of the city of New York, its chief financial officer, had his attention called to this very peculiar transaction, and he attempted to have levied and collected the taxes that should have been paid upon this property. He estimated that, since the Government sold the property, over \$800,000 should have been paid to the city of New York in taxes. The question was referred to the law department of the city, and it was decided that because the title was in the Federal Government taxes could not be levied against the property by the city of New York. The comptroller came to Washington and called upon the present Secretary of the Treasury to ascertain why the title to this property had not been transferred to the purchaser. Mr. Shaw informed him that, in accordance with the contract, until the entire consideration was paid the deed could not be delivered.

Mr. YOUNG. Will the gentleman permit a question right there?

Mr. FITZGERALD. Yes.

Mr. YOUNG. Can the gentleman from New York tell whether under the terms of the contract this remaining \$50,000 is now due?

Mr. FITZGERALD. The Federal Government can get it, as I understand the contract, upon demand and a tender of the deed.

Mr. SMITH of Iowa. Will the gentleman allow me to ask him a question?

Mr. FITZGERALD. Yes.

Mr. SMITH of Iowa. What does the gentleman say as to whether a 4 per cent gross rent is a high or a moderate rent in the city of New York?

Mr. FITZGERALD. For property of this character, if the owner pays the taxes, it is a fair rent; otherwise it is exorbitant.

Mr. SMITH of Iowa. Is it not a fact that the very best property in New York rents for 4 per cent gross, and that the tenant pays the taxes?

Mr. FITZGERALD. I think not.

Mr. SMITH of Iowa. Is it not a fact that the Waldorf-Astoria is rented at 4 per cent gross, and that the tenants pay all the repairs?

Mr. FITZGERALD. I am not familiar with the terms under which the Waldorf-Astoria was built or leased.

Mr. SMITH of Iowa. Does the gentleman assert that if the Government of the United States pays 4 per cent upon the actual cost of this building, and then protects the parties against the payment of the taxes, that that is more than a reasonable rent in the city of New York?

Mr. FITZGERALD. I can not follow the questions of the gentleman, which are in the nature of a speech. I want to state some of the facts that I know in connection with this matter.

If it had been known in the city of New York that such an arrangement as has been made with this bank would have been made with the purchaser in the sale of this property, the bids would have been much higher.

Mr. SLAYDEN. Will the gentleman allow me a question?

Mr. FITZGERALD. Certainly.

Mr. SLAYDEN. What is the amount still due on that building?

Mr. FITZGERALD. Fifty thousand dollars.

Mr. SLAYDEN. Would it not have been better for the city of New York to have contributed that amount as a donation and then collected the taxes during that time?

Mr. FITZGERALD. Yes; the city would have made over \$750,000. Now, Mr. Chairman, I was calling attention to what happened this year. The comptroller of the city of New York asked Mr. Shaw, the Secretary of the Treasury, why the deed was not delivered, and Mr. Shaw said it was not delivered because the full consideration had not been paid. And he said further, in effect, that he did not assume the responsibility for that contract; that he found it when he came into office.

Let me call the attention of members of this committee to the fact that this particular contract was made in the way it is evidently in order to evade the law in favor of the National City Bank. The National City Bank, under the national banking act, as I recall it, can not purchase real estate except to occupy it for banking purposes, or acquires it in the ordinary course of its business as the result of failure to take up loans as security for which the property is pledged.

Mr. REEDER. Will the gentleman allow me a question?

Mr. FITZGERALD. If it is brief.

Mr. REEDER. Was not the contract made for the express purpose of accommodating the city of New York with a new custom-house?

Mr. FITZGERALD. Not at all.

Mr. REEDER. Well, that is the situation; and now you gentlemen come here with a proposition to violate the contract made for the benefit of the city.

Mr. FITZGERALD. No; that is not the situation. The gentleman from Minnesota mentioned the bids that were made. The next bid to this, \$3,265,000, was by the New York Realty Bond Company, and it was for \$3,075,000. That company was ready to pay that money to the United States, and the difference between that bid and the bid of the bank is only \$190,000. That bid was made in the belief that the purchaser would be liable for taxes. If that \$3,075,000 had been paid to the Federal Government the city of New York would have collected \$800,000 in taxes. The ingenious scheme already outlined was arranged, however, for two purposes—one to evade the payment of taxes to the city of New York, and the other to enable this bank eventually to get title to property that under the law it could not purchase.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FITZGERALD. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from New York asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. The gentleman from Illinois has spoken in eulogy of the man who was at the time of this transaction Secretary of the Treasury, Mr. Gage. I do not care to say anything in disparagement of him, but I say that this transaction will not reflect credit upon him or his career. He is to-day the president of the United States Trust Company, in the city of New York, one of the institutions controlled by the same element that owns the National City Bank.

Mr. HILL of Connecticut. The gentleman is mistaken. Mr. Gage has entirely retired from business.

Mr. SULZER. He retired only the other day.

Mr. FITZGERALD. He retired within a few months. Almost as soon as he left the position of Secretary of the Treasury of the United States he took that place, and the man who was Assistant Secretary of the Treasury at that time, Mr. Vanderlip, is to-day the vice-president of this National City Bank. If these facts do not make the entire transaction smack suspiciously, I would like to know what transaction in the history of the Government does have a peculiar air. Let gentlemen defend this transaction if they will. Last year we struck out and did not pay rent for this custom-house. The National City Bank will eventually make more—

Mr. WILLIAMS. Will the gentleman allow me a moment for a suggestion?

Mr. FITZGERALD. Certainly.

Mr. WILLIAMS. Mr. Chairman, a moment ago some of the gentlemen over there seemed to be under the impression that this contract held that these purchasers were to be protected from taxes, water rates, etc., as long as the United States Government occupied the property. I want to read an extract from a letter of the Secretary of the Treasury, Mr. Gage, to

Mr. Stillman, dated August 21, 1899, that proves that it is not dependent upon the occupancy, but upon the vesting of the title, and the vesting of the title is dependent upon the payment of \$50,000. Here is the language:

As to taxes, water rates against said property, you are advised that the Department's understanding of this matter is the same as yours, to wit, that so long as the title to the property remains vested in the United States you will not be liable for taxes or water rates.

There is nothing about occupancy at all.

Mr. FITZGERALD. If gentlemen wish to pay this money under these circumstances, of course they will vote to do so; but I hope that the House will not set its approval upon the transaction.

Mr. TAWNEY. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. TAWNEY. The gentleman recognizes, does he not, the legal liability on the part of the Government of the United States under the contract which was made?

Mr. FITZGERALD. Oh, Mr. Chairman, there is no obligation upon this House to pay money in the carrying out of a contract which reeks with fraud.

Mr. TAWNEY. A contract which embodied the identical conditions of the law, and the only kind of a contract that could have been made under that law, and there is a legal liability on the part of the Government. My question is whether the gentleman would pay this money in this way or pay a judgment in the Court of Claims.

Mr. FITZGERALD. If a judgment in the Court of Claims be obtained, it can not be collected unless an appropriation be made. I for one will not vote to appropriate money for such a purpose. This whole scheme has been deliberate. The Government has been treated unfairly. The city of New York has been deprived of money it should have had. Let those who were associated and who participated in the transaction take all the glory and credit from it which they may.

Mr. NORRIS. Mr. Chairman, as has been before stated, the Committee on Public Buildings and Grounds gave this matter a thorough investigation, or at least some of them did, and I desire to submit to the House candidly and fairly, without any prejudice, without any bias of a political nature or otherwise, what I believe to be the true and exact condition which exists in the matter.

I regret that gentlemen have made an attempt to-day, as they have done several times in the past, to make political capital out of this New York custom-house affair and to besmirch the characters of officials who are not here to defend themselves, and who while in office were carrying out, as I shall show, in good faith the mandates of Congress. I confess that I went into the investigation of this subject with a prejudice against the Government and against the officials who were managing the Government affairs relative to the matter. In the last session of Congress when this item in this bill was up for consideration I voted against this appropriation. I had not fully investigated it and I listened to the clamor and wild claims that were made against our officials in the Treasury Department and came to the conclusion that something was wrong.

It was in this state of mind and with this prejudice against the Government, when the matter came before the committee of which I am a member, that I commenced the investigation. I read the laws enacted by Congress under which the different officials of the Government acted. I read the CONGRESSIONAL RECORD where these laws were up for consideration. I read every letter and every document that passed between this bank and the Government, and I came to the conclusion that the Secretary of the Treasury and all of the other Government officials who have had anything to do with this transaction pursued a course which was absolutely honorable and which can in no way be criticised or justly found fault with. The fault, if there be one, was with Congress, and in order that the House may fully understand all of the conditions surrounding this matter I want to give the history of the transaction.

The sale of this property was first provided for by the act of March 3, 1891. In that act the minimum price was fixed at \$4,000,000. This act passed the House during the second session of the Fifty-first Congress, practically by a unanimous vote.

Section 2 of the act of March 3, 1891, is as follows:

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to sell at public auction, or at private sale after due advertisement, to the highest bidder, but for not less than \$4,000,000, the present custom-house property in the city of New York, bounded by Wall, William, and Hanover streets and Exchange place. The proceeds of such sale, after the payment of the usual incidental expenses and commissions, shall be covered into the Treasury of the United States and is hereby appropriated and made available for the purpose of constructing the new custom-house building as herein and hereby provided; and in case of such sale the Secretary of the Treasury

shall lease said premises from the purchaser or purchasers thereof, at a rental which shall not exceed 4 per cent per annum on the purchase price, for use as a custom-house until the new custom-house shall be ready for occupancy, upon such terms as he may deem advantageous, and such sale shall be subject to such right of lease; and the Secretary of the Treasury is hereby authorized to sell said custom-house property and receive the purchase price in several payments from time to time, as he may deem most advantageous: *Provided, however,* That the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation, and the final payment is fully made.

The Secretary of the Treasury expended \$2,308.05 in advertising for bids under that law. He never got a bid. He made some other investigation and some other attempt to bring this about, but he could not get a bid because the price was fixed by the law at too high a figure. As I look at it—and I am trying to look at it in a fair and honest way—there is no politics in it whatever. This law was in force from March 3, 1891, to March 2, 1899—eight years—and all that time officials were trying to sell this property. During half of this time there was a Democrat in the President's chair, and it was a Democratic Secretary of the Treasury who was trying his best to make this sale. He no doubt did his best and acted in good faith. He made a report on the 30th day of March, 1896, in regard to several things, in answer to some resolution of the Committee on Public Buildings and Grounds, and in this report he had this to say about that act and about this particular property, that on December 9, 1891, the Department advertised in the newspapers of New York City for proposals for the purchase of the present custom-house premises; and I shall insert in my remarks a copy of the advertisement and a certificate showing in what papers it was published.

Mr. GOLDFOGLE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. NORRIS. I yield for a question. I have only a very short time, and I want to get through with the matter.

Mr. GOLDFOGLE. Well, I want to be informed so as to vote intelligently.

The CHAIRMAN. Does the gentleman yield?

Mr. NORRIS. I will yield for a question, if the gentleman will ask it quickly.

Mr. GOLDFOGLE. The gentleman has intimated that he will print in the RECORD that which he does not now propose to read. I wish to ask the gentleman—

Mr. NORRIS. Oh, if the House will give me the time I will be very glad to read it now.

Mr. GOLDFOGLE. I want to know whether the advertisement at all indicated in any way that the purchaser could keep the purchase money without paying any interest for it.

Mr. NORRIS. Oh, I would have to read the advertisement in order to give the gentleman that information.

Mr. GOLDFOGLE. Well, I want to know what the advertisement is in order to vote fairly and intelligently upon the question.

Mr. NORRIS. Very well; I will read the advertisement, and then the gentleman can judge for himself. I will say to the gentleman that I have not the advertisement here under the first law. It is the advertisement under the second law and under which the sale was made that I have. But I was just coming to the statement—

Mr. GOLDFOGLE. What I want to get at is the advertisement under which bids were submitted, if bids were submitted at all.

Mr. NORRIS. Yes; I am going to read that, but that is under a different law.

Mr. GOLDFOGLE. Will the gentleman pardon me—

Mr. NORRIS. If I can get the time I do not care. Let the gentleman ask his question.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. NORRIS. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent to proceed for five minutes. Is there objection? There was no objection.

Mr. NORRIS. Now, let me go on first and then let the gentleman ask his question afterwards.

Mr. GOLDFOGLE. That will be all right if the gentleman does not take up the whole of the five minutes.

Mr. NORRIS. I was about to read what the Acting Secretary of the Treasury under Mr. Cleveland had stated.

On the 30th day of March, 1896, in the document referred to, and which I was about to read when the gentleman from New York interrupted me, the Acting Secretary of the Treasury under Mr. Cleveland used the following language in reference to the sale of this property under the act of March 3, 1891:

The Department advertised in the newspapers of New York City for proposals for the purchase of the present custom-house premises, but no

proposals were received in response to such advertisement. Subsequent efforts were made by the Department to effect the sale of the property, but without success, for the reason that no proposals could be obtained to purchase said property at the upset price of \$4,000,000.

From this it will be seen that efforts were made by both the Republican and Democratic Administrations to effect a sale of this property for the price named and under the conditions mentioned in the law. It seemed to be impossible to sell the property for \$4,000,000, and that seemed to be the opinion of the Democratic Secretary of the Treasury after he had done his best to comply with the law and sell the property.

Now, Mr. Chairman—

Mr. GOLDFOGLE. Mr. Chairman—

Mr. NORRIS. Will you let me go on?

Mr. GOLDFOGLE. Will you answer the inquiry?

Mr. NORRIS. I do not want to yield now; I will answer the question later.

Mr. GOLDFOGLE. Will you yield at all?

The CHAIRMAN. The gentleman declines to yield.

Mr. NORRIS. Now, then, they were unable to sell the property. The testimony and the correspondence show they went to New York City, both a Republican Administration and the Democratic Administration, and spent nearly \$3,000 and they never were able to receive a bid. They all agreed that the price was too high, and it must be put down if it was to be sold. Under these circumstances the act of March 2, 1899, was passed. This was in the Fifty-fifth Congress, third session. It passed the House on the 28th day of February, 1899, and the gentleman from New York who has made the motion to strike out this paragraph was in the House—was a Member of this House at that time. He was here that day, as the CONGRESSIONAL RECORD of that day will show. That law was passed without a dissenting voice, in which the upset price was fixed at \$3,000,000. Section 4 of that act reads as follows:

SEC. 4. That the Secretary of the Treasury is hereby authorized and directed to sell at public or private sale, to the highest bidder, after due advertisement, but for not less than \$3,000,000, the present custom-house property in the city of New York, bounded by Wall, William, and Hanover streets and Exchange place, and to deposit the proceeds of the sale, after the payment of the usual incidental expenses, in the United States Treasury as miscellaneous receipts derived from the sale of Government property; and in case of such sale the Secretary of the Treasury shall lease said premises from the purchaser or purchasers thereof, at a rental which shall not exceed 4 per cent per annum on the purchase price, for use as a custom-house until the new custom-house shall be ready for occupancy, upon such terms as he may deem advantageous, and such sale shall be subject to such right of lease; and the Secretary of the Treasury is hereby authorized to accept the said purchase price in several payments, from time to time, as he may deem most advantageous: *Provided, however,* That the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation and final payment is fully made.

Mr. SULZER. The act reads "Not less than \$3,000,000."

Mr. NORRIS. "The Secretary of the Treasury is hereby authorized and directed to sell," etc., "at public or private sale," and so on, "after due advertisement, but for not less than \$3,000,000, the property," describing it and stating how it is bounded, etc.

Mr. GOLDFOGLE. Mr. Chairman—

Mr. NORRIS. I will not yield now.

Mr. GOLDFOGLE. I want to ask the gentleman—

Mr. NORRIS. Well, I have the floor; let me manage my own speech, will you not?—and then you can get in afterwards.

And in case of such sale—

That is, for \$3,000,000 or over—

the Secretary of the Treasury shall lease said premises from the purchaser or purchasers thereof, at a rental which shall not exceed 4 per cent per annum of the purchase price, for use as a custom-house until the new custom-house shall be ready for occupancy, upon such terms as he may deem advantageous, and said sale shall be subject to such right of lease; and the Secretary of the Treasury is hereby authorized to accept the said purchase price in several payments, from time to time, as may be deemed advantageous: *Provided, however,* That the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation and final payment is made.

Now, there are two things—the custom-house must be finished and final payment must be made before he is authorized to give possession. Now, Mr. Chairman, on the day that that law was passed, as I have said, the gentleman from New York [Mr. SULZER] was present. There was not even a roll call; there was no objection. Every Member from New York was anxious to get the act passed and everybody in the House was honest in the conviction that it was a right law. Nobody knew how much property was going to advance in value. No one knew what future conditions were going to be; but I submit to you, gentlemen, that if anybody was to blame it was the Congress of the United States that passed that law. In accordance with that law the Secretary of the Treasury advertised for bids—

The CHAIRMAN. The time of the gentleman has expired.

Mr. NORRIS. I ask, Mr. Chairman, permission to proceed for five minutes more.

Mr. GOLDFOGLE. Mr. Chairman, reserving my right to object, I want to say to the gentleman now that I asked for the last five minutes for him that he might reply to a question. He took the five minutes—took it because of the graciousness of this House. [Cries of "Regular order!"]

Mr. NORRIS. I am going to yield to the gentleman, but I want to finish this statement before I do it.

The CHAIRMAN. Will the gentleman kindly refrain until the Chair states the question? The gentleman from Nebraska asks unanimous consent that he may proceed for five minutes. Is there objection?

Mr. GOLDFOGLE. Mr. Chairman—

The CHAIRMAN. Does the gentleman from New York object?

Mr. GOLDFOGLE. Reserving my right to object, I ask the gentleman from Nebraska— [Cries of "Regular order!"]

Mr. NORRIS. I will answer the gentleman's question.

Mr. GOLDFOGLE. If the gentleman says he will yield, I will not object.

Mr. NORRIS. But I do not yield this minute.

Mr. GOLDFOGLE. I want to be treated fairly on this floor.

Mr. NORRIS. I intend to yield to the gentleman, but I desire to finish this particular statement before doing so.

The CHAIRMAN. Does the gentleman from New York object?

Mr. GOLDFOGLE. Under the statement made by the gentleman, I do not.

The CHAIRMAN. The Chair hears no objection.

Mr. NORRIS. Now, Mr. Chairman, under that law these advertisements were made, and these bids were submitted, and the bid of this particular bank was accepted, which was \$265,000 above the upset price. This sale was made, and the correspondence back and forth between the Secretary of the Treasury and the parties is contained in House document 264, which shows that this bank at one stage of the proceedings desired to pay off the entire debt and get the deed and possession, but the Secretary of the Treasury refused to do it, because the law—this law which Congress passed, and which the gentleman from New York [Mr. SULZER] voted for—required him to retain possession of this property until the new custom-house was completed. Now, I yield to the gentleman from New York. [Applause.]

Mr. GOLDFOGLE. I want the gentleman from Nebraska to answer this committee whether in any advertisement issued by the Treasury Department there was anything to indicate that the purchaser might retain without interest the purchase price, that the deed might not be put upon record, so that taxes could not be levied and collected?

Mr. NORRIS. Well, now, I will answer the gentleman's question by reading the advertisement, which will be a complete answer; but before doing that I want to submit an observation on this question of taxes.

Mr. GOLDFOGLE. Read the advertisement.

Mr. NORRIS. Gentlemen complain that the State of New York is not getting any taxes on this property. If it be true that under the laws of the State of New York the equity in this property owned by the bank is not taxable, then it is the fault of the laws of the State, and no complaint can justly be made against the Secretary of the Treasury on that account. It is true that in one of the letters written by the bank after the sale was made and while they were negotiating about the contract, the bank officials expressed the opinion that this property would not be taxable until the deed was passed and possession given. In answer to this letter, the Secretary of the Treasury agreed with this opinion. It was, however, a subject not in any way connected with the matter in hand—something that had no legal effect in any way; an opinion expressed on a subject that was not up for consideration and that had never been taken into consideration in any way whatever. The Secretary of the Treasury, representing the United States Government, and following not only the instructions, but the mandates of the law, was trying to sell the property, and in good faith he was doing everything he could to secure the largest price. The question of taxes was one in which the Government was not in any way interested, one that was not in any way considered in the passage of the law or considered or even thought of by the officials in carrying out the mandates of law. Whether the Secretary's opinion was right or wrong in regard to the taxability of this property was absolutely immaterial, and had nothing whatever to do with the case. The gentlemen who are complaining about this bank not paying its taxes to the State of New York ought to make their appeals to the legislature of that State, where laws should be enacted

that would make taxable equities in property of this kind. I have given no attention to the question as to whether or not, as a matter of law, this property is taxable in its present status, because it has nothing whatever to do with the question before Congress. It is a matter entirely with the State of New York, and I can only say that if the laws of that State are so lax as to permit property of this kind to escape taxation, it is a subject that might well merit the consideration of the New York lawmakers.

Now, this advertisement was published in eleven newspapers.

Mr. GOLDFOGLE. What paper was it in?

Mr. NORRIS. I will give them to you, but I will have to look at another place to get it. Now, here is a copy of the advertisement:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., June 1, 1899.

Sealed proposals will be received at the Treasury Department, Washington, D. C., until 2 o'clock p. m. July 3, 1899, and then opened publicly for the purchase of the custom-house property, bounded by Wall, William, and Hanover streets and Exchange place, New York City. No offer less than \$3,000,000 will be considered. Each proposal must be accompanied by a certified check for \$150,000. The Government reserves the right to occupy said property until the new custom-house on Bowling Green is ready for occupancy, and as rent for such use the purchaser will receive interest on the purchase price at 4 per cent per annum. The cash payment must not be less than \$750,000. Bidders must state their wishes as to the manner of making the deferred payments, the arrangement of which rests with the Treasury Department, deferred payments to bear interest at 4 per cent per annum, payable semiannually. The right is reserved to reject any or all bids, or to waive any defect or informality in any bid should it be deemed in the interest of the Government to do so.

For further information apply to the collector of customs, New York City.

L. J. GAGE, Secretary of the Treasury.

"Deferred payments to bear interest at 4 per cent." That is better than cash.

Mr. GAINES of Tennessee. What is the date of that advertisement?

Mr. NORRIS. I read the date; it was June 1, 1899. Now, I will read the certificate that shows how that was advertised:

Treasury Department—

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. NORRIS. Unless some gentleman objects, I will print that in my remarks.

Mr. WILLIAMS. Read it. I ask unanimous consent that the time of the gentleman may be extended.

Mr. BARTLETT. I ask that the gentleman may have five minutes.

Mr. SULZER. Just put it in the RECORD.

Mr. WILLIAMS. Let the gentleman read it. It does not prove what he says.

The CHAIRMAN. Is there objection to extending the gentleman's time. [After a pause.] The Chair hears none.

Mr. NORRIS (reading)—

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., August 22, 1899.

This is to certify that in pursuance of the provisions of the act of Congress approved March 2, 1899, entitled "An act to supplement and amend an act entitled 'An act for the erection of a new custom-house in the city of New York, and for other purposes,' approved March 3, 1891," the custom-house property in New York City, bounded by Wall, William, and Hanover streets and Exchange place, was duly advertised for sale in the following-named newspapers published in said city for the periods set opposite each paper:

Mail and Express, Zeitung, Press, Wall Street Journal, Commercial Advertiser, Herald, Times, Tribune, Sun, twice a week, four weeks, beginning June 2, 1899; Journal of Commerce and Commercial Bulletin, twice a week, three weeks, beginning June 8, 1899; World, twice a week, two weeks, beginning June 13, 1899.

And further, that in my judgment such action was in compliance with the provisions of said act of Congress in respect to the due advertisement of said property.

Witness whereof, I have hereunto subscribed my hand and caused to be affixed the seal of the Treasury Department.

[SEAL.]

L. J. GAGE,  
Secretary of the Treasury.

Under the advertisement the following bids were received:

National City Bank of New York, James Stillman, president	\$3,265,000
New York Realty, Bond, Exchange, and Trust Company, Henry Morgenthau, president	3,075,000
Farmers' Loan and Trust Company, Edwin S. Marston, president	3,055,000

On the 3d day of July, 1899, when the bids were opened, and it was found that the National City Bank of New York, was the highest bidder for the property and had bid \$265,000 above the minimum limit fixed by the law, the Secretary of the Treasury immediately accepted such bid and notified the bank by letter on the same day of such acceptance. Then followed a long correspondence between the Secretary of the Treasury and the bank in regard to the details of the contract that, under the law, should be entered into between the bank and the Government. Various contracts were submitted by the bank and re-

jected by the Secretary of the Treasury, because they failed to comply with the law, and it was not until the 8th day of November, 1899, that the contract was finally and definitely settled and agreed upon. The letter from the bank which was sent to the office of the Secretary of the Treasury, with which its bids for said property was inclosed, was dated June 30, 1899. This letter, together with the answer of the Secretary, written after he had opened the bid made by the bank and the other bids, accepting such bid, and all the other correspondence leading up to the final completion of the contract, in the order in which the same occurred, is as follows:

THE NATIONAL CITY BANK OF NEW YORK,  
New York, June 30, 1899.

SIR: Referring to the circular letter issued by you on June 1, 1899, inviting proposals for the purchase of the New York custom-house property, we now offer to purchase the said property according to the terms of your letter, and to pay for the same \$3,265,000.

Inclosed please find cashier's check for \$150,000. We should prefer to pay a large portion of the purchase price in cash, the deed to be executed and held in escrow by a responsible trust company until the payment of the balance due at such time as may be arranged between us, and all details as to deferred payments to be arranged to your satisfaction.

Yours, respectfully,

THE NATIONAL CITY BANK OF NEW YORK,  
By JAS. STILLMAN, President.

THE SECRETARY OF THE TREASURY,  
Washington, D. C.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., July 3, 1899.

GENTLEMEN: Your proposal of June 30, 1899, to purchase the property known as the "custom-house," bounded by Wall, William, and Hanover streets and Exchange place, in New York, N. Y., in accordance with the act of Congress approved March 2, 1899, and the terms of Department advertisement dated June 1, 1899, for the sum of \$3,265,000, is hereby accepted. It is noted that you desire to pay a large proportion of the purchase price in cash, and to have the deed executed and held in escrow by a responsible trust company, all details as to deferred payments to be arranged to the satisfaction of the Secretary of the Treasury.

Please to indicate to the Department what proportion of the purchase price you desire to pay in cash at this time, and indicate the name of the trust company with whom you desire the deed to be deposited in escrow.

The details of the arrangement under which the United States will retain the occupancy and use of the premises, in accordance with the terms of the act of Congress herein referred to, as well as all details as to the deferred payments, will be made the subject of a subsequent communication.

L. J. GAGE, Secretary.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, N. Y.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., July 18, 1899.

GENTLEMEN: Referring to Department letter of the 3d instant, accepting your offer of the 30th ultimo for the purchase of the present custom-house property in New York City, I have to request that you will favor the Department with the information asked for at your earliest convenience.

Respectfully, yours,

H. A. TAYLOR,  
Assistant Secretary.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, N. Y.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, July 18, 1899.

SIR: Referring to your letter of the 3d instant, I beg to request that you will send me a copy of the act of Congress approved March 2, 1899. It is suggested that the Farmers' Loan and Trust Company, which is one of the oldest and most responsible trust companies in this city, will be a satisfactory company to hold the deed in escrow.

At an early day I will arrange with you respecting the amount of the additional cash payment to be made by the bank, as well as all other necessary details pertaining to the completion of the purchase.

Yours, respectfully,

JAS. STILLMAN, President.

THE SECRETARY OF THE TREASURY,  
Washington, D. C.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., July 21, 1899.

SIR: The receipt of your communication of the 18th instant is hereby acknowledged, and in response to your request there is herewith inclosed for your information a copy of act of Congress approved March 2, 1899, entitled "An act to supplement and amend an act entitled 'An act for the erection of a new custom-house in the city of New York, and for other purposes,' approved March 3, 1891."

Your suggestion that the deed of the old custom-house to your bank, when executed, be delivered as an escrow to the Farmers' Loan and Trust Company of New York City meets with the approval of the Department.

Respectfully, yours,

H. A. TAYLOR,  
Assistant Secretary.

MR. JAMES STILLMAN,  
President The National City Bank of New York,  
New York, N. Y.

TREASURY DEPARTMENT,  
OFFICE OF THE SUPERVISING ARCHITECT,  
Washington, D. C., July 26, 1899.

SIR: I have the honor to advise you that the Department is about to consummate the purchase of a site for the new custom-house building

to be erected in New York City under the provisions of the act of Congress providing therefor, and you are requested to advise the Department, without delay, as to the amount of the cash payment which the National City Bank desires to make upon the purchase of the old custom-house property.

It was understood at the time of the sale that the bank desired to make a larger payment than that required by the advertisement, and the Department is now ready to accept any amount in excess of \$750,000 which you may wish to pay.

It is the desire of the Department to close this transaction without further delay, in order that the deed may be prepared and delivered in escrow to the Farmers' Loan and Trust Company, as suggested by you, and the contract by the Government to lease the old custom-house building during the erection of the new structure arranged in proper form.

A reply at your earliest convenience is requested.

Respectfully, yours,

L. J. GAGE, Secretary.

MR. JAMES STILLMAN,  
President The National City Bank of New York,  
New York, N. Y.

[Telegram.]

NEW YORK, July 27, 1899.

Replying to your letter of yesterday, Mr. Simonson, assistant cashier of this bank, will call upon you Friday to make final arrangements.

JAMES STILLMAN, President.

HON. LYMAN J. GAGE,  
Treasury Department, Washington, D. C.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., July 29, 1899.

SIR: In compliance with the request of your Mr. Simonson, there are inclosed herewith, for your inspection, the muniments of title of the United States to the so-called "custom-house property," bounded by William, Wall, and Hanover streets and Exchange place, in the city of New York, consisting of papers as fully described on the schedule hereto attached, the receipt of which papers you will please acknowledge.

When you have completed the examination of the papers referred to, I will be pleased to have you return them to the custody of the Treasury Department, where they should remain until the title to said property is actually vested in the National City Bank of New York, at which time, if you so desire, the papers will be transmitted to you.

Respectfully, yours,

L. J. GAGE, Secretary.

MR. JAMES STILLMAN,  
President National City Bank of New York,  
New York, N. Y.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, July 31, 1899.

SIR: We acknowledge receipt of your favor of the 29th instant, inclosing, for our inspection, muniments of title of the United States to the custom-house property, as more particularly described on the schedule thereto attached.

Upon completion of our examination of the papers referred to, we will be glad to return them to the custody of the Treasury Department until the title is actually vested in this bank.

Thanking you for your courtesy in the matter, we are,

Yours, respectfully,

JAS. STILLMAN, President.

HON. LYMAN J. GAGE,  
Secretary of the Treasury, Washington, D. C.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., August 1, 1899.

SIR: In compliance with the suggestion of your Mr. Simonson, on the occasion of his recent visit to Washington, I inclose herewith, for examination by your attorneys and for such criticism as they may see fit to submit, a copy of the proposed deed of the United States to your bank of the old custom-house property in New York City, and a draft of the essential stipulations of the contract to be entered into between the United States and your bank in reference to the matter.

The Department will be pleased to have you return the inclosures with such suggestions in reference thereto as you may deem pertinent and proper.

Respectfully, yours,

L. J. GAGE,  
Secretary.

MR. JAMES STILLMAN,  
President National City Bank of New York,  
New York, N. Y.

NEW YORK, August 14, 1899.

SIR: Mr. James Stillman, the president of the National City Bank of New York, has referred to us your letter to him of the 1st instant, inclosing proposed contract of sale and deed.

We have somewhat changed the form of the contract of sale without making any change in its material provisions, and we now send you herewith a copy as it has been revised. The principal change in substance is the addition of a clause providing for the insurance of the building against fire, the amount of which we have left blank, but which we suppose will be at least as much as the building has been heretofore insured for.

We have also provided that the deed, which will be executed and delivered to the Farmers' Loan and Trust Company, shall be delivered by it to the bank upon its receiving the balance of the purchase price and a lease of the premises to the Government. This is in accordance with the usual provisions of an escrow, and protects both parties in defining the terms upon which the deed may be delivered.

There are only two material changes in the form of the deed, a copy of which, as revised by us, we inclose.

In expressing the consideration we have stated, in accordance with the usage followed in this State, the total considerations, and we have made no reference to the fact that any part of the consideration remains unpaid. The deed will not be delivered until the consideration has been paid in full, and it should therefore properly describe the consideration as of that date. The provision as to the payment of a portion

now and the balance upon the delivery of the deed is contained in the contract of sale, which will, of course, be binding upon the trust company, as it will receive the deed under that instrument.

The other change in the deed is in the manner of its execution. In this respect we have combined the form of patent required by section 458 of the United States Revised Statutes with a conveyance executed by you, as Secretary, on behalf of the United States. We do this as a matter of abundant caution, inasmuch as the act of Congress under which the sale is made merely authorizes you to sell and receive the purchase price, but is silent as to the conveyance by you of the land. It is therefore possible that in the absence of an express power to convey, the general provisions of the Revised Statutes might be held to apply, as it might be claimed that the deed should be executed by the Land Office instead of by yourself as agent. We do not ourselves think this was the intent of the act, but as the amount involved is so large and is likely to be largely increased by the improvement of the property, we desire to guard against the possibility of any such question in the future.

Yours, respectfully,

SHEARMAN & STERLING.

The SECRETARY OF THE TREASURY,  
Washington, D. C.

P. S.—We have suggested January 1, 1902, as the limit for the occupation by the Government of the old custom-house. Some definite limit should be fixed, in order to enable the bank to make its plans for improving the property.

S. & S.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, August 18, 1899.

DEAR SIR: In accordance with the permission given us when I had the pleasure of speaking with you on the telephone to-day, this bank will transfer on its books to-morrow, August 19, to the credit of the Treasurer of the United States, the sum of \$3,215,000, as payment on account of our purchase of the old custom-house property, for which we will issue the customary receipt. Please instruct the assistant treasurer of the United States in this city to receive and hold as security for public moneys the required amount of United States bonds.

As the check for \$150,000, inclosed with our bid and now in your possession has not been used, will you kindly return it to us?

We shall make the above payment of \$3,215,000 upon the understanding, of course, that we are not to be liable for any taxes or water rates upon the property so long as you remain in possession and the balance of \$50,000 remains unpaid and the deed is undelivered.

We presume you are forwarding to-day the deed and contract, as the same were sent you last Wednesday.

It seems from an examination of the title that the property contains 583 square feet less than we supposed, owing to the fact that the city has used a portion of the original tract as a street, and our attorneys advise us that it has had possession so long that probably we could not regain possession of it even after a protracted litigation.

Will you please give us a formal certificate, under seal, stating what notice you gave, by advertisement or otherwise, of the sale of the custom-house property, and that in your judgment this was in compliance with the act of Congress, in respect to due advertisement.

Assuring you of our appreciation of your kind attention, I am,

Yours, very truly,

JAS. STILLMAN, *President.*

Hon. LYMAN J. GAGE,  
Secretary of the Treasury, Washington, D. C.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, August 19, 1899.

DEAR SIR: We beg to advise having transferred to the credit of the Treasurer of the United States in this bank the sum of \$3,215,000, on account of the purchase by us of the old custom-house property, and have deposited with the assistant treasurer of the United States here the following United States Government bonds, which, together with the excess of bonds now held by him, will cover the above amount:

\$2,000,000 United States registered 4 per cent bonds of 1907.

\$450,000 United States registered 5 per cent bonds of 1904.

\$400,000 United States registered 4 per cent bonds of 1907.

\$250,000 United States coupon 5 per cent bonds of 1904.

We have forwarded the customary receipt to the Treasurer of the United States.

Respectfully, yours,

G. S. WHITSON.

The SECRETARY OF THE TREASURY,  
Washington, D. C.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., August 19, 1899.

SIR: This Department is in receipt of a communication dated August 14, 1899 (copy inclosed), from your attorneys, Messrs. Shearman & Sterling, submitting to the Department a suggested form of contract of sale and conveyance to be used in connection with the sale of the old custom-house property in New York, N. Y., to the National City Bank of New York.

The only material changes suggested by your attorneys in the forms submitted to you by the Department appear to be as follows:

First. That the bank shall make the final payment of \$50,000 to the Farmers' Loan and Trust Company instead of to the Department. As the apparent object of this stipulation is to put the Farmers' Loan and Trust Company in possession of information showing that the final payment has actually been made, and that that portion of the condition relating to the delivery of the deed from escrow has been complied with, it is suggested that that object will be as well accomplished by the deposit of the amount at the proper time with the Assistant Treasurer United States, who will issue his certificates of deposit in duplicate or triplicate, one copy of which can be presented to the Farmers' Loan and Trust Company as evidence of such final payment, and the contract of sale should so provide.

Second. The stipulation as to the lease has been changed so as to limit the terms thereunder to a date not later than January 1, 1902. To this the Department suggests that it has no authority to consent, for the reason that the act of Congress authorizing the sale of this property provides in express terms that, "in case of such sale the Secretary of the Treasury shall lease said premises from the purchaser or purchasers thereof, at a rental which shall not exceed 4 per cent per annum on the purchase price, for use as a custom-house until the new

custom-house shall be ready for occupancy, upon such terms as he may deem advantageous, and such sale shall be subject to such right of lease;" also, "that the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation and final payment is fully made." It is stated by your attorneys that said date of January 1, 1902, was inserted for the purpose of enabling the bank to make its plans for improving the property. It is suggested that this can readily be accomplished by the insertion of a stipulation that this Department shall give the bank six months' notice of the time when the new custom-house will be completed and ready for occupation. In view of the foregoing the stipulation relative to the lease should be modified in conformity with these suggestions.

Third. It is stipulated in the form submitted by you, that during the occupation of the building by the United States it shall keep the same insured against loss by fire, and your attorneys suggest that the amount of such insurance ought to be at least as much as the building has been heretofore insured for. In this connection you are advised that the United States never insures its public buildings, and consequently has never had any insurance on this building; and, furthermore, that there is no appropriation under the control of this Department which could be made available for such a purpose. Consequently, if the bank desires to have this property insured it must secure the same at its own cost and expense.

As to the suggested change in the form of deed relating to the consideration, you are advised that the Department has no objection to expressing the consideration as having been paid in full, in view of the fact that the deed is not to be delivered from escrow until the total amount of the purchase price shall have been paid, and the conditions under which said deed shall have been delivered in escrow fully complied with.

In reference to the suggestion of your attorneys that, as a matter of abundant caution, the conveyance in this case should be in the form of a combined quitclaim deed and patent, because of the omission in the act of express authority to the Secretary of the Treasury to convey the property, you are advised that such form is not considered by the Department to be proper or necessary. It is a well-settled principle of law that whenever Congress confers authority upon an agent of the Government to do any act it is to be construed as including all necessary or usual or proper modes and means of accomplishing the act, since to authorize the doing of an act and at the same time to deny the proper means of doing it would be idle and absurd. (17 Opinions of Attorneys-General, 100; Story on Sales, sec. 70.) This principle has been the subject of numerous adjudications by the courts, and your attention is respectfully directed to the cases of Decker v. Freeman, 3 Greenleaf, 338; Valentine v. Piper, 22 Pick., 85, and Yale v. Eames, 1 Metc., 488.

Furthermore, it is suggested that the General Land Office has no authority to issue patents to lands other than those embraced within the public domain, and this term can not be held to apply to lands either acquired or set apart for a particular purpose of the Government, and therefore the Land Office would be without authority to act in this case and has so informally advised this Department. For these reasons it is submitted that a quitclaim deed, executed by the Secretary of the Treasury, will be ample to convey all the estate, right, title, and interest of the Government in and to the property in question.

In other respects the forms submitted by your attorneys appear to be satisfactory, and upon the receipt of a statement from you that the changes herein suggested are satisfactory to you new forms, prepared in accordance therewith, will be drawn and executed. It is requested that you favor the Department with an early reply.

Respectfully, yours,

L. J. GAGE, *Secretary.*

Mr. JAMES STILLMAN,  
President of the National City Bank of New York,  
New York, N. Y.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., August 21, 1899.

SIR: Replying to your letter of the 18th instant in reference to the details of the business relating to your purchase of the old custom-house property in New York City, you are advised that when Department letters dated August 19, 1899, were prepared relative to the form of contract of sale and deed, and concerning the matter of the deposit with your bank of the sum of \$3,065,000 to the credit of the Treasurer of the United States on account of the purchase of said property, your letter above referred to had not been received. The Department is now in receipt of certificate of deposit No. 1614, issued August 19, 1899, by the National City Bank of New York, showing the deposit by your bank to the credit of the Treasurer of the United States of the sum of \$3,215,000 on account of the purchase of the old New York custom-house property. The certificate will be held awaiting determination of the question of the proper method to be employed in paying the outstanding expenses of the sale, as the amount to be deposited must be reduced by the amount of such expenses.

The subject of the return of your certified check of \$150,000, deposited with your bid, will be disposed of at the same time.

As a reply to that portion of your letter of the 18th instant not covered by the two letters of the Department dated the 19th instant, you are advised that the property offered for sale by the United States is bounded by Wall, William, and Hanover streets and Exchange place, and that the same will be described in the deed to you as being so bounded. The Department is not aware that the city has appropriated any part of the property for streets since its acquisition by the United States, but if you desire it at any time I will have the records of the Department examined and advise you what they show, if anything, bearing on this point.

In compliance with your request that you be given a formal certificate, under seal, showing what notice the Department gave by advertisement, or otherwise, of the sale of the old custom-house, you are advised that such a certificate will be sent you, showing that the law was complied with in regard to advertising for proposals for the purchase of said property.

As to the taxes and water rates against said property, you are advised that the Department's understanding of this matter is the same as your own, viz, that so long as the title to the property remains vested in the United States you will not be liable for any taxes or water rates.

Respectfully, yours,

L. J. GAGE, *Secretary.*

Mr. JAMES STILLMAN,  
President of the National City Bank of New York,  
New York, N. Y.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, August 24, 1899.

SIR: We have to acknowledge the receipt of your two favors of the 19th instant and that of the 21st instant, in relation to the old custom-house property in this city.

Mr. John A. Garver, of the firm of Messrs. Shearman & Sterling, the attorneys who represent us in this business, leaves to-night for Washington in order to carry out the suggestions contained in your letters referred to above.

Yours, respectfully,

JAS. STILLMAN,  
President.

Hon. LYMAN J. GAGE,  
Secretary of the Treasury, Washington, D. C.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, August 24, 1899.

DEAR SIR: This will introduce to you Mr. John A. Garver, of Shearman & Sterling, the legal representatives of this bank in connection with the matter of the purchase by us of the old custom-house property in this city.

In any way you can expedite the closing of the matter, you will confer upon us a favor.

Bespeaking for him your courtesy, we are,

Respectfully, yours,

W. A. SIMONSON.

The SUPERVISING ARCHITECT,  
Treasury Department, Washington, D. C.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, August 28, 1899.

SIR: We acknowledge receipt of your favor of the 26th instant, inclosing our cashier's check for \$150,000, placed on deposit with you to secure our bid for the New York custom-house property.

We have followed your instructions by canceling the certificate of deposit issued by us for \$3,215,000 (returned to us in your letter of the 24th) in favor of the Treasurer of the United States, and now send you herewith original certificate No. 1622 for \$3,065,000, and No. 1623 for \$145,000, together with our check for \$5,000 to your order, making a total payment on the property of \$3,215,000.

Will you kindly acknowledge receipt of this, and oblige,

Yours, very respectfully,

G. S. WHITSON, Cashier.

Hon. LYMAN J. GAGE,  
Secretary of the Treasury, Washington, D. C.

[Copies of certificates of deposit mentioned in foregoing letter.]  
No. 1622.]

THE NATIONAL CITY BANK OF NEW YORK,  
New York, N. Y., August 28, 1899.

I certify that The National City Bank of New York have this day deposited to the credit of the Treasurer of the United States \$145,000, on account of proceeds of sale of old custom-house property, New York City, for which I have signed triplicate receipts.

G. S. WHITSON, Cashier.

No. 1623.]

THE NATIONAL CITY BANK OF NEW YORK,  
New York, N. Y., August 28, 1899.

I certify that The National City Bank of New York has this day deposited to the credit of the Treasurer of the United States \$145,000, on account of proceeds sale of old custom-house property, New York City, for which I have signed triplicate receipts.

G. S. WHITSON, Cashier.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, September 12, 1899.

SIR: On the 1st instant an official letter was written you acknowledging the receipt of yours of the 31st ultimo, and stating that the subject-matter had been referred to the counsel of the bank. They have examined the proposed quadruplicate contracts and deeds and approve of the adoption of the various suggestions, except the insertion in two places in the contract of the words "subject to appropriations to be made by Congress." If these words had been used in the act or been made a part of the terms of the Department advertisement, dated June 1, 1899, no objection would now be made to their insertion in the contract, but such was not the case.

It is immaterial to the bank what method the Department adopts for raising the money with which to pay the rent. It may be that its only method is, as suggested in your letter, through an act of Congress authorizing an appropriation for the purpose. The bank, however, does not wish to agree that any particular method shall be adopted by the Treasury Department. It relies upon the act of Congress and the Department advertisement, the former of which explicitly states that "the Secretary of the Treasury shall lease said premises \* \* \* at a (certain) rental," and the latter, with equal explicitness, states that "as rent for such use the purchaser will receive interest on the purchase price at 4 per cent per annum." I think, therefore, that you will recognize the justice of this position and will not insist that these restrictive words be inserted, when neither the act nor the Department advertisement imposed them as a condition of the compulsory lease.

I am writing to you personally, as I desire to avoid the publicity of the contents of this letter, as the reporters seem to have access to everything that goes upon the files in connection with this matter. The delay in earlier communicating with you has been due to my absence from the city.

I am, yours, respectfully,

JAS. STILLMAN,  
President.

The SECRETARY OF THE TREASURY,  
Washington, D. C.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., September 19, 1899.

SIR: Your personal note of the 12th instant, addressed to the Secretary of the Treasury, in reference to the form of contract of sale to be entered into between the United States and your bank in the matter of the purchase of the old custom-house property in New York City, was duly received. In reference to the employment in said form of the words "subject to appropriations to be made by Congress," you

are advised that those words were used advisedly. While the act authorizing the sale of the custom-house property authorizes and directs the Secretary of the Treasury to lease said property from the purchaser, no appropriation is made in said act, in terms, for the payment of the rent. It was therefore thought best to follow the established practice of the Department in similar cases by inserting the words in question, which it is thought do not in any way affect your right to payment. As stated in a former letter, an item for the rent in question will be included in the estimates for appropriations to be submitted to Congress. The contingency of the refusal of Congress to make such appropriation under the circumstances would seem to be exceedingly remote in view of its authority and direction to lease the property.

Respectfully,

H. A. TAYLOR, Assistant Secretary.

JAS. STILLMAN, Esq.,  
President National City Bank of New York,  
New York City.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, September 29, 1899.

SIR: We acknowledge the receipt of your favor of the 19th instant in reference to the New York custom-house (old property), and beg to say that the same has been referred to our counsel and will have prompt attention.

Respectfully, yours,

W. A. SIMONSON,  
Assistant Cashier.

The SECRETARY OF THE TREASURY,  
Washington, D. C.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, October 2, 1899.

SIR: Referring to our conversation of to-day, I beg to inclose you four copies of the agreement and deed in reference to the sale of the old custom-house property, upon which I have marked, on page 3: "Subject to appropriations to be made by Congress;" which sentence we desire, if possible, to have eliminated.

Trusting that you can see your way clear to do so, and that we may hear further from you in the matter at your convenience, we are,

Yours, very respectfully,

W. A. SIMONSON, Assistant Cashier.

Hon. FRANK A. VANDERLIP,  
Washington, D. C.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
Washington, D. C., October 5, 1899.

SIR: This Department is in receipt of your communication of the 2d instant, with inclosures, in which you request, if the Department can possibly do so, that the words "subject to appropriations to be made by Congress," on page 3 of the form of contract of sale of the old custom-house property in New York City be eliminated therefrom.

As previously explained to the bank by the Department, in its letter dated September 19, 1899, these words are employed in said contract form because, while the act of Congress authorizing the sale of said property empowers and directs the Secretary of the Treasury to lease the property from the purchasers, no appropriation is made in said act for the payment of the rent. Whether the words referred to are employed or not, it must be understood that until Congress provides an appropriation for the payment of the rent in question, there is no fund under the control of this Department which can be made available for that purpose, and that the Department, in the execution of the instrument referred to, does not intend to imply that such fund exists, or to take any action beyond the authority conferred upon it by the terms of the act of Congress referred to.

As heretofore suggested to the bank, the Department will include in its estimates for appropriations to be submitted to Congress, an item for the rent in question, and it is deemed unlikely that Congress will neglect or refuse to make provision therefor, in view of its direction to the Secretary of the Treasury to create the obligation.

It is, therefore, suggested that a communication be addressed to the Department by the bank stating that its understanding of the matter is as herein stated, and upon the receipt of such letter consideration will be given by the Department to the elimination of the words referred to from said contract form.

Respectfully,

F. A. VANDERLIP,  
Assistant Secretary.

Mr. W. A. SIMONSON,  
Assistant Cashier, National City Bank of New York,  
New York, N. Y.

THE NATIONAL CITY BANK OF NEW YORK,  
New York, October 12, 1899.

SIR: I duly received your letter of the 5th instant.

Our objection to inserting in the contract the clause making the payment of the rent "subject to appropriations to be made by Congress," was that we were unwilling to consent to any modification of the terms of the contract under which we made our offer for the property. We have no objection, however, to a definite understanding that the omission of this subject clause shall not make the Secretary of the Treasury personally responsible for the performance of the contract. If the contract is executed as it was authorized, Congress will have no excuse whatever for refusing to make the necessary appropriation, and if, for any reason, it should refuse to do so, our remedy in the Court of Claims would be clear. With this understanding, therefore, that the obligation is that of the United States, and not of the Treasury Department, will you kindly have the contract executed and returned to us.

Yours, very truly,

W. A. SIMONSON, Assistant Cashier.

Hon. F. A. VANDERLIP,  
Assistant Secretary of the Treasury, Washington, D. C.

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
Washington, D. C., October 16, 1899.

SIR: Referring to the communication from the National City Bank of New York under date of the 12th instant, there are returned herewith, for execution by the bank, the four copies of the contract of sale in connection with the transfer of the old custom-house property in New York City, having omitted therefrom the words "subject to appropriations to be made by Congress."

Please execute the four copies of the contract and return the same to this Department for execution on the part of the United States.

Respectfully,

O. L. SPAULDING, *Acting Secretary.*

MR. JAMES STILLMAN,  
*President National City Bank of New York, New York, N. Y.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York, October 20, 1899.*

DEAR SIR: Herewith we beg to send you, duly executed by Mr. James Stillman, president, four copies of the agreement covering the purchase by this bank of the old custom-house property, sent us by you for signature.

Will you kindly have the signature of the Secretary now affixed thereto, returning us one copy, and oblige?

Yours, very truly,

W. A. SIMONSON, *Assistant Cashier.*

HON. FRANK A. VANDERLIP,  
*Assistant Secretary of the Treasury, Washington, D. C.*

TREASURY DEPARTMENT,  
OFFICE OF THE SUPERVISING ARCHITECT,  
*Washington, D. C., October 25, 1899.*

GENTLEMEN: The contract of sale between the United States and the National City Bank of New York, in connection with the sale of the old custom-house property, is herewith returned (in duplicate) for correction, the execution of the instrument being unsatisfactory in the following particulars:

First, inasmuch as by the act of Congress approved June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," a "lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof" is required to be stamped, and as it seems probable that the use of the premises by the Government will continue for more than three years there should be affixed to each of the inclosed copies of the contract of sale documentary internal-revenue stamps to the value of \$1, this instrument being thought to come within the meaning of the law mentioned in so far as it provides for the use of the premises by the United States until the purchase price is fully paid.

Second, properly authenticated evidence should be attached that James Stillman was at the date of execution the duly elected president of the bank, and as such president was authorized to execute the instrument on behalf of the bank. If the president did not have such authority at the date of execution, it will be necessary to have a resolution passed by the board of directors ratifying and confirming his act in executing the contract of sale at that time.

Please have these corrections made promptly and return the papers to this office.

Respectfully,

C. E. KEMPER,  
*Chief Executive Officer.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York, N. Y.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York, October 26, 1899.*

SIR: We acknowledge the receipt of your favor of the 25th instant, returning us for correction duplicate contracts of sale in connection with the old custom-house property.

We will have the properly authenticated evidence attached and forwarded you in due course, which will probably be early next week.

Yours, respectfully,

W. A. SIMONSON,  
*Assistant Cashier.*

THE SUPERVISING ARCHITECT,  
*United States Treasury, Washington, D. C.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York, October 31, 1899.*

SIR: Inclosed I return you, duly stamped and authenticated, two copies of the contract between the United States of America and this bank covering the purchase by this bank of the old custom-house property, which contracts were inclosed to us in yours of October 25.

Trusting that they are now satisfactory, we are,

Yours, very respectfully,

W. A. SIMONSON,  
*Assistant Cashier.*

THE SUPERVISING ARCHITECT,  
*United States Treasury, Washington, D. C.*

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
*Washington, D. C., November 2, 1899.*

GENTLEMEN: Referring to Department's letter dated the 25th ultimo, returning to you for completion the contract, etc., for the purchase by you of the old custom-house property in the city of New York, you are advised that the certificate signed by the cashier of the National City Bank that James Stillman was the president of said bank at the time of the execution of the instrument in question is not sufficient. In the opinion of the Solicitor of the Treasury, for the purposes for which it is requested, what the Department requires, as stated in its letter of the 25th ultimo, is a duly authenticated copy of the resolution or authority under which Mr. Stillman executed said instrument for the bank. In the event that he had no specific authority at that time there should be furnished a duly authenticated copy of the resolution of the board of directors of the bank ratifying and confirming his act in that regard.

Respectfully,

H. A. TAYLOR,  
*Assistant Secretary.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York City.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York, November 3, 1899.*

SIR: Replying to your favor of the 2d instant, we beg to inclose, duly authenticated, a copy of the resolution of the board of directors of this bank, confirming the act of Mr. James Stillman as president of

this bank in executing the agreement covering the sale to it by the United States Government of the old custom-house property.

Trusting that this is satisfactory, we are,

Yours, very respectfully,

W. A. SIMONSON.

THE SECRETARY OF THE TREASURY,  
*Washington, D. C.*

THE NATIONAL CITY BANK OF NEW YORK,  
*New York, November 8, 1899.*

SIR: Inclosed we hand you our acknowledgment of your favor inclosing a copy of the agreement of sale of the old custom-house property, for which please accept our thanks.

Very truly, yours,

W. A. SIMONSON,  
*Assistant Cashier.*

THE SUPERVISING ARCHITECT,  
*Treasury Department, Washington, D. C.*

This correspondence shows the history of the transaction between the time of the acceptance of the bid and the actual signing of the contract. A careful perusal will convince any unbiased mind that the Secretary of the Treasury was at all times carefully and zealously guarding the interests of the Government and protecting them in every way. Many contracts were submitted by the bank and rejected by the Secretary. Every attempt on the part of the bank officials to vary in the slightest degree from the provisions of the law passed by Congress was at once checkmated and the law absolutely enforced, both in letter and in spirit.

I desire to call particular attention to the letter of Shearman & Sterling, the attorneys for the bank, dated August 14, 1899, and especially to the postscript to such letter, in which they ask that the Government agree to give possession and close the entire contract by January 1, 1902. The bank was anxious at all times to get possession of this property, as they say in one of their letters, so they could improve it. They would have been willing to have paid the entire amount in cash if by so doing they could have obtained immediate possession of the property, so that they could improve it and put it in shape for their uses.

Now, let us look at the answer of Secretary Gage to this letter. It is dated August 19, 1899, and in it he declines to permit such a stipulation or limitation to be put into the contract, and gives his reason for the same. This difficulty which has since arisen, these claims that have been made without any foundation in fact, detrimental to the Secretary in conducting this affair, are all based on the false impression that the bank desired the lease to run as long as possible and that the Secretary of the Treasury was assisting them in bringing about such an arrangement when, as a matter of fact, the bank was anxious to close the deal as soon as possible and get possession of the property, and the Secretary of the Treasury was precluded from agreeing to any such stipulation on account of the fact stated in his letter dated August 19, 1899, that the law under which he made the sale absolutely prohibited him from making any provision by which the Government should lose possession of the property prior to the completion of the new custom-house. In my judgment Congress made a mistake in passing this law by which the sale of this property was authorized. There is no doubt but what this property, together with all other property in the United States, has been affected by the wonderful prosperity we have enjoyed since this property was sold, and there is no doubt but what this property is much more valuable now than when the sale took place; but it is not only unfair, it is absolutely unjust in the extreme, to charge the Secretary of the Treasury with fraud and intrigue when, as a matter of fact, the record absolutely and clearly shows that had he done as his critics now claim he ought to have done he would have not only violated the mandates of the law, but would have been subject to impeachment for a flagrant violation of his duty.

Complaint has been made that this money was not actually paid in cash, but that the same was paid by certificates of deposit, giving the Government credit for the amount stated in the contract. This bank where the money was deposited was at the time one of the legally designated depositories of the United States. It had complied with the law in that respect and had put up Government bonds for the security of all deposits, including this one in particular. It is true that the Secretary of the Treasury might have demanded this payment in gold coin and immediately redeposited it in the bank, or, indeed, might have carried the money across the country to some other depository and there deposited it, but such course would have been not only inconvenient for the Secretary, but would have been foolish as well. This money was deposited the same as any other money in that bank or any other depository and was checked out in the due course of business the same as any other funds and according to the usual and ordinary course of business. I could produce ample authority as given in opinions of the legal department both under Democratic and Republican

Administrations, as well as decisions by the Supreme Court, that a payment of money due the Government into a legally designated depository, and the giving and acceptance of a certificate for such funds, is in law an actual payment to the Government of the money named in such certificate. But it is useless to argue, in my judgment, a proposition so evident and simple. It is admitted that the Government was given credit for the money and that it checked on the bank and used the money in the regular course of business.

I can not understand how Members of Congress can justify themselves in thus attempting to arouse partisan spirit and political prejudice by such misrepresentations of the facts and unfounded assertions in regard to a transaction where faithfulness of conduct and strict adherence to duty has marked every step taken by the officials of our Government. The mistake, if a mistake was made, was made by Congress in 1890, when it passed this law, and, in my judgment, it is not only unjust and unfair, but unpatriotic, for Members of this body to try to shift the responsibility and, without cause or reason, cast suspicion upon public officials who can not be heard here in their own defense.

The contract, the only chapter left in this proceeding, and which I will give to the House, protects every interest of the Government so far as it could be protected under the law under which the contract was made. Since the making of this contract there has been no violation of it, so far as I am advised, and I have not heard anyone claim that there has been a violation of its terms on the part of the bank. I challenge anyone to point to a single instance wherein the Secretary of the Treasury has in any way failed to follow out the mandates of the law or wherein, since the contract was entered into, there has been a failure on the part of the bank to comply with its part of the agreement.

Mr. YOUNG. Will the gentleman yield for a question?

Mr. NORRIS. I do.

Mr. YOUNG. I wish to ask the gentleman if he can tell us now what the terms of payment were which were actually agreed to in the contract, and whether that last payment is now due or not?

Mr. NORRIS. They are not required to make that last payment until the United States Government is entitled to possession of the new custom-house, as provided in this law, and it will not be paid, I presume, until the custom-house is completed.

Mr. YOUNG. Is that in the contract?

Mr. BARTLETT. No.

Mr. NORRIS. Mr. Chairman, unless there is objection, I will print as part of my remarks a copy of the contract that was entered into.

Mr. WILLIAMS. Let us have it now, if anybody has it.

Mr. NORRIS. I want to say that it will take some time to read it.

Mr. YOUNG. Get down to the terms of payment.

Mr. JONES of Washington. What was the arrangement made by the Secretary of the Treasury with reference to these deferred payments—whether or not the Government now can demand the balance of the purchase price and give the deed and still retain possession under the lease?

Mr. TAWNEY. No; not under the contract.

Mr. NORRIS. They can not do it under the contract.

Mr. JONES of Washington. Read that part of the contract.

Mr. NORRIS. I do not know that I can pick out that particular part at a moment's notice. While I am speaking of this contract, I want to call the attention of gentlemen who desire to see this report—House Document 264, Fifty-sixth Congress, first session—to the fact that in the correspondence they will find copies of proposed contracts that were sent back and forth between the bank and Government, and they might get the impression that the contract is found on page 42. As a matter of fact, the contract as signed between the Government and the bank, the final contract which is still in force, is found on page 35 of that document. The Secretary of the Treasury in a communication to the present Congress said that that contract was found on page 42, but I called his attention to the fact, after I had read all the letters in the document, that he was mistaken, and he sent a subsequent letter here to this House on February 15, in which he called attention to the fact that he was mistaken, and that the contract as modified is correctly copied in that document on page 35.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. YOUNG. I ask that the gentleman have five minutes additional time, in which to read the contract.

Mr. NORRIS. Let the Clerk read the contract, if they want it read.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan, that the time of the gentleman from Nebraska be extended five minutes, in which time the Clerk may read the contract?

There was no objection.

Mr. SULZER. It is only necessary to read the conditions of the contract.

Mr. NORRIS. I send the contract to the Clerk's desk and ask that it be read.

The Clerk read as follows:

CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE NATIONAL CITY BANK OF NEW YORK.

This agreement, made and entered into the 18th day of August, 1890, by and between the United States of America (hereinafter called "the United States"), acting through its Secretary of the Treasury, of the first part, and the National City Bank of New York, of the city, county, and State of New York (hereinafter called "the bank"), a corporation organized under the laws of the United States, of the second part, witnesseth:

Whereas the act of Congress approved March 2, 1890, entitled "An act to supplement and amend an act entitled 'An act for the erection of a new custom-house in the city of New York, and for other purposes,' approved March 3, 1891," authorized and directed the Secretary of the Treasury to sell, subject to certain conditions mentioned in said act, the property in the city of New York now occupied by the United States as a custom-house and hereinafter referred to as "the old custom-house," bounded by Wall, William, and Hanover streets, and Exchange place; and

Whereas, in response to public advertisement, dated June 1, 1890, the National City Bank of New York, by James Stillman, its president, submitted a proposal in writing to purchase said property for the sum of three million two hundred and sixty-five thousand dollars (\$3,265,000), on the conditions mentioned in the said proposal; and

Whereas Lyman J. Gage, as Secretary of the Treasury, under date of July 3, 1890, accepted said proposal, subject to the provisions of the act of Congress hereinbefore referred to (true and correct copies of which said act of Congress, proposal, and letter of acceptance are hereto attached and made part hereof and marked Exhibits A, B, and C, respectively); and

Whereas the bank subsequently waived the condition in its proposal requiring the delivery in escrow of a deed to said property, and such modification of the contract terms has been assented to by the Secretary of the Treasury, which said waiver and assent are hereby ratified and confirmed:

Now, therefore, the parties hereto hereby agree as follows:

First. The United States acknowledges the receipt from the bank of the sum of one hundred and fifty thousand dollars (\$150,000), which was submitted with its bid as a guarantee of good faith, and now applied towards the purchase price. The balance of the first payment, six hundred thousand dollars (\$600,000), making the aggregate sum of seven hundred and fifty thousand dollars (\$750,000), as required by the advertisement for bids, shall be paid within ten days from the date hereof. The balance of the purchase price, namely, two millions five hundred and fifteen thousand dollars (\$2,515,000), shall be paid upon the delivery of a deed of the said premises, in the form hereto annexed, marked "Exhibit D," conveying the same to the bank free and clear of all encumbrances. The said deed shall be executed and acknowledged in such manner as to entitle it to be recorded in the register's office of New York County, and shall be delivered to the bank upon the payment of the balance of said purchase price, when a new custom-house, to be erected by the United States on the so-called "Bowling Green site" (bounded by Bowling Green on the north, Whitehall street on the east, Bridge street on the south, and State street on the west) shall be completed and occupied by the United States. The bank shall, however, have the right to anticipate the payment of the balance of the said purchase price at any time, in whole or in part.

In case of payment of the entire balance due before the completion and occupancy of the new custom-house the United States shall deliver the said deed to the bank, provided the bank at the time of paying such balance shall execute and deliver to the United States a lease of the old custom-house property at an annual rental of one hundred and thirty thousand six hundred dollars (\$130,600) (being four per cent (4 per cent) on the purchase price of \$3,265,000), payable annually, for a term which shall continue until said new custom-house shall be completed and ready for occupancy. Meantime, and until the payment in full of the said purchase money and the execution and delivery of such lease, the United States shall have the right to continue in full and complete possession and occupancy of the old custom-house, and as a condition for so doing shall pay to the bank annually the sum of one hundred and thirty thousand six hundred dollars (\$130,600), being four per cent (4 per cent) on the amount of said purchase price. And until the full payment by the bank of the purchase price the bank shall pay to the United States interest at the rate of four per cent (4 per cent) per annum, payable annually, on the balance of such purchase price remaining unpaid.

Second. The United States shall give at least six months written notice to the bank at the time when the new custom-house shall be ready for occupancy, and when it will deliver possession to the bank of the old custom-house.

Third. Should any repairs to the old custom-house building or its appurtenances be desired by the United States during the time it shall continue in possession and occupancy thereof, such repairs shall be made at its expense and cost.

In witness whereof the party of the first part has caused this instrument to be executed by its Secretary of the Treasury, and to be affixed thereto the seal of the Treasury Department, and the party of the second part has caused this instrument to be executed under its corporate seal, by its president, the day and year first above written.

[SEAL.] THE UNITED STATES OF AMERICA,  
By L. J. GAGE, Secretary of the Treasury.

Witnesses:  
ANSON S. TAYLOR,  
JAS. A. WETMORE.

[SEAL.] THE NATIONAL CITY BANK OF NEW YORK,  
By JAS. STILLMAN, President.

G. S. WHITSON.  
(Authority to execute, etc., attached to original.)

Mr. TAWNEY. Mr. Chairman—

Mr. BARTLETT. Mr. Chairman—

Mr. NORRIS. Mr. Chairman, in order that there may be no doubt—

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. BARTLETT. I understood the Chair to recognize me.

The CHAIRMAN. But the Chair recognized the gentleman from Minnesota to make a motion.

Mr. BARTLETT. The Chair could not do that in decency while I have the floor.

The CHAIRMAN. The Chair recognized the gentleman from Minnesota to make the motion. Afterwards the gentleman from Georgia will have the floor.

Mr. GAINES of Tennessee. The Chair recognized the gentleman from Georgia.

The CHAIRMAN. The Chair will state that the gentleman from Georgia will be recognized to debate the proposition, but that the chairman of the committee [Mr. TAWNEY] is entitled to precedence in order that he may make a motion to close debate.

Mr. BARTLETT. Mr. Chairman—

The CHAIRMAN. After which the gentleman from Georgia will be recognized.

Mr. BARTLETT. I have no objection to the gentleman from Minnesota moving to close debate, and if he had asked me to yield for that purpose I would have done so, but the Chairman recognized "the gentleman from Georgia," who yielded to the gentleman from Nebraska [Mr. NORRIS] to make a request.

Mr. TAWNEY. I will say to the gentleman from Georgia—

Mr. BARTLETT. Wait a minute. If I was recognized by the Chair, the Chair could not then, under any rule of any parliamentary body, recognize anyone else to make a motion to close debate until my time had expired.

Mr. TAWNEY. I will say to the gentleman from Georgia that I had the impression that the Chair had recognized the gentleman from Nebraska to ask leave to extend his remarks, and then I made my motion, not knowing that the gentleman from Georgia had been recognized.

The CHAIRMAN. The Chair has recognized the gentleman from Minnesota to make a motion.

Mr. TAWNEY. I move that all debate on the paragraph and pending amendments thereto be closed at 5.30.

The motion was agreed to.

Mr. BARTLETT. Mr. Chairman, this is an old matter, one that has not only created a great deal of comment and filled the records of Congress from 1899 down to this time with various reports, but one that has almost amounted to a national scandal.

I do not deny that the act of 1899 provided for the sale of this property, nor do I deny that the act provided for the occupancy of the property by the United States Government until the completion of the new custom-house; but I do deny that there is anything within the contract that permits the title of the property to remain in the United States indefinitely, or until the completion of the United States custom-house at New York, in order that the National City Bank may thereby escape the payment of its just taxes to the State, county, and city of New York. The contract has been read from the Clerk's desk, and it contains this provision:

In case of payment of the entire balance due before the completion and occupancy of the new custom-house the United States shall deliver the said deed to the bank, provided the bank at the time of paying such balance shall execute and deliver to the United States a lease of the old custom-house property, at an annual rental of \$130,600, being 4 per cent on the purchase price of \$3,265,000, payable annually.

In this same document, to which the gentleman from Nebraska [Mr. NORRIS] has called attention, on page 46, House Document No. 264, first session, Fifty-sixth Congress, there appears a letter from Mr. Stillman, then the President of that bank, in which he says that by reason of a telephone communication made on the 18th day of August, 1899, between him and the then Secretary of the Treasury, Mr. Gage, "We shall make the above payment upon the understanding, of course, that we are not liable for any taxes or water rents upon the property so long as you remain in possession and the balance of \$50,000 remains unpaid and the deed is undelivered." This is the letter:

THE NATIONAL CITY BANK OF NEW YORK,  
New York, August 18, 1899.

DEAR SIR: In accordance with the permission given us when I had the pleasure of speaking with you over the telephone to-day, this bank will transfer on its books to-morrow, August 19, to the credit of the Treasurer of the United States, the sum of \$3,215,000 as payment on account of our purchase of the old custom-house property, for which we will issue the customary receipt. Please instruct the Assistant Treasurer of the United States in this city to receive and hold as security for public moneys the required amount of United States bonds.

XL—499

As the check for \$150,000, inclosed with our bid and now in your possession, has not been used, will you kindly return it to us?

We shall make the above payment of \$3,215,000 upon the understanding, of course, that we are not to be liable for any taxes or water rates upon the property so long as you remain in possession and the balance of \$50,000 remains unpaid and the deed is undelivered.

We presume you are forwarding to-day the deed and contract, as the same were sent to you last Wednesday.

It seems from an examination of the title that the property contains 583 square feet less than we supposed, owing to the fact that the city has used a portion of the original tract as a street, and our attorneys advise us that it has had possession so long that probably we could not regain possession of it even after a protracted litigation.

Will you please give us a formal certificate, under seal, stating what notice you gave, by advertisement or otherwise, of the sale of the custom-house property, and that, in your judgment, this was in compliance with the act of Congress, in respect to due advertisement.

Assuring you of our appreciation of your attention, I am,

Yours, very truly,

JAMES STILLMAN, *President.*

HON. LYMAN J. GAGE,

*Secretary of the Treasury, Washington, D. C.*

Mr. NORRIS. Will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. NORRIS. Was not that after the sale was made?

Mr. BARTLETT. Yes; it was.

Mr. NORRIS. How could that affect the sale? That was simply their construction.

Mr. BARTLETT. That was the understanding which he said he had through a telephone message with the Secretary of the Treasury.

Mr. NORRIS. That was nothing but the Secretary's opinion. There was no contract to that effect.

Mr. BARTLETT. Thus it appears from the evidence that after the act of Congress had been followed in the matter of advertising the property and the preparation of the deed to this property, the then Secretary of the Treasury changed the contract, and permitted the National City Bank of New York to reserve \$50,000 as being due the United States, and postponed the making of the deed and requiring the bank to execute a lease, as was required by the act, for some purpose. Whatever that purpose was, the purpose was not to benefit the United States, because the United States could derive no benefit from it. It must have been, therefore, to benefit this bank, and the only way in which the bank could be benefited was that it kept the \$50,000 without the payment of any interest to the Government, and by reason of the fact that the Government did not execute the deed and thereby pass the title to the bank, the city of New York and the State of New York and the county authorities of New York could not, so long as the title remained in the United States, collect taxes from the bank on this property. By this means, and the manner in which this act, as I contend, was improperly carried out by the then Secretary of the Treasury, the United States Government has contributed to this bank since 1899, in the way of interest upon deposits of the money due by the bank to the Government, in the way of rent of \$130,600 a year, nearly one million and a half dollars, and if the completion of the custom-house shall be postponed much longer, the bank will have secured the property from the Government without paying anything for it. This kind of a transaction does not reflect credit upon the administration of the affairs of the Government by those who then had it in charge.

As has been stated heretofore and as was stated by Mr. Gage, the then Secretary of the Treasury, in his letter to Mr. Stillman, the act of Congress did not provide that the Government should withhold the deed and that the balance of the purchase money should not be paid until the completion of the custom-house, or so long as the United States should remain in possession of it, but the act provided that upon the payment of the entire balance due, before the completion of the new custom-house and its occupancy by the Government, the United States should deliver a deed to the bank, and the bank should execute a lease to the United States of the old custom-house for \$130,600 a year. But according to the letter of Mr. Stillman, the president of this bank, to the then Secretary of the Treasury, which I have read, that was changed so as to be understood that so long as the Government should remain in possession and the balance of the \$50,000 should remain unpaid the bank was not liable for taxes or water rates upon the property; and the failure of the Secretary of the Treasury to carry out the act of Congress and to demand the balance of the purchase money and to deliver the deed resulted in great benefit and advantage to this bank, whose directors had been so helpful to the Republican party in 1896. And from this same record—House Document No. 264—we know what this bank is and what it has done to aid the Republican party. We know that the National City Bank was organized some time in 1897, succeeding what was then known as the Third National Bank, and that the Third

National Bank had been a depository of the funds of the Government for a large amount—the money of the people of the United States—and that it paid no interest therefor; we know that somewhere, in New York and elsewhere, the national banks in 1896 contributed to that great corruption fund which alone enabled the Republican party in 1896 to succeed in the Presidential election. [Applause on the Democratic side.]

I do not speak unadvisedly. I hold in my hand evidence of the fact that the directors of this bank did contribute to that campaign. This same City National Bank was on June 5, 1897, seeking favors at the hands of this same Republican Secretary of the Treasury—were asking that the Government deposit be continued, because of the favors that the directors had done in aid of candidates of the Republican party—and I will read it. I read a letter dated June 5, 1897, which you will find on page 60 of this same document, addressed to Secretary Gage and signed by A. B. Hepburn, vice-president of the City National Bank:

NATIONAL CITY BANK OF NEW YORK,  
New York, June 5, 1897.

MY DEAR MR. GAGE: The National City Bank, of this city, of which I recently became vice-president through the consolidation of the business of the Third National with it, is one of the banks designated as a United States depository, and I write to request that in any changes which may be made under the Administration we may not be disturbed in this respect. We should like to remain a United States depository as at present. Of course the bank is very strong, and if you will take the pains to look at our list of directors you will see that we also have very great political claims in view of what was done during the canvass last year.

Yours, very truly,

A. B. HEPBURN.

HON. LYMAN J. GAGE,  
United States Treasury, Washington, D. C.

What was that "canvass last year," and who are these directors? Some of them, Mr. Chairman, were directors of great insurance companies which admitted, in the investigation recently held in New York, that they took the money of those insured in these companies and contributed at least \$150,000 each year to the campaign fund of the Republican party in order to defeat the Democratic party. [Applause on the Democratic side.]

Those are the reasons given in one letter, at least, that has come to light where the National City Bank asked favors of Secretary Gage. I do not say that there are other letters anywhere in regard to this identical transaction, but the vice-president of the bank who would write to the Secretary of the Treasury asking favors because the directors of his bank had contributed to the political campaign fund of the Republican party in 1896 would not hesitate to ask for any other favor in order that they might make millions of dollars out of the Government. It is true that the national banks and the insurance companies rendered great service to the Republican party in 1896. It is true that the great chieftain and champion of the Democratic cause went down to defeat not so much by reason of the ballots of the people of the United States as he did by reason of the dollars contributed by these corporations. And, Mr. Chairman, if the signs now appearing do not all fail, in 1908 the man that these bankers defeated in 1896 by the millions they contributed to the Republican party will be the Chief Executive of this Republic and will prevent such wanton waste of the money of the people. [Applause on the Democratic side.]

Mr. CAMPBELL of Kansas. Mr. Chairman, this is an annual performance made by the Democratic party for the purpose of endeavoring to show political relations between a Republican Administration and some of the financial institutions of the country. I have taken some pains to look up the question of administrative influence with banking institutions, and I have found but one instance in the history of the Republic where an Administration showed a disposition to avowedly seek the influence of banking institutions for political purposes by the deposit of public money. And, by the way, that was a Republican Administration—that is to say, if Thomas Jefferson was a Republican. During his Administration—

Mr. WILLIAMS. Would the gentleman mind inserting some other instances?

Mr. CAMPBELL of Kansas. I can not yield just now. I want to read a letter which I am sure will interest the gentleman from Mississippi. On the 12th of July, 1803, Mr. Jefferson wrote the following letter to Albert Gallatin, then Secretary of the Treasury:

I am decidedly in favor of making all the banks republican by sharing deposits among them in proportion to the dispositions they show. If the law now forbids it, we should not permit another session of Congress to pass without amending it. It is material to the safety of republicanism to detach the mercantile interests from its enemies and incorporate them into the body of its friends. A merchant is naturally a republican, and could not be otherwise only from a vitiated state of things.

The historian says that Gallatin gently put aside these demonstrations of Mr. Jefferson and administered his Department on business principles, with as little regard to political influence as possible.

Mr. BARTLETT. That is not what Gage did.

Mr. CAMPBELL of Kansas. The only thing that you have been able to charge against Mr. Gage is that a banker requested of him that he make deposits with his bank, a thing that President Jefferson asked his Secretary of the Treasury to do for political purposes. You have shown that a Republican Secretary of the Treasury was asked to make deposits, not that he did make them. Another time the same question was up and Mr. Gallatin again had to put aside the importunities of the patron saint of the Democratic party—Mr. Jefferson—that the public moneys of the country be used for political influence. Answering Mr. Jefferson, Mr. Gallatin says:

I am extremely anxious to see a bank at New Orleans. Considering the distance of that place, our own security, and even that of the collector, will be eminently promoted, and the transmission of moneys arising from the impost and sales of lands in the Mississippi territory would, without it, be a very difficult and sometimes dangerous operation. *Against this there are none but political objections, and those will lose much of their force when the little injury they can do us, and the dependence in which they are on Government, are duly estimated. They may vote as they please, and take their own papers, but they are formidable only as individuals, and not as bankers.*

I hope, Mr. Chairman, this annual performance may not be put on again for political purposes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEIFER rose.

Mr. SULZER. Mr. Chairman, I move to strike out the last five words.

The CHAIRMAN. The Chair will recognize the gentleman from New York.

Mr. SMITH of Iowa. Why, Mr. Chairman, is not a member of the committee entitled to recognition in preference to a gentleman who has already been recognized?

The CHAIRMAN. The Chair was not aware of the fact that the gentleman from Ohio [Mr. KEIFER] was a member of the committee. The Chair thought that he was obliged to recognize some one on the other side, having recognized some one on this side. The Chair thought it obligatory upon him to recognize the gentleman from New York, after which the Chair will state he will recognize the gentleman from Ohio [Mr. KEIFER], and then the gentleman from Iowa [Mr. SMITH], also a member of the committee.

Mr. SMITH of Iowa. But there will be no time then.

Mr. GAINES of Tennessee. Well, it is your own fault.

Mr. SULZER. Mr. Chairman, I only want to say it is a far cry from Gage to Gallatin, and I will not take up time to discuss ancient history. I do want, however, to call the attention of the House to some of the errors that have crept into this debate. One of the speakers said a little while ago that the Committee on Public Buildings and Grounds had thoroughly investigated this matter. That is an error. That committee made no investigation. The fact is that shortly after the beginning of this session of Congress I introduced a resolution of inquiry calling on the Secretary of the Treasury for information as to the whereabouts of the deed to this property. That resolution was referred to the Committee on Public Buildings and Grounds. It was privileged. It had to be reported. The committee gave me a hearing. One of the assistant secretaries of the Treasury—Mr. Taylor—arrived and opposed the resolution, but after the hearing the committee unanimously reported my resolution of inquiry. It went to the Secretary of the Treasury and he sent a letter to the House a little later, saying no deed had ever been executed, and hence no deed had ever been offered to the National City Bank, and hence no deed had ever been recorded in the city of New York, and hence the city of New York could not collect taxes on this property.

Now, take either horn of the dilemma which you wish. If the property belongs to the Government and the title is in the Government, then I assert that the Government ought not to pay a rental for it. If, on the other hand, the property belongs to the National City Bank, I say the National City Bank ought to pay taxes on it to the city of New York. [Applause.] It has been asserted here that this property was advertised. We all know about these advertisements. The papers in the city of New York have a large circulation, and very few people ever read a little real estate advertisement in fine print stuck out of the way in some corner. I declare as a Representative from the city of New York that the men who deal in real estate in that city knew nothing whatever about this sale or these advertisements. The Secretary, in his report, which I hold in my hand, says there were three bidders for this property. Let us see who those three bidders were. One was the National City Bank, another was the Farmers' Loan and Trust Company,

and the other was a bonding company. The Farmers' Loan and Trust Company is identified with the National City Bank and so is this bonding company. They were all acting in concert and with one end in view. All the facts prove it and sustain the charge of fraud and conspiracy.

Now, sir, I assert what several newspapers have charged over and over again, that the Secretary of the Treasury sent for Mr. Stillman, the president of the National City Bank; that Mr. Stillman came to Washington; that the Secretary of the Treasury told him how much to bid to get this property; that the bid was made, and that then this unconscionable contract was entered into between them—and it's a fraud upon its face. I do not believe there is a Representative of the people here who has read the facts in this report who has not reached the same conclusion that I have reached, and that is that this contract of sale is an unconscionable contract, a fraud on the people of this country, and a swindle on the taxpayers of New York. [Applause.] It ought to be annulled—

The CHAIRMAN. The time of the gentleman has expired—

Mr. SULZER. And no man can vote to carry out its terms and ever again look an honest constituent in the face. [Applause.]

Mr. KEIFER. Mr. Chairman, in the very short time I will have to talk upon this matter I know I can not make clear what I think would become perfectly clear to those who can and will investigate the matter. The first proposition I submit is that the condition we are now in as to this item of the appropriation bill is absolutely the only one we could get into by executing the law of 1899. We have pursued that law in the sale of this property every step of the way, and all the charges that are made against the Secretary of the Treasury ought to be made against the Congress of the United States, if they are of any significance whatever, because the act required him to do precisely what he did do. The proviso at the foot of section 4 of the act of March 2, 1899, is "that the use, occupation, and possession of said property shall not be surrendered until the new custom-house is ready for occupation and final payment is fully made."

The gentleman from Nebraska [Mr. NORRIS] has made clear that the property was sold as required by law.

Mr. PADGETT. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Ohio yield?

Mr. KEIFER. I do not. Gentlemen are in the habit of taking up all the time in asking questions, and it seems none of us get to understand the question we are actually considering and—

Mr. PADGETT. Will the gentleman allow me to ask him this question?

Mr. KEIFER. I do not yield. In the contract that was made in pursuance of the sale of the custom-house and the law, it was provided, as has been already read, that—

In case of payment of the entire balance due before the completion and occupancy of the new custom-house, the United States shall deliver the said deed to the bank, provided the bank at the time of paying such balance shall execute and deliver to the United States a lease of the old custom-house property at an annual rental of \$130,600.

That is the condition for the delivery of the deed connected with the final payment. Now, the clause that is proposed to strike out of the present bill is the clause providing for the payment of a rental to this bank for the sum of \$130,600, the precise amount that the contract and the law required the United States to agree to pay as a rental, and gentlemen say because in some way or other the city of New York does not get all of the taxes it is entitled to receive, because of a good or a bad law Congress made, that we should break faith and not pay the money that it was agreed and stipulated solemnly in writing, under a law of Congress, to pay, and gentlemen say they now discharge their high duty as Members of Congress by asking the Government to break its contract with one of the banks of the city of New York.

Mr. HILL of Connecticut. The city of New York gets all the taxes it is entitled to or could get under the circumstances.

Mr. KEIFER. That is doubtless true, but the question of taxes is not one the Secretary of the Treasury was charged with looking after, and he made a contract that the law required him to make, and precisely as the law required it to be made. Now, about the matter of the deposit. Let me read the clause from the letter of the Secretary of the Treasury, Lyman J. Gage, dated January 10, 1900.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KEIFER. Give me one minute more to read this, as it will explain much that has been talked about.

Mr. SULZER. Mr. Chairman, I ask unanimous consent that the gentleman may have one minute more.

The CHAIRMAN. The Chair has agreed to recognize another member of the committee [Mr. SMITH of Iowa].

Mr. SULZER. I ask unanimous consent that the gentleman may have one minute more.

The CHAIRMAN. The Chair has stated—

Mr. KEIFER. I can not ask to take time from my colleague of the committee, but I do ask, Mr. Chairman, that I may be allowed to incorporate this in my remarks, and the gentleman from Iowa desires the privilege of extending his remarks also in the RECORD.

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

Mr. KEIFER. Mr. Chairman, the extract of the letter from Mr. Gage which I desire to insert is as follows:

Fifth. The custom-house property was sold to the National City Bank, as the highest bidder, on July 3, 1899. Under the terms of the sale it had the option of paying in cash all of the purchase money at any time or any part it might elect above \$750,000, which sum it was absolutely obliged to pay. It exercised this option by choosing to pay \$3,215,000, leaving \$50,000 yet due. No deed will be executed until full payment has been made.

The money, as the same letter of the Secretary shows, was deposited in the National City Bank just as it would have been in any bank depository.

Mr. PADGETT. Mr. Chairman, I ask to be recognized to extend my remarks in the RECORD.

The CHAIRMAN. The Chair has recognized the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the Government of the United States had the right to hold the title to the New York custom-house free from taxation in the city of New York until the end of time. Therefore no injustice was done to the city or the State of New York when the Government of the United States provided by this contract that it would hold this title so long as the Government of the United States occupied this custom-house for public purposes. The United States having that right, agreed to pay a rent, which was fair and just, of 4 per cent, the lessor to be exempt from the payment of taxes just as many of the rental contracts are made in the city of New York.

No injustice has been done the city of New York or the State of New York for that reason. But no injustice was done for another reason, because the law of New York provides for the levying of a 1 per cent tax upon shares of stock, their value being fixed by the capital stock, surplus, and undivided profit; and every dollar that the National City Bank has got invested in this property is now paying tax to the city of New York and the State of New York, and their complaint, if any they have, is that they are not able to levy a double tax upon the National City Bank. [Loud applause on the Republican side.]

Mr. HILL of Connecticut. That is the whole case.

Mr. SMITH of Iowa. It is not true that the Government of the United States allowed this money simply to be credited to it in the National City Bank, as has been stated, but the same security that is required for every other deposit of the United States funds in the national banks of this country was required. Not only that, but I have it upon information this day received from the Treasury Department, in the reduction of Federal deposits which has been going on for months past the deposits in the National City Bank have been contracted and called into the Treasury just as have the deposits in every other national bank of the United States. [Applause.] We made a fair and square contract, at a reasonable rate, that wrought no injustice to the people of New York. We deposited this money as other moneys are deposited in national banks. We have been drawing the money out of this bank, just as the money has been drawn out of other national banks in the contraction of the Federal deposits, and the only question before this committee is whether you are going to keep your contract and pay the rent according to the letter of the contract or see these people go out and bring suit in the Court of Claims and recover it from the Government at extra expense and cost to this Government. [Loud applause.] [Cries of "Vote!"]

The CHAIRMAN. The question is on the motion of the gentleman from New York, to strike out the paragraph.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SULZER. Division, Mr. Chairman.

The committee divided; and there were—ayes 42, noes 83.

Mr. SULZER. Tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN. The gentleman from New York [Mr. SULZER] and the gentleman from Minnesota [Mr. TAWNEY] will take their places as tellers.

The committee again divided; and tellers reported—ayes 40, noes 89.

So the amendment was rejected.

Mr. TAWNEY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WATSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the sundry civil appropriation bill and had come to no resolution thereon.

#### 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:

H. R. 15869. An act granting an increase of pension to William H. McCune;

H. R. 12135. An act granting an increase of pension to William Laudahn;

H. R. 13787. An act granting an increase of pension to Malcolm Ray;

H. R. 13022. An act granting an increase of pension to Sarah L. Ghrist;

H. R. 17072. An act granting an increase of pension to Joseph French;

H. R. 17453. An act for the withdrawal from bond, tax free, of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials;

H. R. 14513. An act to prevent the giving of false alarms of fires in the District of Columbia;

H. R. 5539. An act for the relief of the State of Rhode Island;

H. R. 17127. An act to provide for the subdivision and sale of certain lands in the State of Washington;

H. R. 12064. An act to amend section 7 of an act entitled "An act to provide for a permanent Census Office," approved March 6, 1902;

H. R. 15206. An act to amend existing laws relating to the fortification of pure sweet wines;

H. R. 16484. An act to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901; and

H. R. 18333. An act granting land to the city of Albuquerque for public purposes.

#### REPRINT OF REPORT.

Mr. TAWNEY. Mr. Speaker, I ask unanimous consent for a reprint of 300 copies of the report of the committee on the sundry civil appropriation bill, the folding room informing me that the supply is exhausted.

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

#### LIABILITY OF COMMON CARRIERS TO THEIR EMPLOYEES.

The SPEAKER laid before the House the bill (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, with Senate amendments, which were read.

Mr. STERLING. Mr. Speaker, I move to concur in the Senate amendments.

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

#### CODIFICATION OF THE LAWS.

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

Mr. WILLIAMS. Mr. Speaker, it is after 5 o'clock and nearly 6; I object.

The SPEAKER. One moment. The gentleman from Pennsylvania asks unanimous consent for the present consideration of the following concurrent resolution, which the Clerk will report.

The Clerk read as follows:

*Resolved by the House of Representatives (the Senate concurring), That a joint special committee be appointed, consisting of five Senators to be appointed by the Vice-President, and five Members of the House of Representatives to be appointed by the Speaker, to examine, consider, and submit to Congress recommendations upon the codification of laws prepared by the statutory revision commission heretofore authorized to revise and codify the laws of the United States; and that the said joint committee be authorized to sit during the recess of Congress and to employ necessary clerical assistance, to order such printing and binding done as may be required in the transaction of its business, and to incur such expense as may be necessary, all such expense to be paid in equal proportions from the contingent funds of the Senate and House of Representatives.*

The SPEAKER. Is there objection?

Mr. WILLIAMS. I object at this time. I do not know whether I will object at some other time or not.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. LE FEVRE, for ten days, on account of important business.

#### WILLIAM A. HAMMOND.

Mr. GOLDFOGLE. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. For the purpose of asking unanimous consent that I may file the minority views to the report of the Committee on Claims on Senate bill 290, for the relief of William A. Hammond, late Surgeon-General of the United States Army.

Mr. WILLIAMS. Why not do it to-morrow?

The SPEAKER. Is there objection?

Mr. WILLIAMS. Having objected to one thing because it is after 5 o'clock, I must object to all.

The SPEAKER. The gentleman from Mississippi objects.

Mr. TAWNEY. I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned.

#### EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Commissioners of the District of Columbia submitting supplemental estimates for certain judgments and for Garfield Hospital—to the Committee on Appropriations, and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. GARDNER of New Jersey, from the Committee on Labor, to which was referred the bill of the House (H. R. 12318) to limit the effect of the regulation of interstate commerce between the several States in goods, wares, and merchandise, wholly or in part manufactured by convict labor, or in any prison or reformatory, reported the same with amendment, accompanied by a report (No. 4782); which said bill and report were referred to the House Calendar.

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 11040) to authorize the receivers of public moneys for land districts to deposit with the Treasurer of the United States certain sums embraced in their accounts of unearned fees and unofficial moneys, reported the same with amendment, accompanied by a report (No. 4875); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 15518) to amend section 5501 of the Revised Statutes of the United States, reported the same with amendment, accompanied by a report (No. 4876); which said bill and report were referred to the House Calendar.

Mr. McCLEARY of Minnesota, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 19756) to amend section 2844 of the Revised Statutes of the United States, and to provide for an authentication of invoices of merchandise shipped to the United States from the Philippine Islands, reported the same without amendment, accompanied by a report (No. 4877); which said bill and report were referred to the House Calendar.

Mr. PAYNE, from the Committee on Ways and Means, to which was referred the joint resolution of the Senate (S. R. 60) providing for the purchase of material and equipment for use in the construction of the Panama Canal, reported the same without amendment, accompanied by a report (No. 4878); which said bill and report were referred to the House Calendar.

Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, to which was referred the bill of the House (H. R. 14172) to provide a temporary substitute for the United States

district judge in the territory of Porto Rico, reported the same without amendment, accompanied by a report (No. 4879); which said bill and report were referred to the House Calendar.

#### 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. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5810) granting an increase of pension to Thomas McGowan, reported the same without amendment, accompanied by a report (No. 4783); which said bill and report were referred to the Private Calendar.

Mr. BUTLER of Pennsylvania, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 14634) for the relief of George H. Chase, reported the same with amendment, accompanied by a report (No. 4785); 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 Senate (S. 2294) granting a pension to Michael Reynolds, reported the same with amendment, accompanied by a report (No. 4786); 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 Senate (S. 3649) granting a pension to Sarah Agnes Sullivan, reported the same without amendment, accompanied by a report (No. 4787); 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 Senate (S. 3697) granting an increase of pension to Sarah A. Petherbridge, reported the same without amendment, accompanied by a report (No. 4788); 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 Senate (S. 3818) granting an increase of pension to David B. Johnson, reported the same without amendment, accompanied by a report (No. 4789); 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 Senate (S. 4375) granting an increase of pension to David McCredie, reported the same with amendment, accompanied by a report (No. 4790); 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 Senate (S. 4379) granting an increase of pension to Roy E. Knight, reported the same without amendment, accompanied by a report (No. 4791); 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 Senate (S. 4585) granting an increase of pension to Mary A. Counts, reported the same without amendment, accompanied by a report (No. 4792); 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 Senate (S. 4741) granting an increase of pension to Andrew J. Workman, reported the same without amendment, accompanied by a report (No. 4793); 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 Senate (S. 4811) granting a pension to Mae Spaulding, reported the same without amendment, accompanied by a report (No. 4794); 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 Senate (S. 5056) granting a pension to Alexander Plotts, reported the same without amendment, accompanied by a report (No. 4795); 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 Senate (S. 5065) granting an increase of pension to Charles Jackson, reported the same without amendment, accompanied by a report (No. 4796); 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 Senate (S. 5148) granting an increase of pension to Mildred McCorkle, reported the same without amendment, accompanied by a report (No. 4797); 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 Senate (S. 5340) granting an increase of pension to

Laura Hentig, reported the same without amendment, accompanied by a report (No. 4798); 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 Senate (S. 5783) granting a pension to Florence H. Godfrey, reported the same without amendment, accompanied by a report (No. 4799); 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 Senate (S. 5786) granting an increase of pension to Mary J. Ivey, reported the same without amendment, accompanied by a report (No. 4800); 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 Senate (S. 5791) granting an increase of pension to Margaret Simpson, reported the same without amendment, accompanied by a report (No. 4801); 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 Senate (S. 5952) granting an increase of pension to Hyacinth Dotey, reported the same without amendment, accompanied by a report (No. 4802); 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 Senate (S. 6039) granting an increase of pension to George Gardener, reported the same without amendment, accompanied by a report (No. 4803); 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 Senate (S. 6041) granting an increase of pension to James N. Brown, reported the same without amendment, accompanied by a report (No. 4804); 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 Senate (S. 6187) granting an increase of pension to Martha Jane Bolt, reported the same without amendment, accompanied by a report (No. 4805); 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 Senate (S. 6188) granting an increase of pension to Sarah Young, reported the same without amendment, accompanied by a report (No. 4806); 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 Senate (S. 6264) granting a pension to Cornelius Sullivan, reported the same without amendment, accompanied by a report (No. 4807); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 4292) granting a pension to George W. Kelly, reported the same with amendment, accompanied by a report (No. 4808); 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. 4967) granting an increase of pension to Joshua Holcomb, reported the same with amendment, accompanied by a report (No. 4809); 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. 5913) granting a pension to Helen Goll, reported the same with amendment, accompanied by a report (No. 4810); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6956) granting an increase of pension to Henry L. Johnson, reported the same with amendment, accompanied by a report (No. 4811); 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. 8273) granting an increase of pension to John M. Pearson, reported the same with amendment, accompanied by a report (No. 4812); 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. 9262) granting an increase of pension to Thomas J. Farrar, reported the same with amendment, accompanied by a report (No. 4813); 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. 12100) granting a pension to James Wallace Phillips, reported the same with amendment,

accompanied by a report (No. 4814); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 12128) granting an increase of pension to Dennis A. Litzinger, reported the same with amendment, accompanied by a report (No. 4815); 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. 12190) granting an increase of pension to Milton R. Dugan, reported the same with amendment, accompanied by a report (No. 4816); 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. 14144) granting a pension to Allen M. Cameron, reported the same with amendment, accompanied by a report (No. 4817); 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. 15620) granting an increase of pension to David D. Owens, reported the same with amendment, accompanied by a report (No. 4818); which said bill and report were referred to the Private Calendar.

Mr. HOGG, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15856) granting a pension to Gordon A. Thurber, reported the same with amendment, accompanied by a report (No. 4819); 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. 15619) granting an increase of pension to Samuel W. Atkinson, reported the same with amendment, accompanied by a report (No. 4820); 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. 16169) granting a pension to Neal O'Donnell Parks, reported the same with amendment, accompanied by a report (No. 4821); 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. 16397) granting an increase of pension to Allie Williams, reported the same with amendment, accompanied by a report (No. 4822); 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. 16411) granting an increase of pension to Newton Moore, reported the same with amendment, accompanied by a report (No. 4823); 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. 16747) granting a pension to Sherman Jacobs, reported the same with amendment, accompanied by a report (No. 4824); 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. 17651) granting an increase of pension to Mary A. Riley, reported the same with amendment, accompanied by a report (No. 4825); 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. 17732) granting an increase of pension to Joseph Scott, reported the same with amendment, accompanied by a report (No. 4826); 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. 17874) granting an increase of pension to Roseanna Hughes, reported the same with amendment, accompanied by a report (No. 4827); 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. 17918) granting a pension to Walter S. Harman, reported the same with amendment, accompanied by a report (No. 4828); 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. 18113) granting an increase of pension to Louisa M. Sees, reported the same with amendment, accompanied by a report (No. 4829); 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. 18214) granting an increase of pension to John Ingram, reported the same with amendment, accompanied by a report (No. 4830); 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. 18403) granting an increase of pension to Mary Jane Ragan, reported the same

with amendment, accompanied by a report (No. 4831); 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. 18601) granting an increase of pension to Edward A. Barnes, reported the same with amendment, accompanied by a report (No. 4832); 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. 18769) granting an increase of pension to Louisa Storey, reported the same with amendment, accompanied by a report (No. 4833); 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. 18816) granting an increase of pension to Harriet Wetherby, reported the same with amendment, accompanied by a report (No. 4834); 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. 18860) granting a pension to Andrew J. Anderson, reported the same with amendment, accompanied by a report (No. 4835); 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. 19035) granting a pension to Lizzie Morgan, reported the same with amendment, accompanied by a report (No. 4836); 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. 19101) granting an increase of pension to Sarah C. A. Scott, reported the same with amendment, accompanied by a report (No. 4837); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL, from the Committee on Pensions, to which was referred the bill of the House (H. R. 19105) granting an increase of pension to William Moser, reported the same with amendment, accompanied by a report (No. 4838); 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. 19119) granting an increase of pension to Susan M. Osborn, reported the same with amendment, accompanied by a report (No. 4839); 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. 19144) granting an increase of pension to Sarah Louisa Sheppard, reported the same with amendment, accompanied by a report (No. 4840); 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. 19174) granting an increase of pension to Martha A. Billings, reported the same with amendment, accompanied by a report (No. 4841); 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. 19241) granting an increase of pension to Henry A. Conant, reported the same with amendment, accompanied by a report (No. 4842); 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. 19245) granting an increase of pension to William C. Hoover, reported the same with amendment, accompanied by a report (No. 4843); 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. 19256) granting an increase of pension to Louisa J. Birthright, reported the same with amendment, accompanied by a report (No. 4844); 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. 19298) granting an increase of pension to Job B. Crabtree, reported the same with amendment, accompanied by a report (No. 4845); 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. 19300) granting an increase of pension to P. Easley, reported the same with amendment, accompanied by a report (No. 4846); 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. 19318) granting an increase of pension to Mary E. Rivers, reported the same with amendment, accompanied by a report (No. 4847); 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. 19319) granting an increase of pension to Elizabeth Spruell, reported the same with amendment, ac-

complicated by a report (No. 4848); 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. 19320) granting an increase of pension to Louise J. Pratt, reported the same with amendment, accompanied by a report (No. 4849); 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. 19321) granting an increase of pension to Mary E. Turner, reported the same with amendment, accompanied by a report (No. 4850); 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. 19322) granting an increase of pension to Mary Isabella Rykard, reported the same with amendment, accompanied by a report (No. 4851); 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. 19323) granting an increase of pension to Orlando L. Levy, reported the same with amendment, accompanied by a report (No. 4852); 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. 19324) granting an increase of pension to Susan M. Long, reported the same with amendment, accompanied by a report (No. 4853); 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. 19325) granting an increase of pension to George Appel, reported the same with amendment, accompanied by a report (No. 4854); 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. 19326) granting an increase of pension to Margaret R. Van Diver, reported the same with amendment, accompanied by a report (No. 4855); 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. 19337) granting an increase of pension to Elizabeth C. Kennedy, reported the same with amendment, accompanied by a report (No. 4856); 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. 19357) granting an increase of pension to Anna Lamar Walker, reported the same with amendment, accompanied by a report (No. 4857); 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. 19415) granting an increase of pension to Sara Ann Revis, reported the same with amendment, accompanied by a report (No. 4858); 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. 19462) granting an increase of pension to Emily Fox, reported the same with amendment, accompanied by a report (No. 4859); 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. 19463) granting an increase of pension to Emma L. Patterson, reported the same with amendment, accompanied by a report (No. 4860); 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. 19504) granting an increase of pension to Margaret E. Walker, reported the same with amendment, accompanied by a report (No. 4861); 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. 19511) granting an increase of pension to Alexander Dixon, reported the same with amendment, accompanied by a report (No. 4862); 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. 19528) granting an increase of pension to Elizabeth Maddox, reported the same with amendment, accompanied by a report (No. 4863); 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. 19529) granting an increase of pension to Mary Elizabeth Hutcheson, reported the same with amendment, accompanied by a report (No. 4864); 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. 19538) granting an increase of pension to Sarah Jane Dough-

erty, reported the same without amendment, accompanied by a report (No. 4865); 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. 19587) granting an increase of pension to Martha Ann Jones, reported the same with amendment, accompanied by a report (No. 4866); 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. 19604) granting an increase of pension to Beverley McK. Lacey, reported the same with amendment, accompanied by a report (No. 4867); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 19626) granting a pension to Samuel Campbell, reported the same with amendment, accompanied by a report (No. 4868); 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. 19670) granting a pension to Maria Rogers, reported the same without amendment, accompanied by a report (No. 4869); 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. 19743) granting an increase of pension to W. P. McMichael, reported the same without amendment, accompanied by a report (No. 4870); 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. 19744) granting an increase of pension to George C. H. Hummel, reported the same with amendment, accompanied by a report (No. 4871); 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. 19819) granting an increase of pension to Johanna Kearney, reported the same with amendment, accompanied by a report (No. 4872); 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. 19922) granting an increase of pension to Mary A. Sutherland, reported the same with amendment, accompanied by a report (No. 4873); which said bill and report were referred to the Private Calendar.

Mr. GRAHAM, from the Committee on Claims, to which was referred the bill of the House (H. R. 1078) for the relief of Hamilton D. South, second lieutenant, United States Marine Corps, reported the same with amendment, accompanied by a report (No. 4874); which said bill and report were referred to the Private Calendar.

#### ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. PERKINS, from the Committee on Foreign Affairs, to which was referred the joint resolution of the Senate (S. R. 30) to create a commission to inquire into citizenship of the United States, expatriation, and protection abroad, reported the same adversely, accompanied by a report (No. 4784); which said joint resolution and report were ordered to lie 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. MOON of Tennessee: A bill (H. R. 20015) to extend to the port of Chattanooga, Tenn., the privileges of immediate transportation of dutiable merchandise without appraisement—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: A bill (H. R. 20016) to establish an additional recording district in Indian Territory—to the Committee on the Judiciary.

By Mr. SHERMAN: A bill (H. R. 20017) to regulate the checking of baggage by common carriers—to the Committee on Interstate and Foreign Commerce.

By Mr. CUSHMAN: A bill (H. R. 20018) authorizing the purchase or construction of a launch for the customs service at and in the vicinity of Port Townsend, Wash.—to the Committee on Ways and Means.

By Mr. MONDELL: A bill (H. R. 20019) restricting the right of entry under the desert-land law to surveyed public lands, and limiting the right of assignment of such entries—to the Committee on the Public Lands.

By Mr. MUDD: A bill (H. R. 20020) authorizing the Secre-

tary of the Navy to contract for the construction of a floating steel dry dock—to the Committee on Naval Affairs.

By Mr. FOWLER: A bill (H. R. 20021) for the issue and redemption of national-bank notes and for the gradual conversion of the United States notes into gold certificates—to the Committee on Banking and Currency.

By Mr. STEENERSON: A bill (H. R. 20022) authorizing the Secretary of Agriculture to investigate the subject of drainage—to the Committee on Agriculture.

#### 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. BARTLETT: A bill (H. R. 20023) for the relief of the heirs of R. W. Jemison—to the Committee on Claims.

Also, a bill (H. R. 20024) for the relief of Mrs. J. M. Thomas et al.—to the Committee on War Claims.

Also, a bill (H. R. 20024) for the relief of Mrs. J. M. Thomas, Lula Lawson, E. L. Lawson, and F. M. Lawson, heirs and legal representatives of Nancy Lawson—to the Committee on War Claims.

Also, a bill (H. R. 20025) for the relief of Mrs. J. M. Thomas, Lula Lawson, E. L. Lawson, and F. M. Lawson, heirs and legal representatives of Robert Lawson—to the Committee on War Claims.

By Mr. BISHOP: A bill (H. R. 20027) granting an increase of pension to Newton Vansickle—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20028) granting an increase of pension to Jane B. Wheeler—to the Committee on Invalid Pensions.

By Mr. BURTON of Ohio: A bill (H. R. 20029) granting an increase of pension to John B. Maison—to the Committee on Invalid Pensions.

By Mr. BUTLER of Tennessee: A bill (H. R. 20030) granting a pension to William E. Sharp—to the Committee on Invalid Pensions.

By Mr. FLOYD: A bill (H. R. 20031) granting an increase of pension to W. H. Linscott—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 20032) for the relief of the estate of Walker W. Winstead, deceased—to the Committee on War Claims.

By Mr. HALE: A bill (H. R. 20033) granting an increase of pension to Delos Odell—to the Committee on Invalid Pensions.

By Mr. HILL of Connecticut: A bill (H. R. 20034) for the relief of George Rutherford—to the Committee on Military Affairs.

By Mr. CLAUDE KITCHIN: A bill (H. R. 20035) for the relief of the estate of Lemuel H. Aldridge—to the Committee on War Claims.

By Mr. WILLIAM W. KITCHIN: A bill (H. R. 20036) granting an increase of pension to Oliver T. Westmoreland—to the Committee on Invalid Pensions.

By Mr. LAW: A bill (H. R. 20037) granting an honorable discharge from military service to Thomas McGivney—to the Committee on Military Affairs.

Also, a bill (H. R. 20038) granting an increase of pension to Thomas Egbert—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 20039) for the relief of Randall Buck, formerly called Randall Conn, of Williamson County, for services as blacksmith during the civil war—to the Committee on War Claims.

By Mr. RHINOCK: A bill (H. R. 20040) granting an increase of pension to Joshua K. Page—to the Committee on Invalid Pensions.

By Mr. ZENOR: A bill (H. R. 20041) granting an increase of pension to James Allen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20042) granting a pension to James T. Howell—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:

The bill (H. R. 20005) to correct the military record of Daniel S. Kochendorfer—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

#### PETITIONS, ETC.

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

By the SPEAKER: Petition of the Chamber of Commerce of

Pensacola, Fla., for bill H. R. 17347, relative to men for seaport military defenses—to the Committee on Military Affairs.

By Mr. ALLEN of New Jersey: Petitions of C. D. McKeivey Lodge, No. 87, and Lodge No. 54, Brotherhood of Railway Trainmen, of Little Falls, N. J., against amendment to rate bill prohibiting passes to railway employees—to the Committee on Interstate and Foreign Commerce.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Sanford A. Pinyon—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of John S. Dillard—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Elisha Anderson—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of George W. Hansard—to the Committee on War Claims.

By Mr. BENNET of New York: Paper to accompany bill for relief of George O. Penfield—to the Committee on Naval Affairs.

By Mr. BONYNGE: Petition of citizens of Wray, Colo., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. COLE: Petition of Parlette & Snyder, R. L. Rodgers, D. W. McAdow, and A. S. Burger, for an amendment to Post-Office Laws and Regulations making legal all paid newspaper subscriptions—to the Committee on the Post-Office and Post-Roads.

By Mr. CUSHMAN: Petition of citizens of Walla Walla, Wash., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. DAWSON: Petition of Iowa Federation of Women's Clubs, for the pure-food bill—to the Committee on Interstate and Foreign Commerce.

By Mr. FLOYD: Paper to accompany bill for relief of Hiram N. Henry—to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of C. D. Clark, of Illinois, against amendment to rate bill prohibiting passes to railway employees—to the Committee on Interstate and Foreign Commerce.

By Mr. GAINES of Tennessee: Paper to accompany bill for relief of estate of Walker W. Winstead—to the Committee on War Claims.

By Mr. HILL of Connecticut: Paper to accompany bill for relief of George Rutherford, Bridgeport, Conn.—to the Committee on Military Affairs.

By Mr. LACEY: Petition of Brotherhood of Railway Trainmen, Lodge 737, Ottumwa, Iowa, and Ne Plus Ultra Lodge, Brotherhood of Railway Trainmen, and Locomotive Engineers, against amendment to rate bill depriving railway employees of passes—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Keokuk, Iowa, against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

By Mr. LEE: Paper to accompany bill for relief of Methodist Episcopal Church South, Ringgold, Ga.—to the Committee on War Claims.

By Mr. LORIMER: Petition of associations and business firms of Chicago, and Brotherhood of Locomotive Engineers, against amendment to rate bill prohibiting issuance of passes to railway employees—to the Committee on Interstate and Foreign Commerce.

By Mr. MCKINLAY of California: Petition of hop growers of Pacific coast, for reduction of duty on hop bagging—to the Committee on Ways and Means.

By Mr. NEEDHAM: Petition of Ripon Grange, No. 341, Ripon, Cal., for parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. NORRIS: Petition of J. H. Rickel, for amendment to post-office laws and regulations making legal all paid paper subscriptions—to the Committee on the Post-Office and Post-Roads.

By Mr. PADGETT: Paper to accompany bill for relief of heirs of Nimrod Porter, late of Maury County—to the Committee on War Claims.

Also, paper to accompany bill for relief of Randall Buck, Williamson County, Tenn.—to the Committee on War Claims.

By Mr. RUCKER: Petition of associations of railroad employees, et al., of St. Louis, Laredo, Milan, Brookfield, Moberly, and Trenton, Mo., against amendment to rate bill denying passes to railway employees—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Maryland: Petition of South Baltimore Division, No. 97, Brotherhood of Locomotive Engineers, and Washington Camp, No. 48, Patriotic Order Sons of America, Stevesville, Md., against antipass amendment to railway bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SOUTHARD: Petition of Cornell University libra-

rian, for law permitting duty free of foreign books for library use—to the Committee on Ways and Means.

Also, petition of Corn City Division, No. 4, Brotherhood of Locomotive Engineers, East Toledo, Ohio, against adoption of conference report on railway bill prohibiting passes to railway employees—to the Committee on Interstate and Foreign Commerce.

By Mr. WOOD of New Jersey: Petition of New Jersey Division, Order Railway Conductors, against antipass amendment in rate bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Trenton Lodge, Railroad Employees, and engineers of Division No. 337, against amendment to rate bill depriving railway employees of passes—to the Committee on Interstate and Foreign Commerce.

Also, petition of Municipal Art Society, of Baltimore, favoring national board of art experts (S. 5694 and H. R. 17630)—to the Committee on the Library.

## SENATE.

THURSDAY, June 7, 1906.

The Senate met at 2 o'clock p. m.

Rev. ULYSSES G. B. PIERCE, of the city of Washington, offered the following prayer:

From the house of sorrow, our Father, we come to the house of labor. So dost Thou lead us from the things to be borne to the things to be done. And as Thou hast given us Thy grace humbly to bow before Thy good providence, so we beseech Thee vouchsafe unto us Thy strength, that we may steadfastly lay hold of Thy purposes till Thy kingdom shall come and Thy will be done on earth, even as it is in heaven. Amen.

### THE JOURNAL—ORDER OF BUSINESS.

The VICE-PRESIDENT. The Secretary will read the Journal of yesterday's proceedings.

Mr. TILLMAN. I ask that the Senate dispense with the reading of the Journal.

The VICE-PRESIDENT. Without objection, it is so ordered, and the Journal stands approved.

Mr. TILLMAN. I move that the Senate proceed to the consideration of the conference report on the railroad rate bill.

Mr. LODGE. Are we to transact any routine morning business?

The VICE-PRESIDENT. The Senator from South Carolina has moved that the Senate proceed to the consideration of the conference report on the rate bill.

Mr. TILLMAN. I will give way for a few moments for bills, if the Senator wishes. I gave notice yesterday afternoon that I would ask that no morning business be transacted to-day, but if the Senator is anxious I will yield.

Mr. HANSBROUGH. I understand that the Senator will give way for routine business?

Mr. TILLMAN. Certainly; for a few minutes.

The VICE-PRESIDENT. Petitions and memorials are in order.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (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.

### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of Local Division No. 439, Brotherhood of Locomotive Engineers, of South Framingham, Mass., and a memorial of Local Division No. 479, Order of Railway Conductors, of Milan, Ohio, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented a petition of the Chamber of Commerce of Pensacola, Fla., praying for the enactment of legislation to provide for the care of the defensive equipment of the seaports of the United States; which was referred to the Committee on Coast Defenses.

He also presented a petition of the Presbyterian Ministerial Association of Philadelphia, Pa., praying for the enactment of legislation providing for the closing on Sunday of the Jamestown Exposition; which was referred to the Select Committee on Industrial Expositions.

Mr. BURNHAM presented a memorial of the general board of adjustment, Brotherhood of Locomotive Firemen, Branch of the Boston and Maine Railroad, of Woodsville, N. H., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which was ordered to lie on the table.

Mr. LONG presented a memorial of Local Lodge No. 277, Brotherhood of Locomotive Firemen, of Hanover, Kans., and a memorial of Parsons Division, No. 161, Order of Railway Conductors, of Parsons, Kans., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. BURKETT presented memorials of sundry railroad employees of Grand Island, Lincoln, Chadron, Omaha, Alliance, South Omaha, Norfolk, and Fremont, all in the State of Nebraska, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" prohibiting the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. LODGE presented the petition of A. M. Bridgman, of Stoughton, Mass., and the petition of C. F. David, of Middleboro, Mass., praying for the enactment of legislation to amend the postal laws relative to newspaper subscriptions; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the locomotive engineers of the New Haven Railroad of Boston, Mass., and the memorial of G. H. Rowell, of Boston, Mass., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

He also presented the petition of John J. McCook, chairman of the railroad department, Young Men's Christian Association, praying for the retention of the provision in the railroad rate bill permitting the issuance of passes to railroad secretaries of the Young Men's Christian Association; which was ordered to lie on the table.

Mr. KNOX presented memorials of sundry railroad employees of Dunmore; Division No. 543, Brotherhood of Engineers, of Berwick; Lodge No. 384, Brotherhood of Firemen, of Philadelphia; Brotherhood of Engineers, of Blairsville; Division No. 276, Brotherhood of Engineers, of Scranton; Brotherhood of Trainmen of Galeton; W. B. Linn, of Philadelphia; sundry railroad employees of Pittsburg; Lodge No. 189, Brotherhood of Trainmen, of Pittston, and Lodge No. 528, Brotherhood of Firemen, of Galeton, all in the State of Pennsylvania, remonstrating against the adoption of an amendment to the rate bill prohibiting the issuing of passes to railroad employees and members of their families; which were ordered to lie on the table.

Mr. PLATT presented memorials of sundry railroad employees of Mechanicsville, Buffalo, and Norwich, all in the State of New York, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. WARREN presented memorials of sundry railroad employees of Evanston and Rawlins, in the State of Wyoming, remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" to prohibit the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

Mr. TALIAFERRO presented memorials of sundry railroad employees of St. Augustine, Jacksonville, Tallahassee, and Pensacola, all in the State of Florida; of Indianapolis, Ind., and of Macon, Ga., remonstrating against the adoption of a certain amendment to the so-called "railroad rate bill" prohibiting the issuance of passes to railroad employees and their families; which were ordered to lie on the table.

### REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Military Affairs, to whom was referred the bill (S. 6333) authorizing the Secretary of War to acquire for fortification purposes certain tracts of land on Deer Island, in Boston Harbor, Mass., reported it with amendments.

Mr. SCOTT, from the Committee on Military Affairs, to whom was referred the bill (S. 3753) to grant an honorable discharge from the military service to Alexander Gray, reported adversely thereon, and the bill was postponed indefinitely.

Mr. WARNER, from the Committee on Military Affairs, to whom was referred the bill (H. R. 7226) for the relief of Patrick Conlin, reported it without amendment, and submitted a report thereon.

Mr. CLAPP, from the Committee on Indian Affairs, to whom