

## EXECUTIVE SESSION.

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

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 3 o'clock and 15 minutes p. m.) the Senate adjourned until Monday, February 7, 1910, at 12 o'clock meridian.

## NOMINATIONS.

*Executive nominations received by the Senate February 5, 1910.*

## SURVEYOR OF CUSTOMS.

Charles F. Gallenkamp, of Missouri, to be surveyor of customs for the port of St. Louis, in the State of Missouri. (Re-appointment.)

## COLLECTORS OF CUSTOMS.

Matthew B. Macfarlane, of Florida, to be collector of customs for the district of Tampa, in the State of Florida. (Re-appointment.)

William R. Moseley, of Mississippi, to be collector of customs for the district of Pearl River, in the State of Mississippi, in place of Frederick W. Collins, whose term of office expired December 21, 1909.

Benjamin B. Arnold, of Virginia, to be collector of customs for the district of Richmond, in the State of Virginia, in place of Joseph B. Stewart, whose term of office will expire February 8, 1910.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate February 5, 1910.*

## REGISTER OF THE LAND OFFICE.

Charles D. Ford to be register of the land office at Denver, Colo., his term having expired. (Reappointment.)

## PROMOTION IN THE NAVY.

Surg. Charles F. Stokes to be Surgeon-General and Chief of the Bureau of Medicine and Surgery.

## POSTMASTERS.

## NEBRASKA.

George W. Draper, at Niobrara, Nebr.  
Griffith J. Thomas, at Harvard, Nebr.  
Clarence O. Turner, at Bethany, Nebr.

## NEW YORK.

George L. Jackson, at Goshen, N. Y.  
George F. Vreeland, at Far Rockaway, N. Y.

## PENNSYLVANIA.

Charles W. Zook, at Roaring Spring, Pa.

## SENATE.

MONDAY, February 7, 1910.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Vice-President being absent, the President pro tempore took the chair.

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

## CLAIM OF S. AUGUSTA TASKER.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of S. Augusta Tasker, widow of George E. Anderson, deceased, v. United States (S. Doc. No. 352), which, with an accompanying paper, was referred to the Committee on Claims and ordered to be printed.

## PETITIONS AND MEMORIALS.

Mr. CULLOM presented a memorial of sundry citizens of Champaign, Urbana, and Fisher, all in the State of Illinois, remonstrating against the passage of the so-called "postal savings-bank bill," which was ordered to lie on the table.

Mr. BROWN presented a petition of the board of directors of Sovereign Camp, Woodmen of the World, of Omaha, Nebr., praying for the enactment of legislation permitting periodical publications issued by or under the auspices of benevolent and fraternal societies and orders and institutions of learning to be admitted as second-class mail matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of sundry business firms of Omaha, Nebr., remonstrating against the enactment of legisla-

tion restricting in the District of Columbia the writing of insurance contracts to admitted stock companies, which was referred to the Committee on the District of Columbia.

Mr. NELSON presented a petition of the Commercial Club of St. Paul, Minn., praying for the enactment of legislation providing homes for the American ambassadors in foreign capitals, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Milk River United Irrigation Association, of Havre, Minn., praying that an appropriation be made for the completion of the reclamation projects of the Milk River Valley, in that State, which was referred to the Committee on Irrigation and Reclamation of Arid Lands.

He also presented a memorial of Minnesota Lodge, No. 157, Order of B'nai B'rith, of St. Paul, Minn., remonstrating against the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. BURROWS presented a petition of the common council of Grand Rapids, Mich., praying that an investigation be made into the high price of living, which was referred to the Committee on Finance.

He also presented a memorial of Typographical Union No. 18, American Federation of Labor, of Detroit, Mich., remonstrating against an increase of the rate of postage on second-class mail matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Ypsilanti Chapter, American Insurance Union, of Ypsilanti, Mich., and a petition of sundry citizens of Plymouth, Mich., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of sundry citizens of Onsted, Flint, St. Charles, Adrian, Battle Creek, Burr Oak, Holly, and Sault Ste. Marie, all in the State of Michigan, remonstrating against the passage of the so-called "postal savings-bank bill," which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Van Buren County, Mich., remonstrating against the enactment of legislation providing for the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented a memorial of the Central Trades Council, American Federation of Labor, of Bay City, Mich., remonstrating against the construction of seagoing dredges by the United States Government, which was referred to the Committee on Commerce.

He also presented a memorial of the Allendale Creamery Company, of Allendale, Mich., remonstrating against the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Orcutt Post, No. 79, Grand Army of the Republic, Department of Michigan, of Kalamazoo, Mich., praying for the passage of the so-called "National Tribune pension bill," which was referred to the Committee on Pensions.

He also presented a petition of Red Jacket Lodge, No. 367, Brotherhood of Railroad Trainmen, of Calumet, Mich., praying for the passage of the so-called "employers' liability bill," which was referred to the Committee on the Judiciary.

Mr. BURNHAM presented a petition of the New Hampshire Weekly Publishers' Association, of Rochester, N. H., praying for the enactment of legislation to prohibit the printing by the Government of certain matter on stamped envelopes, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the New England Dry Goods Association, of Boston, Mass., praying for the repeal of the publicity clause in the corporation-tax law, which was referred to the Committee on Finance.

He also presented a memorial of the Unity Club, of Lancaster, N. H., remonstrating against the water in the Hetch Hetchy Valley being used by the city of San Francisco, Cal., which was referred to the Committee on National Resources.

He also presented a petition of the New York State Chamber of Commerce, praying for the repeal of clause 6 of section 33 of the corporation-tax law, which was referred to the Committee on Finance.

Mr. DILLINGHAM presented a petition of sundry citizens of Bellows Falls, Vt., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in government buildings and ships, which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Bellows Falls, Vt., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in the Territory of Hawaii,

which was referred to the Committee on Pacific Islands and Porto Rico.

Mr. GALLINGER presented a petition of the Board of Trade of the city of Washington, praying for the enactment of legislation creating a teachers' retirement and pension fund, which was referred to the Committee on Appropriations.

He also presented a petition of the Brightwood Park Association, of Washington, D. C., praying for the establishment of a public-service commission in the District, which was referred to the Committee on the District of Columbia.

He also presented a memorial of sundry citizens of Pontoosuc, Ill., and Fort Madison, Iowa, remonstrating against the enactment of legislation providing for the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. SMITH of Michigan. I present resolutions adopted by the common council of the city of Grand Rapids, Mich., bearing upon the question of the high cost of living. I ask that the resolutions be read for the information of Senators and be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the resolutions were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Whereas most of the articles necessary to sustain life have been advanced in price to such an extent that it is practically impossible for workmen with large families to purchase the same; and

Whereas a movement is widespread the country over looking toward the investigation by Congress of the high price of living, with a view to the relief of the situation at the earliest possible time: Therefore be it

*Resolved by the common council of the city of Grand Rapids, That we are in hearty sympathy with this movement; and be it further*

*Resolved, That the city clerk be instructed to forward a copy of this resolution to our United States Senators and to our Representative in Congress, with the request that they use their earnest efforts to assist this movement.*

Adopted.  
I hereby certify that the foregoing is a true transcript of the action of the common council of the city of Grand Rapids in public session held January 24, 1910.

JAMES SCHRIVER, City Clerk.

Mr. DU PONT presented a memorial of sundry citizens of Milton, Del., remonstrating against the passage of the so-called "postal savings-bank bill," which was ordered to lie on the table.

Mr. OLIVER presented a memorial of Local Chapter No. 176, American Insurance Union, of Beaver Falls, Pa., remonstrating against the enactment of legislation to increase the rate of postage on periodicals, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of sundry citizens of Derry and Somerset, in the State of Pennsylvania, remonstrating against the passage of the so-called "postal savings-bank bill," which were ordered to lie on the table.

Mr. SHIVELY presented a memorial of the Farmers' Institute of Kosciusko County, Ind., remonstrating against the abolishment of the present free rural-delivery system, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Merchants' Association of Indianapolis, Ind., praying for the repeal of the corporation-tax law, which was referred to the Committee on Finance.

He also presented petitions of Local Chapter No. 456, of New Albany; of Local Chapter No. 426, of Muncie; of Local Chapter No. 449, of Bedford; and of Capital Chapter, No. 453, of Indianapolis, all of the American Insurance Union, in the State of Indiana, praying for the enactment of legislation permitting periodical publications issued by or under the auspices of benevolent and fraternal societies and orders and institutions of learning to be admitted to the mails as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. BRANDEGEE presented a memorial of sundry citizens of Jewett City, Conn., remonstrating against the passage of the so-called "postal savings-bank bill," which was ordered to lie on the table.

He also presented a petition of the Society of Master House Painters and Decorators of New Haven, Conn., praying for the passage of the so-called "Heyburn paint bill," which was referred to the Committee on Manufactures.

Mr. PILES presented a petition of the Chamber of Commerce of Spokane, Wash., praying for the enactment of legislation granting to the board of trustees of Whitman College, in that State, the lands embraced in the Fort Walla Walla Military Reservation for the purpose of aiding in the establishment and maintenance of an institution of higher learning in the Pacific Northwest, which was referred to the Committee on Military Affairs.

Mr. HALE presented a memorial of the Board of Trade of Portland, Me., remonstrating against the passage of the so-

called "ship-subsidy bill," which was referred to the Committee on Commerce.

Mr. MARTIN presented a memorial of sundry citizens of Lancaster County, Va., remonstrating against the passage of the so-called "postal savings-bank bill," which was ordered to lie on the table.

Mr. PENROSE presented a resolution adopted by the National Board of Trade, relative to the improvement of the rivers and harbors of the country, which was referred to the Committee on Commerce.

He also presented a resolution adopted by the National Board of Trade, praying for the adoption of an amendment to the federal antitrust law, which was referred to the Committee on the Judiciary.

He also presented a resolution adopted by the National Board of Trade, relative to the repeal of the corporation-tax law, which was referred to the Committee on Finance.

Mr. MONEY presented an affidavit to accompany the bill (S. 5249) granting a pension to H. W. Hale, which was referred to the Committee on Pensions.

Mr. DOLLIVER presented a petition of sundry citizens of Laurel, Iowa, praying for the enactment of legislation providing for the inspection of grain under government control, which was referred to the Committee on Agriculture and Forestry.

He also presented memorials of sundry citizens of Barnes City, Rose Hill, What Cheer, Parkersburg, and Delta, all in the State of Iowa, remonstrating against the passage of the so-called "postal savings-bank bill," which were ordered to lie on the table.

Mr. DICK presented memorials of sundry citizens of Cincinnati, De Graff, Bowling Green, Nevada, and Cuyahoga Falls, all in the State of Ohio, remonstrating against the passage of the so-called "postal savings-bank bill," which were ordered to lie on the table.

Mr. TILLMAN presented a memorial of sundry citizens of Bamberg and Columbia, S. C., remonstrating against the passage of the so-called "postal savings-bank bill," which was ordered to lie on the table.

Mr. FRYE presented a memorial of the Board of Trade of Portland, Me., remonstrating against an increase of the present tonnage tax, which was referred to the Committee on Commerce.

He also presented a memorial of sundry citizens of Waldoboro, Me., remonstrating against the passage of the so-called "postal savings-bank bill," which was ordered to lie on the table.

#### HEARINGS BEFORE THE COMMITTEE ON MANUFACTURES.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. HEYBURN on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Senate resolution 164.

*Resolved, That the Committee on Manufactures, or a subcommittee thereof, be, and the same is hereby, authorized to employ a stenographer from time to time as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee, and to have the same printed for the use of the committee, and that such stenographer be paid out of the contingent fund of the Senate.*

#### HEARINGS BEFORE THE COMMITTEE ON AGRICULTURE.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. DOLLIVER on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Senate resolution 166.

*Resolved, That the Committee on Agriculture and Forestry be, and is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee during the Sixty-first Congress, and to have the same printed for its use, and that such stenographer be paid out of the contingent fund of the Senate.*

#### HEARINGS BEFORE COMMITTEE ON INTEROCEANIC CANALS.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. FLINT on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Senate resolution 168.

*Resolved, That the Committee on Interoceanic Canals be, and is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee during the Sixty-first Congress, and to have the same printed for its use, and that such stenographer be paid out of the contingent fund of the Senate.*

## BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NELSON:

A bill (S. 6170) granting a pension to Josephine M. Johnson; to the Committee on Pensions.

By Mr. CULLOM:

A bill (S. 6171) to provide for participation by the United States in two international expositions to be held, respectively, at Rome and Turin, Italy, in 1911; to the Committee on Foreign Relations.

By Mr. HALE:

A bill (S. 6172) granting an increase of pension to Lucius I. Bartlett (with accompanying papers); to the Committee on Pensions.

By Mr. ROOT:

A bill (S. 6173) to license custom-house brokers (with an accompanying paper); to the Committee on Commerce.

By Mr. OLIVER:

A bill (S. 6174) granting an increase of pension to William H. Freeman (with an accompanying paper); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 6175) to extend the benefits of the act of June 27, 1890, as amended by the act of May 9, 1900, granting pensions to soldiers and sailors who served in the military or naval forces of the United States, their widows, minor children, and dependent parents, and the act of February 6, 1907, granting pensions to certain enlisted men, soldiers and officers, who served in the civil war and the war with Mexico, and the general pension law granting pensions to those who contracted disabilities in the service and in the line of duty; to the Committee on Pensions.

By Mr. BURROWS:

A bill (S. 6176) granting an increase of pension to Austin D. Bates (with an accompanying paper); to the Committee on Pensions.

By Mr. DICK:

A bill (S. 6177) granting an increase of pension to Isaac James; to the Committee on Pensions.

By Mr. BURKETT:

A bill (S. 6178) granting an increase of pension to Joseph Barber; to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6179) granting an increase of pension to Joseph Burke (with accompanying papers); to the Committee on Pensions.

By Mr. GORE:

A bill (S. 6180) granting a pension to Mary A. Hanks (with accompanying papers); and

A bill (S. 6181) granting a pension to Firmin James (with accompanying papers); to the Committee on Pensions.

By Mr. NEWLANDS (by request):

A bill (S. 6182) to amend section 895 of the Code of Law for the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

By Mr. FRYE:

A bill (S. 6183) granting an increase of pension to Joseph A. Silby; and

A bill (S. 6184) granting an increase of pension to George Wilber (with accompanying papers); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 6185) appropriating \$25,000 to the Franklin Institute, of Philadelphia, and the Purdue University, of Lafayette, Ind., for the purpose of determining the quantity of the so-called "hammer blows," "centrifugal lift and tangential throw" of locomotive driving wheels in use on American railroads; to the Committee on Appropriations.

By Mr. MARTIN:

A bill (S. 6187) to carry out the findings of the Court of Claims in the cases herein enumerated; to the Committee on Claims.

By Mr. PILES:

A bill (S. 6188) granting an increase of pension to Lawrence Jacobs (with accompanying papers); to the Committee on Pensions.

By Mr. TILLMAN:

A bill (S. 6189) for the relief of Mary E. Stelling, sole heir at law of A. S. Frietas, deceased; and

A bill (S. 6190) for the relief of the heirs of Theodore Dehon; to the Committee on Claims.

By Mr. CLARKE of Arkansas:

A bill (S. 6191) to authorize the Fort Smith and Van Buren district to construct a bridge across the Arkansas River at Van Buren, in the State of Arkansas; to the Committee on Commerce.

By Mr. McCUMBER:

A bill (S. 6192) granting an increase of pension to Joseph Elliott; to the Committee on Pensions.

Mr. OVERMAN. I introduce a joint resolution and ask that it be read and referred to the Committee on Finance.

The joint resolution (S. J. Res. 75) postponing the time of making returns and assessments under the operation of the corporation-tax law was read the first time by its title and the second time at length, as follows:

## Senate joint resolution 75.

*Resolved, etc.*, That whereas certain cases are now pending in the Supreme Court of the United States for the purpose of testing the validity and constitutionality of the provision known as the "corporation-tax provision" contained in section 38 of Public Law No. 5, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," that the time fixed for giving in returns and making assessments under the provision of said act be, and the same is hereby, postponed for sixty days from and after the passage of this joint resolution, and the corporation tax provided for in said section of said act shall not be assessable until three calendar months after the time for making returns has expired.

The PRESIDENT pro tempore. The joint resolution will be referred to the Committee on Finance.

By Mr. CLAY:

Joint resolution (S. J. Res. 76) donating to the State of Georgia one brass cannon; to the Committee on Military Affairs.

## FORMATION OF CORPORATIONS.

Mr. CLARK of Wyoming introduced a bill (S. 6186) to provide for the formation of corporations to engage in interstate and international trade and commerce, which was read the first time by its title.

Mr. CLARK of Wyoming. I ask that the bill be read the second time and referred to the Committee on the Judiciary.

Mr. NEWLANDS. I suggest that the bill should be referred to the Committee on Interstate Commerce, and I make a motion to that effect.

Mr. CLARK of Wyoming. If the Senator will take the pains to read the bill, he will find that it is a bill which should, beyond all question, go to the Committee on the Judiciary; that the question of the constitutional right to form such corporations is the prime question in the bill. The question of policy, as to whether such corporations should be formed, is a question that follows on and is incidental to the main question in the bill.

Mr. NEWLANDS. I would ask the Chair what is the proper method of proceeding in this matter? Is it to have the bill lie on the table, to have the motion considered to-morrow, or to take it up now?

The PRESIDENT pro tempore. If there is objection to the second reading of the bill, it will go over until to-morrow.

Mr. NEWLANDS. Then, I object to the second reading of the bill, and to-morrow I will move its reference to the Committee on Interstate Commerce.

The PRESIDENT pro tempore. The bill, having been read the first time, will go over.

## TRAVEL ALLOWANCE FOR POSTAL CLERKS.

Mr. BURROWS submitted an amendment authorizing the Postmaster-General to make a travel allowance in lieu of actual expenses to each railway postal clerk who is assigned to duty in a railway post-office, at the rate of 25 cents for each meal and lodging, etc., intended to be proposed by him to the post-office appropriation bill, which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

## VALLEY PAPER COMPANY.

Mr. SMOOT. I offer a resolution, and, as it is a privileged question, I ask for its immediate consideration.

The resolution (S. Res. 173) was read, considered by unanimous consent, and agreed to, as follows:

## Senate resolution 173.

Whereas REED SMOOT, JONATHAN BOURNE, Jr., and DUNCAN U. FLETCHER, member of the United States Senate, who, together with three Members of the House of Representatives, constituting the Joint Committee on Printing of Congress, have at the instance of the Valley Paper Company (Incorporated), plaintiffs, been sued in the supreme court of the District of Columbia, as members of the Joint Committee on Printing of Congress, calling in question their action as members of such joint committee, in rejecting the proposal of the said Valley Paper Company (Incorporated) for furnishing paper for public printing and binding for the period from March 1, 1910, to February 28, 1911, as was done by said Joint Committee on Printing of Congress at the present session of Congress; and

Whereas it is prayed by the said plaintiffs or petitioners that a writ of mandamus issue directing said members of the Joint Committee on

Printing of Congress, to wit, that they withdraw awards which have heretofore been made and that they award certain contracts to the plaintiffs; and

Whereas the following rule to show cause has been issued by Mr. Justice Wright, of the supreme court of the District of Columbia, to wit:

*In the supreme court of the District of Columbia.*

THE VALLEY PAPER COMPANY (INCORPORATED),  
 plaintiff,  
 v.  
 THE JOINT COMMITTEE ON PRINTING OF CONGRESS,  
 composed of REED SMOOT, JONATHAN BOURNE, JR.,  
 DUNCAN U. FLETCHER, GEORGE C. STURGISS, ALLEN  
 F. COOPER, and DAVID E. FINLEY, respondents. } At law, No. —.

**RULE TO SHOW CAUSE.**

Upon consideration of the petition of the Valley Paper Company filed herein this 2d day of February, 1910, it is by the court this 2d day of February, 1910, ordered that the respondents, the said REED SMOOT, JONATHAN BOURNE, JR., DUNCAN U. FLETCHER, GEORGE C. STURGISS, ALLEN F. COOPER, and DAVID E. FINLEY, members of the Joint Committee on Printing of Congress, show cause, if any they may have, on or before the 11th day of February, 1910, at 10 o'clock, a. m., why a writ of mandamus should not be issued as prayed in said petition; provided a copy of said petition and this rule be served upon said respondents, members of the Joint Committee on Printing of Congress, on or before the 7th day of February, 1910.

WRIGHT, Justice.

A True copy:

Test:

J. R. YOUNG, Clerk.

By H. BINGHAM, Assistant Clerk.

Therefore be it

Resolved, That said rule be referred to the Committee on the Judiciary to inquire and report what action the Senate should take in the premises, and particularly in the matter of instructing the said REED SMOOT, JONATHAN BOURNE, JR., and DUNCAN U. FLETCHER, as to the course they should pursue in the premises.

**SECOND-CLASS MAIL MATTER.**

Mr. CLAY. I introduce two resolutions and ask for their immediate consideration.

The PRESIDENT pro tempore. The first resolution sent to the desk by the Senator from Georgia will be read.

The Secretary read the resolution (S. Res. 170) as follows:

Senate resolution 170.

Resolved, That the Interstate Commerce Commission be directed to ascertain and report to the Senate the comparative cost, in the United States, of transporting publications, designated as second-class mail by mail, express, and fast freight.

Second. That the Interstate Commerce Commission be directed to ascertain and report to the Senate the comparative rates paid by the United States Government and by the express companies to the principal railroad companies in the United States for similar service in transporting publications designated as second-class mail matter.

Third. That the Interstate Commerce Commission be directed to ascertain and report to the Senate the comparative rates paid to the leading railroad companies for transporting the several classes of mail of the Government of the United States, and for similar service paid by the express companies to the principal railroad companies in the United States.

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

Mr. PENROSE. I should like to have the resolution go over until I can examine it.

The PRESIDENT pro tempore. Objection is made, and the resolution will go over. The Senator from Georgia offers another resolution, and requests its immediate consideration. The resolution will be read.

The resolution (S. Res. 171) was read as follows:

Senate resolution 171.

Resolved, That the Postmaster-General be, and he is hereby, directed by the Senate to ascertain and report to the Senate the comparative postal rates for transporting periodicals designated as second-class mail in the United States with rates in foreign countries.

Second. He is directed specially to ascertain and report to the Senate the comparative rates paid to the leading railroads for transporting the several classes of mail of the Government of the United States, Canada, Great Britain, and France, in their respective countries.

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

Mr. ALDRICH. I think both resolutions ought to go to the Committee on Post-Offices and Post-Roads.

Mr. CLAY. I prefer to have the resolution go over until tomorrow rather than to have it committed at this time. There is a resolution of a similar character pending, I think, before the Committee on Post-Offices and Post-Roads. It was adopted by the Senate some weeks ago. I think the information can be furnished by the Interstate Commerce Commission without much expense, as the information, I understand, has already been collected. I prefer to have the resolution go over rather than to have it committed to the committee at this time.

Mr. PENROSE. Let the resolution go over.

The PRESIDENT pro tempore. Objection being made, the resolution will go over.

**WASHINGTON GAS LIGHT COMPANY.**

Mr. BROWN submitted the following resolution (S. Res. 172), which was referred to the Committee on Corporations Organized in the District of Columbia:

Senate resolution 172.

Resolved, That the Attorney-General of the United States be requested to inform the Senate what legal authority, if any, exists for the present capitalization of the Washington Gas Light Company, a corporation existing and doing business in the District of Columbia, and what legal authority, if any, exists for an increase of the present capitalization of said corporation.

**RIPIARIAN AND WATER RIGHTS.**

Mr. NELSON. I ask unanimous consent that the paper which I send to the desk may be printed as a Senate document. It is a brief which has been prepared by the Committee on Public Lands in reference to the riparian and water rights of the Government and of the various States. Fifty copies have been printed, the extent the committee could have printed, and there is a great demand for it. I move that it be printed as a document.

The motion was agreed to.

**LIQUOR TRAFFIC IN HAWAII.**

Mr. PILES. On behalf of the Delegate from Hawaii [Mr. KALANIANA'OLE], and owing to the fact that Senate bill No. 5253, to prohibit the selling of intoxicating beverages in the Territory of Hawaii, is now before the Committee on Pacific Islands and Porto Rico for consideration, I ask that the following brief on that bill be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

Referring to the bill (S. 5253) now pending before the Senate Committee on the Pacific Islands and Porto Rico, to enact a prohibitory law for the Territory of Hawaii, I desire to submit the following facts and considerations, each of which has a direct bearing on the principle involved in the proposed legislation:

First. That for over half a century previous to annexation Hawaii enjoyed a constitutional government and was recognized as an independent nation, both by the European governments and by the United States.

Second. That Hawaii did not become a Territory of the United States either through conquest or purchase; that its annexation was brought about solely and only by a treaty negotiated between two sovereign nations by commissioners appointed by the United States of America and the Republic of Hawaii, respectively, and treating as equals.

Third. That the treaty entered into on the 16th of June, 1897, by the representatives of the two Governments stipulated the terms on which such annexation should be consummated.

Fourth. That the Hawaiian Senate on September 9, 1897, ratified the above treaty in the following words:

"Be it resolved by the Senate of the Republic of Hawaii, That the Senate hereby ratifies and advises and consents to the ratification by the President of the treaty between the Republic of Hawaii and the United States of America on the subject of the annexation of the Hawaiian Islands to the United States of America, concluded at Washington on the 16th day of June, A. D. 1897."

Fifth. That the above treaty was ratified on the part of the United States by the joint resolution of annexation approved July 7, 1898.

That resolution recites, in part, as follows:  
 "Whereas the Government of the Republic of Hawaii having in due form signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all right of sovereignty, of whatsoever kind, in and over the Hawaiian Islands, etc.: Therefore

"Resolved, etc., That said cession is accepted, ratified, and confirmed," etc.

In order to further carry out the mutual character of that treaty the joint resolution further provided:

"The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper."

President McKinley, in pursuance of the above, appointed Hon. S. M. CULLOM and Hon. John T. MORGAN, of the United States Senate; Hon. R. R. HITT, of the House of Representatives; and Hon. SANFORD B. DOLE and Hon. W. F. FREAR, of Hawaii.

This commission, after extensive hearings held in Hawaii, and after a thorough consideration of all local laws and conditions, reported a form of organic act for the Territory of Hawaii, which act was, in all substantial forms, enacted into law by the act of Congress approved April 30, 1900.

Sixth. That because Hawaii, as an independent government, voluntarily ceded its domain to the United States, in view of the high standard of self-government already attained by the people of these islands, and, further, because of the inherent reasons for giving an isolated community such as Hawaii the largest measure of local autonomy, the Congress saw fit to confer upon the Territory of Hawaii in its organic act certain broader powers than have ever been given to any other Territory of the United States.

Seventh. That because of the satisfactory showing made by the territorial government of Hawaii since annexation Congress has seen fit to enlarge those powers of self-government in certain respects, and in no case heretofore have those powers been lessened or infringed upon.

Eighth. That section 55 of the organic act provides:  
 "That the legislative powers of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable."

Ninth. That, acting under the legislative authority vested in it by the organic act, the territorial legislature has enacted a rigid law for the regulation of the liquor traffic in Hawaii. Under this law a board of license commissioners is appointed by the governor for each county. The members of these boards serve without remuneration, and no one

interested, either directly or indirectly, in the liquor business can be a member of such boards. The citizens now serving on these boards are, for the most part, men of distinctly temperance sentiment. In fact, in the county of Kauai the board has refused to issue any saloon licenses whatever, thus practically establishing local prohibition on one of the four largest islands of the group.

Section 4 of the Hawaiian liquor law provides that—  
"Each license board, within its own county, shall have the sole power, authority, and discretion to grant, refuse, suspend, revoke, regulate, and control licenses to sell intoxicating liquors in such county, subject only to the limitations and directions in this act contained. The exercise of the power, authority, and discretion by the act vested in the board shall be final in each case, and shall not be reviewable by or appealable to any court or tribunal."

The law further provides that written consent to granting of licenses must be obtained from a majority of the holders of all the real estate situated within 250 feet of the proposed location, if within one-half mile of a first or second class post-office. Outside the half-mile radius a majority of all holders within 1,000 feet must be secured.

Bond must be given by licensees for compliance with all regulations of the law. Neither women nor minors are permitted to enter saloons; and gambling and free lunches are strictly prohibited.

Not only is the sale of liquor forbidden to any woman or minor, but also to any person whose wife, son, daughter, brother, sister, parent, guardian, or employer shall have given notice, as provided, forbidding the sale of liquor to such person.

Licenses are granted only after a public hearing, where opportunity is given any citizen to show cause why the license should be refused, even though all requirements of the law have been complied with; and no new license can be issued to anyone who has once had a license revoked.

The parts of the law here referred to form only the main lines of the rigid surveillance of the sale of liquor provided for in the new Hawaiian liquor law of 1907.

If the Congress should pass a bill repealing the liquor law enacted by the Hawaiian legislature, and thus leave the liquor business wholly unrestricted in Hawaii, such an act would at once be recognized as a violation of the rights conferred on the citizens of Hawaii to regulate their domestic affairs and to establish their own police regulations.

Both in principle and in fact the pending bill similarly invades the self-governing powers conferred by Congress on the Territory of Hawaii, to be exercised by its elected legislature; it would, in effect, be no less an invasion of the right of home rule than would an act legalizing the sale of liquor to all persons and in all places in the Territory.

When the people of Hawaii gave up their independent government to become a Territory of the United States, they knew that Congress would of necessity have plenary legal authority to legislate on any subject whatever affecting the Territory; in other words, that while the Congress, by the organic act, reserved certain legislative powers to itself and conferred certain others on the Territory, the legal power to legislate on all subjects affecting those islands would still inhere in the Congress.

But the people of Hawaii transferred the supreme authority of their government to the United States, believing that the established principles of this Nation would never admit of its interfering with rights of self-government conferred on a Territory, particularly when an independent country was made a Territory of the United States, for the mutual benefit of both countries; and we still believe that the Congress, in legislating for Hawaii, will be governed by moral obligations and a regard for good faith and will not, knowingly and without good cause, revoke a previously conferred and important power of self-government, even though it have the naked legal power so to do.

It is noteworthy that the pending bill does not provide for prohibition "in the Territories of the United States," nor even for "the insular Territories and possessions of the United States." Instead it is limited to Hawaii only, implying that such paternal legislation is needed more there than in Arizona, New Mexico, Porto Rico, and the Philippines.

I resent this reflection on the people of Hawaii, because there are no facts and conditions to justify it.

As already stated above, the liquor laws in Hawaii are more restrictive than in the average State where the traffic is permitted at all. As to the character of the Hawaiian people and their capacity for self-government, it should be remembered that through their legislature, elected under the Constitution, the Hawaiian people had self-government long before either Arizona or New Mexico became a Territory of the United States; that they enjoyed self-government before the States of California, Oregon, and Washington had even achieved a territorial status; that for three-quarters of a century they have had a public-school system, so thorough and efficient that the percentage of illiteracy among Hawaiians is less than that of the great State of Massachusetts.

The unanimous testimony of nearly 100 Members of Congress who have visited Hawaii since annexation is that it is one of the most progressive American communities under the flag. Upon what grounds, then, can the Congress rightfully single out this one Territory to lessen its right to administer its purely local governmental affairs?

The annexation of Hawaii, as above shown, was secured by the United States under terms of mutual agreement with an independent government as to the degree of self-government it was to enjoy as a Territory of the United States. It is therefore respectfully submitted that any limitation of those rights can be rightfully made by the Congress only under one of two conditions, viz, either that it be shown that the misuse or abuse of that self-government in a given particular is injuring the Federal Government and the people of the United States, or else that it be legislation desired of Congress by a majority of the citizens of Hawaii.

Neither of these conditions obtaining in the case of the special legislation now pending before the Senate, I respectfully submit that the enactment of any legislation of this character would be an invasion of the rights of self-government conferred on the citizens of Hawaii, and it would necessarily violate the moral obligation of this Government to adhere to the spirit and terms of the treaty under which it secured the voluntary cession of the independent government of the Hawaiian Islands.

The Hawaiian legislature, convened in special session in November last, passed a joint resolution protesting against the passage by Congress of any such legislation as the pending measure.

As the elected representative of the citizens of Hawaii I join in that protest, and ask that no right to legislate on subjects of local

administration shall be taken from us till it be shown that we are incapable of proper self-government in that particular.  
Respectfully submitted.

J. KALANIANA'OLE.

#### ELECTION OF SENATORS BY DIRECT VOTE.

Mr. BRISTOW. Mr. President, some weeks since I introduced a joint resolution (S. J. Res. 50) proposing an amendment to the Constitution providing for the election of Senators by direct vote. The joint resolution was referred to the Committee on the Judiciary. I should like to inquire of the chairman of the committee about when we may expect a report on the joint resolution?

Mr. CLARK of Wyoming. I will say to the Senator from Kansas that as yet the committee has not had an opportunity to consider the joint resolution at all. I am unable to state definitely at what time it may report upon it.

Mr. BRISTOW. Is there any prospect of the committee giving consideration to the joint resolution?

Mr. CLARK of Wyoming. There is always a prospect and there is always a certainty that the committee will give consideration to every question that is sent before it. But, unfortunately, the committee has a vast amount of business on hand. The question to which the Senator refers will be taken up in due and proper time, and the committee will act on it, as on all other matters. There is no—

Mr. BRISTOW. Can the Senator indicate with any definiteness whatever about when the committee will get to the joint resolution?

Mr. CLARK of Wyoming. The Senator from Wyoming can not indicate with definiteness when the committee will reach the joint resolution or any other specific matter upon the calendar of the committee.

#### STANDARD WEIGHT OF COINS.

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

*To the Senate and House of Representatives:*

I submit herewith copy of a letter from the Secretary of the Treasury inclosing a memorandum and letter from the Director of the Mint relative to a modification of the deviations now allowed by law from the standard weight of the silver coins of the United States.

The Secretary of the Treasury approves of the suggestion of the Director of the Mint, and it is recommended by both that section 3536 of the Revised Statutes be amended by striking out the following words: "And in weighing a large number of pieces together, when delivered by the coiner to the superintendent and by the superintendent to the depositor, the deviations from the standard weight shall not exceed two-hundredths of an ounce in 1,000 dollars, half dollars, or quarter dollars, and one-hundredth of an ounce in 1,000 dimes."

From the memorandum prepared by the Director of the Mint it is apparent that a saving in the manufacture of subsidiary silver coin would be effected by amending section 3536 of the Revised Statutes as proposed, and I recommend that favorable action be taken by the Congress.

WM. H. TAFT.

THE WHITE HOUSE, February 7, 1910.

#### GOVERNMENT BUSINESS METHODS COMMISSION.

The PRESIDENT pro tempore. The calendar under Rule VIII is in order.

Mr. ALDRICH. I ask that Senate bill 6168, reported from the Committee on Public Expenditures, be laid before the Senate.

The PRESIDENT pro tempore. The Senator from Rhode Island asks unanimous consent that the bill (S. 6168) creating a government business methods commission be considered. Is there objection to the present consideration of the bill?

Mr. BURKETT. I should like to know something about this measure. It has not been to the committee—

Mr. ALDRICH. It was reported unanimously from the Committee on Public Expenditures.

Mr. BURKETT. I should like to know something about it. I do not know what the object is.

Mr. ALDRICH. The object is to appoint a commission to report upon the business methods in use by the Government, with a view of saving, as the committee thinks can be done, from 10 to 20 per cent of the present expenditures by the adoption of improved methods. It is a report from the Committee on Public Expenditures, unanimously made. All the members of the committee were present but two—Democrats and Re-

publicans—in a committee of 18 or 19 members and have given this matter very careful consideration.

Mr. SMITH of Michigan. I should like to ask the Senator from Rhode Island if it is intended that this commission shall perform any function that is now performed by the regular standing committees of the Senate?

Mr. ALDRICH. It is not. It does not interfere in any way with any of the functions of any standing committee.

Mr. SMITH of Michigan. Is it the purpose that the commission shall simplify the public expenditures?

Mr. ALDRICH. To simplify the methods of public expenditure.

Mr. CULLOM. I think we ought to have the bill read.

Mr. ALDRICH. Perhaps it had better be read.

Mr. SMITH of Michigan. I should like to hear it read.

The PRESIDENT pro tempore. The bill was read to the Senate on Saturday.

Mr. CULLOM. I was not here at the time.

The PRESIDENT pro tempore. At the request of the Senator from Illinois, the bill will be again read for the information of the Senate.

The Secretary read the bill.

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

Mr. SMITH of Michigan. If it is the purpose of the bill to create any additional bureaus, permanent in their character, I should not favor it. It seems to me—

Mr. ALDRICH. It has no such purpose. The effect undoubtedly will be to abolish a number of unnecessary bureaus that are now duplicating work.

Mr. SMITH of Michigan. Mr. President, at the last session we—

Mr. BAILEY. Mr. President, a parliamentary inquiry. Is the matter now before the Senate, or is it pending on a request for unanimous consent?

The PRESIDENT pro tempore. On a request for unanimous consent.

Mr. BAILEY. I will ask the Senator from Rhode Island to withdraw it for a few moments until the Senator from Maryland [Mr. RAYNER] can address the Senate, as he must leave the Chamber shortly.

Mr. ALDRICH. I will withdraw the request, and will renew it later.

#### POSTAL SAVINGS DEPOSITORIES.

Mr. RAYNER. I ask that Senate bill 5876 be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 5876) to establish postal savings depositories for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes.

Mr. RAYNER. I will ask the unanimous consent of the Senate that I may have incorporated in the RECORD some authorities that I do not care to read in full.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator from Maryland.

Mr. RAYNER. I will ask, furthermore, that I be not interrupted until I finish the argument, and after I have concluded I shall be glad to answer any question I can. I propose to discuss the bill along constitutional lines.

I shall not discuss the policy of this legislation. Whenever a measure is presented in Congress to which my attention is directed I propound to myself the antiquated question, Is this legislation authorized by the Constitution? I apprehend that this is a question that everyone should address to himself. I have not been able to find any constitutional ground whatever for this measure. No one who has read the Constitution of the United States will contend for a moment that it comes under any of the express powers of the instrument, and the utmost that will be claimed for it, I suppose, is that under the eighteenth clause of section 8 of Article I it is the necessary and proper law to carry into execution the delegated powers. I have searched in vain for any decision sustaining this contention. It is not a law necessary and proper to carry into execution clause 2 of section 8 of Article I, which gives Congress the power to borrow money on the credit of the United States, because this enactment does not purport to be for any such purpose. This Government could not borrow money simply to loan it out again. This would invest it with the power of acting as a loan association or a pawnbroker, and I recall no delegated power that confers upon the Government either capacity.

This is not a bank that we are organizing, and therefore does not come within the meaning of the decision of McCullough

v. The Bank of the United States, in Fourth Wheaton, or of the subsequent cases along the same line. This does not pretend to be a bill to borrow money upon the credit of the United States. Its title is:

To establish postal savings depositories for the depositing of savings at interest, with the security of the Government for repayment thereof, and for other purposes.

In other words, I want to impress upon the Senate in the most emphatic way I can, substantially repeating the language of Chief Justice Marshall in the great case I have referred to, that legislation like this is not the end for which other powers are exercised, but always the means by which other powers are accomplished. It must pass as incidental to other powers that are given. We have not heard one word throughout this entire debate as to the express power that it is intended to execute. The power to create a postal depository is not an express power; the power to lend money to the banks is not an express power; and the power to invest in government or other securities is not an express power. In this bill, however, these powers constitute the end and not the means. If these powers constitute the end, then the Constitution does not warrant them; and if they constitute the means, then I respectfully challenge you to name the end that they accomplish.

It is said that the Government has a right to organize a bank or charter a bank. Of course it has. Why? Because a bank is an instrumentality for carrying out a governmental function; it is not an end; it is the means of accomplishing some of the enumerated powers. Every member of our profession here will admit that this Government would have no right to organize or charter a bank simply for the purpose of going into the banking business. This Government has no right to go into the banking business, except in aid of the enumerated powers. The case that I have cited, upon the philosophy of which all subsequent decisions rest, was argued by Webster, by Pinkney, by Wirt, and by Luther Martin. Three of these illustrious advocates came from my own State, and all of them constituted as great an intellectual combination as was ever assembled before any judicial tribunal in the world.

Wirt, that gifted genius, with an inspired mind when it came to analyzing the profound principles of jurisprudence, formulated the argument that Marshall followed step by step in delivering the imperishable opinion of the court. What was it that Wirt claimed? That the Government had a right to go into the banking business as an end under any of the powers in the Constitution? Never for a moment. There is a mistaken idea like this prevalent here among some Members of this body, but no jurist, high or low, who ever presided over any court, State or Federal, ever gave utterance to such a sentiment.

Here is what Wirt said, and as Attorney-General of the United States all that he claimed, and Marshall never went a step beyond this utterance. Speaking of the bank, he said:

We contend that it was necessary and proper to carry into execution several of the enumerated powers, such as the power of levying and collecting taxes through this widely extended empire; of paying the public debts; \* \* \* of borrowing money; \* \* \* of regulating commerce; \* \* \* of raising and supporting armies and a navy, and of carrying on war. That banks diffused throughout the country are appropriate means of carrying into execution all these powers, can not be denied.

Now, I ask again, where is the power that this legislation is to execute? I challenge an answer under the decisions. This Government has no right to go into the banking business, except as an instrumentality to carry out some governmental function. Government banks can be created, and banks can be incorporated. Why? Simply because they are, within the language of the Constitution, the necessary and proper means to carry out some of the delegated powers of the Constitution. We could not pass an act of incorporation for any of the purposes indicated in this bill. Why? Because there is no governmental function involved. The depositing of money by the people is not a governmental function. Lending money by the Government is not a governmental function.

What is the object of this bill? To enable the people to deposit their earnings; to enable the Government to borrow it after it is deposited in order to loan it out again. But these are not the necessary and proper means for any end at all defined in the Constitution. It is the end itself, under this legislation, and it is the purpose of the bill, and there is nothing beyond it; and I challenge you to show me the provision of the Constitution under which it arrays itself, either expressly or by implication.

Let us not make the mistake therefore of supposing that this is a bank that we are organizing. I will give you the definition of what a bank is. I read from the best text-book, perhaps, on

that subject—Morse on Banks and Banking, volume 1, page 6, section 2:

A bank is an institution, usually incorporated, with power to issue its promissory notes intended to circulate as money (known as bank notes), or to receive the money of others on general deposit, to form a joint fund that shall be used by the institution for its own benefit, for one or more of the purposes of making temporary loans and discounts, of dealing in notes, foreign and domestic bills of exchange, coin, bullion, credits, and the remission of money; or with both these powers, and with the privileges, in addition to these basic powers, of receiving special deposits and making collections for the holders of negotiable paper, if the institution sees fit to engage in such business.

These postal depositories have no right to issue promissory notes intended to circulate as money; they have no right to use the fund for their own benefit; they have no right to discount negotiable paper, or to deal in foreign and domestic bills of exchange; or to act as collecting agents for the holders of negotiable paper. They are not government banks or national banks, or any other sort of banks, and they have no right to exercise any of the functions which go to constitute a bank. They are simply paternal institutions to take care of the people's money and to act as their custodian, guardian, or committee—a novel and original conception in these United States, however well established it may be in other countries that have no written constitution—a design that was never dreamed of by the framers of the instrument; and throughout all the long line of federal cases I call now for a single decision that has ever justified or warranted such an undertaking similar to this either in form or in substance.

This bill, then, simply provides for a savings depository, without any banking privileges, and with no pretense of carrying out a governmental function authorized by the Constitution; and it differs as much from a bank as it does from a post-office, which is the next claim in which, perhaps, refuge will be sought. This is clause 7 of section 8, but it can hardly be conceived that a post-office or a post-road is the same thing as a savings institution. Adhering to well-established legal definitions, and keeping within the range of professional sanity, there is no more similarity between a post-office and a savings institution than there is between a post-office and an aquarium or a zoological garden. Nor will we be able to show that it arrays itself under clause 3 of section 8—that all-embracing provision, and a panacea for all unconstitutional legislation—the power to regulate commerce among the States. On the contrary, the only commerce, if any, that it pretends to regulate is the loaning out of the invested money to neighboring banks in proximity to the post-office within the State, and not out of the State; and there is not a single feature of the transaction embodied in this bill, from its inception to its completion, that has the slightest connection with or effect upon interstate commerce. Therefore, you can ransack the whole Constitution and not find any warrant for this proposed enactment; and, therefore, its authors and advocates, in all the arguments that have been delivered upon the subject, with a single exception that I shall presently refer to, have not pretended to justify its constitutionality.

I do not know what the Supreme Court will do with it, if it should become a law, nor can I permit a prophetic utterance that the Supreme Court will pronounce it constitutional upon some ground or another, to influence me in my action. With the profound respect that I entertain for this august tribunal and each of its members in supporting measures here, I must find the sanction of the law before their passage, and not vote for them in the expectation that some other forum will, after their passage, discover some constitutional authority for their enactment.

I want it distinctly understood that I have not given the policy of this legislation any consideration, because the assumption of its constitutionality—an utterly unproven and indefensible assumption—must be made perfectly clear to me before I can be called upon to investigate its merits. Perhaps some profound student of the Constitution, some great discoverer of hidden and latent constitutional prerogative, will arise upon this floor before the discussion ends and point with unerring certainty to the clause of the article upon whose bosom this contemplated legislation has lain dormant for a century; and until then I reserve my right to question its authority.

I want it distinctly understood before this body that I am not influenced in the views that I take by any of the banking interests of the country. I have not held communication with any bank, directly or indirectly, or any of its officers, in my State or elsewhere, upon this subject; and I assure you that if I was in favor of this legislation upon grounds of public policy and considered it a lawful measure, without asserting any degree of independence greater than that maintained by anyone else in this Chamber, I would not permit all the bank-

ing interests in the country to influence me the other way. Nor can I, on the other hand, permit any popular demand that may exist in its favor to induce me to act contrary to my own belief and convictions. That is often the trouble with a great many of us—and I include myself in the number—that we vote for measures that we think the people want, without trying to educate them up to the point that they can not have them except at the risk and peril of our institutions. In my own State I am quite sure that if I could satisfy its intelligent constituencies that this measure finds no warrant or authority in our organic law, that they would not desire me to vote for it, no matter how convenient or advantageous it may be.

This brings me now to the only ground upon which this bill has been placed so far, and it really furnishes the reason why I have arisen to-day to participate in its discussion.

A few days before the adjournment of the Senate at the last session, a brief colloquy took place between the senior Senator from Nebraska and myself, to which I have already referred, during the course of an address that the Senator was delivering upon this bill, and to which I again make reference now. His address was replete with valuable information, and full of the fire and force that always characterize his utterances upon the floor. It was preceded at the last session, as it has been followed at this session, by a powerful and instructive argument upon the measure by the senior Senator from Montana, who is in charge of this bill, and who always illumines and unravels every subject that he discusses, and in all of his arguments upon the subject he has given us a presentation so full of interest and information that it leaves very little, if anything, for anyone else to say who is in favor of the measure.

I now quote this colloquy between the senior Senator from Nebraska and myself, substantially:

Mr. RAYNER. Mr. President, I do not know whether I am in favor of this bill or opposed to it. The trouble I have about it is this: You will admit that we must put this bill under some clause of the Constitution. Now, what clause of the Constitution is it under which this legislation is proposed?

Mr. BURKETT. I will say, in response to the Senator's inquiry, that I expect to refer briefly to that a little later on, but I think the general-welfare clause would cover it.

Mr. RAYNER. The general-welfare clause would cover everything on earth. I am aware of that.

Mr. BURKETT. Well, it has covered a good many things, I will say to the Senator.

Mr. RAYNER. Is that the proposition? You do not put it under the clause to establish post-offices and post-roads, for it is hardly possible that we could turn a post-office into a bank; you do not put it under the clause giving the power to coin money and to regulate the value thereof; but this bill is put under the general-welfare clause of the Constitution. Some of us want to understand that, because we do not believe—I certainly do not believe—that the general-welfare clause means anything in the world, and I do not think the Supreme Court of the United States has ever said that it does.

A little later on the Senator from Nebraska said:

I am not disturbed by any fear of lack of power that we may have to enact this legislation. As I replied to the Senator from Maryland, the general-welfare clause has been too liberally interpreted and too often relied upon to sustain necessary legislation for the good of the people to halt at this particular time and in this particular legislation.

This is not the first time that I have heard the general-welfare clause of the Constitution referred to upon this floor as a source of legislative power. When I first came to this body and heard Senators allude to the general-welfare clause as a grant of power, I looked upon it as a sort of burlesque upon the Constitution. I thought Senators were only indulging in a little pleasantry when they were asked under what clause of the Constitution does such and such legislation array itself, and the answer came, in a sort of bantering way, "Under the general-welfare clause, of course." I treated it as a species of satire and irony, amusing, but entirely meaningless and harmless. But lately the same answer has come so frequently that the matter has assumed a serious aspect, and I can not sit in patience any longer, if there is any impression amongst us whatever, as the Senator from Nebraska seems to think there is, that we have any right to enact the bill that he is advocating, or any bill of any kind or for any purpose, under the general-welfare clause of the Constitution.

Let me see if I can not, in a few words, relieve the Senator's mind upon that subject, and satisfy him beyond the peradventure of a doubt that there is no general-welfare clause in the Constitution as an independent grant of power, and that no text writer, no commentator, and no court has ever announced the proposition that the Senator contends for. I stand here now to declare that I shall never vote for any legislation if it has no other authority than the general-welfare clause of the Constitution, and I propose now to demonstrate, with precision, I hope, that this clause can never be invoked to sanction any measure that does not come under the enumerated powers of our organic law.

Let me now read the general-welfare clause of the Constitution:

Article I, section 8. The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States.

Now, what does this mean? It simply means that Congress shall have power to lay and collect taxes, duties, imposts, and excises, in order to pay the debts and provide for the common defense and general welfare of the United States. If, instead of saying, "to pay the debts and provide for the common defense and general welfare," it had said, "in order to pay the debts and provide for the common defense and general welfare," there never would have been the slightest discussion over this proposition. All schools and all political creeds agree upon the construction that I have placed upon this section, and it is too late at this hour, I submit to the Senator from Nebraska and to all others who may agree with him, to pervert its meaning and misconstrue its purpose. I shall read only a few brief extracts now, which, in my judgment, forever place this subject beyond the pale of controversy.

I read from Madison in *The Federalist*:

Some, who have not denied the necessity of the power of taxation, have grounded a very fierce attack against the Constitution on the language in which it is defined. It has been urged and echoed that the power "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States," amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections than their stooping to such a misconstruction.

Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general-welfare expressions just cited, the authors of the objection might have had some color for it.

But what color can the objection have when a specification of the objects alluded to by these general terms immediately follows? For what purpose could the enumeration of particular powers be inserted if these and all others were meant to be included in the preceding general power? Nothing is more natural and common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity which, as we are reduced to the dilemma of charging either on the authors of the objection or on the authors of the Constitution, we must take the liberty of supposing had not its origin with the latter.

Now, let us see what Jefferson said upon the subject:

To lay taxes to provide for the general welfare of the United States, is to lay taxes for the purpose of providing for the general welfare. For the laying of taxes is the power, and the general welfare the purpose, for which the power is to be exercised. The Congress are not to lay taxes ad libitum for any purpose they please; but only to pay the debts, or provide for the welfare of the Union. In like manner, they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless. It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would also be a power to do whatever evil they pleased.

Hamilton, who can not be charged with placing any unnecessary limitation upon the exercise of federal power in his celebrated Report upon Manufactures in 1791, which was, perhaps, the first interpretation of this clause, thus speaks of it:

Common defense and general welfare are not to be construed as a distinct grant of power, but are qualifications of the objects of the taxing power.

Judge Story, upon page 661 of his first volume upon the Constitution, uses this strong language with reference to this clause:

Do the words, "to lay and collect taxes, duties, imposts, and excises," constitute a distinct substantial power; and the words, "to pay the debts and provide for the common defense and general welfare of the United States," constitute another distinct and substantial power? Or are the latter words connected with the former so as to constitute a qualification upon them? This has been a topic of political controversy, and has furnished abundant materials for popular declamation and alarm. If the former be the true interpretation, then it is obvious that under color of the generality of the words to "provide for the common defense and general welfare" the Government of the United States is, in reality, a government of general and unlimited powers, notwithstanding the subsequent enumerations of specific powers; if the latter be the true construction, then the power of taxation only is given by the clause, and it is limited to objects of a national character, to "pay the debts and provide for the common defense and the general welfare."

The reading, therefore, which will be maintained in these commentaries is that which makes the latter words a qualification of the former; and this will be best illustrated by supplying the words which are necessarily to be understood in this interpretation. It will then stand thus: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises in order to pay the debts and to provide for the common defense and general welfare of the United States;" that is, for the purpose of paying the public debts and providing for the common defense and general welfare of the United States.

I quote in this connection what Story says in reference to the preamble of the Constitution. The preamble reads as follows:

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

These are the observations of Story:

And here we must guard ourselves against an error which is too often allowed to creep into the discussions upon this subject. The preamble never can be resorted to to enlarge the powers confided to the General Government or any of its departments. It can not confer any power per se; it can never amount, by implication, to an enlargement of any power expressly given. It can never be the legitimate source of any implied power, when otherwise withdrawn from the Constitution. Its true office is to expound the nature and extent and application of the powers actually conferred by the Constitution, and not substantively to create them. For example, the preamble declares one object to be, "to provide for the common defense." No one can doubt that this does not enlarge the powers of Congress to pass any measures which they may deem useful for the common defense.

Pomeroy, who belongs to the same school that Story does, uses this apt and unambiguous language in reference to this clause:

Congress has power "to lay and collect taxes, etc., to pay the debts and provide for the common defense and general welfare of the United States." Do these two clauses contain two separate and distinct powers, or is the latter a limitation upon the other? In other words, does the Constitution, by this language, confer upon the legislature a general faculty of taxation, and also another general capacity to pay public debts and provide for the common defense and general welfare; or does it confer a limited power of taxation, by restricting the purposes for which taxes may be laid, and confining them to the payment of debts and provisions for the common defense and general welfare? \* \* \* If the construction should be adopted which regards the second clause as an independent grant of power, it would, in effect, be making our General Government unlimited. Providing for the common defense and general welfare includes everything which any government could possibly do; and a grant of power in these broad terms would be the same as making Congress omnipotent, equal in the extent of its functions to the British Parliament.

I quote now a few lines from John Randolph Tucker, who is one of the leading advocates of the doctrines that I believe in. He says:

To pay debts can hardly be said to be a political power. To lay and collect taxes is a power, and a proper power, where its object is to pay the debts of the Government; and as these words "to pay the debts," are indissolubly connected with the words "to provide for the common defense," etc., it follows that these latter words must share the fate of the words "to pay the debts," and be taken to declare the object of the preceding power, and not the creation of a distinct power.

I will close these extracts by citing a few words from an opinion of Judge Rogers in the district court for the western district of Missouri, delivered on the 28th day of February, 1898, in the case of *The United States v. Boyer*. In that case, speaking of Judge Story's views upon the subject, he concludes as follows:

After a most elaborate and historical discussion of the subject, presenting the different views of the different political schools or parties, he concludes that the "general-welfare" clause "contains no grant of power whatsoever, but it is a mere expression of the ends and purposes to be effected by the preceding power of taxation." I content myself with the fact that the former construction has never been sustained by any court, and the reverse has been held so often as not to require citations to support it; while the latter construction rests upon the theory that the "general-welfare" clause contains no power of itself to enact any legislation, but, on the contrary, the words "and provide for the common defense and general welfare of the United States," according to the most liberal constructionist, is a limitation on the taxing power of the United States, and that only.

No case has been cited tracing the power to enact any statute to the general-welfare clause above quoted, and I do not believe any can be. The learned counsel, in this connection, has cited various acts of Congress of a nature quite similar to the one in question, but no number of statutes or infractions of the Constitution, however numerous, can be permitted to import a power into the Constitution which does not exist, or to furnish a construction not warranted.

In closing these references, I make the assertion that neither in the case of *The United States v. The Gettysburg Electric Railway Company*, in One hundred and sixtieth United States, 668, referred to by the Senator from Nebraska, nor in any other case decided by the Supreme Court or by any other court, has it ever been held that the general-welfare clause was a grant of power, but, on the contrary, all the cases in which the constitutionality of acts of Congress have been maintained have always been traced to one of the enumerated and delegated powers reposed by the States in the General Government.

That this statement may not seem to be exaggerated, I now assert that there is not one single case in all the line of federal authorities where it has ever been held that any act of Congress was justified under the general-welfare clause of the Constitution. In One hundred and sixtieth United States this case was placed under the power to declare war, and other enumerated powers. The act of Congress provided for the



erection of tablets to the memory of the dead upon the field of Gettysburg.

Congress has power to declare war—

Says the court—

and to create and equip armies and navies.

Then the court proceeds to hold that Congress has a right, as an incidental power, to commemorate the memory of those who have fallen upon the field of battle.

I hope, therefore, that we shall hear no more in the Senate about the general-welfare clause constituting a grant of power. It strikes me like a discordant note of music that jars the melody of the Constitution and makes the whole instrument vibrate with inharmonious sounds.

I know the Constitution under the last administration was in a state of collapse. Upon a number of occasions upon this floor I attempted to show how it received blow after blow, until it was almost sent staggering to its grave. The predecessor of our present President, whatever else he may have been, was not a student of the Constitution; he did not care for its restrictions, and did not consider himself bound by its limitations. We have an occupant of that office now who is thoroughly familiar with the landmarks of his power; who, with his judicial temperament, will not only hold himself in equilibrium, but proposes to hold in proper poise and balance the checks and safeguards of governmental power. Therefore when he submits a question like this to us it is worthy of our most serious consideration. The President takes the oath not only to protect and defend, but to preserve the Constitution. Now, by the solemn oath he takes, may he preserve it unprofaned in all its parts, and once more call it back to resurrection and to life.

He has never said in the messages that he has submitted to us under what grant of constitutional power he has proposed this important legislation. One thing I feel sure of, and that is that he will never regard the general-welfare clause of the Constitution as an independent grant of power. Such an interpretation as this, while it would suit the heretics who are waging relentless war against the philosophy of our institutions, would convert us into a centralized government of inherent and unlimited functions; would sweep to oblivion the reserved rights of the States; would render the enumerated powers of the Charter absolutely superfluous and unnecessary; would give Congress the right to pass any legislation whatever that, in its arbitrary discretion or from political motives, it may determine upon, and, in my opinion, destroying the autonomy of the States and obliterating the inviolable declaration of the tenth amendment; would make such a gaping wound in the heart of the Constitution that the blood that gave it life would wither in its veins.

Mr. SUTHERLAND. Mr. President, the Senator from Maryland, in opening his remarks, suggested that he did not desire to be interrupted until he had completed what he had to say. I want to ask the Senator a question or two—and I am not asking them in any spirit of antagonism to what he has said, for he has evidently given this subject a great deal of attention, but I ask them with a sincere desire to ascertain his opinions with reference to them. In the first place I, of course, entirely agree with what he has said with reference to the general-welfare clause. The general-welfare clause of the Constitution is not a substantive grant of power; it is simply a limitation upon the taxing power. I think that is clear.

Let me begin with an illustration. The word "commerce" in the Constitution has been applied so as to include new and additional things during the history of the Government. It has a more extended meaning to-day than it had, perhaps, when it was first used in the Constitution; at any rate, it is applied to new instrumentalities, new conditions that have since arisen.

The Senator said that this proposed legislation could not be justified under the post-office clause. The post-office itself is a matter of growth. Post-offices not only in the United States, but all over the world, have taken upon themselves new functions and are performing new functions—functions that were not recognized as belonging to the post-offices of a hundred years ago—and this is one of them. Post-offices in practically all the civilized countries of the world, as a part of their post-office business, have established postal savings-bank depositories. The question I want to ask the Senator is, in view of that history, in view of the fact that it is recognized by practically all the countries in the world that the postal savings institution does belong to the post-office, whether or not it may be considered now as belonging to the post-offices of this country as well? In line with that suggestion, I wish to call the Senator's attention to the fact that the post-offices to-day issue money orders, which are in the nature of bills of exchange. The post-offices do that without any objection, and the law of

Congress giving that power, so far as I know, has never been attacked. Does not the Senator think that the function of postal savings banks belongs as much to the modern post-office as that of issuing bills of exchange?

Mr. RAYNER. Mr. President, I am glad the Senator from Utah has asked me that question, and I will try to answer it briefly; for, if I should answer it fully, it would take me a long time.

The power that a bank exercises in discounting commercial paper is a regulation of commerce. When banks receive notes and checks and bills and drafts and engage in the business of discounting them all through the United States, they are aiding the Government, in connection with one of the enumerated powers of the Government, to regulate commerce between the States. The placing of a deposit in a post-office does not aid any of the enumerated powers. It is not the business of a post-office to receive money as a savings institution. How do you connect the business of receiving money with the post-office? There is no connection between a post-office to receive the mails and a place within the post-office which is to be a savings institution. What legal connection, what constitutional connection, is there between post-offices and post-roads—a post-office being the place to hand the mail in and deliver it, and a post-road being the place over which it is carried—and an institution where people can deposit their earnings upon interest? Where is the incidental power? Where are the necessary and proper means, using the language of the Constitution, to establish a post-office?

Now, as the Senator has asked me the question, let me read him a few lines from two of the greatest lawyers of their generation. They were arguing the proposition of a government bank, and their argument answers the proposition of the Senator from Utah. I refer to what Mr. Webster said in this great case that I have referred to. There was no contention that the Government could go into the banking business any more than that the Government would have a right to go into the savings-institution business. A savings institution is not even a bank; but, conceding that it is, Mr. Webster, in arguing for the constitutionality of the Bank of the United States, said:

Corporations are but means. They are not ends and objects of government. No government exists for the purpose of creating corporations as one of the ends of its being.

Let me now read what Pinkney said upon the subject. Both of these great lawyers were arguing in favor of the constitutionality of this act of Congress. This was his argument, and Marshall followed close along the line of Pinkney and of Webster and of Wirt. It was argued on the other side by Luther Martin from my State, who contended for the opposite doctrine, as the Senator will recollect. Speaking of the Bank of the United States, Pinkney said:

In the bank, which is actually established and incorporated, the United States are joint stockholders and appoint joint directors; the Secretary of the Treasury has a supervising authority over its affairs; it is bound, upon his requisition, to transfer the funds of the Government wherever they may be wanted; it performs all the duties of commissioners of the loan office; it is bound to loan the Government a certain amount of money on demand; its notes are receivable in payment for public debts and duties; it is intimately connected, according to the usage of the whole world, with the power of borrowing money, and will all the financial operations of the Government. It has, also, a close connection with the power of regulating foreign commerce, and that between the different States. It provides a circulating medium by which that commerce can be more conveniently carried on and exchanges may be facilitated.

Not one of these powers does this postal depository exercise in aid of the right to regulate commerce to which the Senator has referred. The people go into the post-office, and it makes little difference whether they actually go into the post-office or go into some other building next to the post-office or go into any other building. A building can not make an unconstitutional law constitutional. And they deposit their money. I ask the Senate, is that a governmental function? Let us stop there. I ask any Senator to rise in his seat and tell me that the depositing of money by the people anywhere, at any time, or in any place, is a governmental function. What is the next step? The next step is that the Government takes this money. What does it do with it? It loans it out to the banks. Is loaning it out to the banks a governmental function? This Government has a right to borrow money. For what purpose? To pay the expenses of the Government. It has no right to borrow money simply for the purpose of loaning it out again. It takes this money. It loans it to a bank. It receives 2½ per cent from the bank, and it takes the 2½ per cent and with 2 per cent pays interest to the depositor. Where is there anything that assimilates itself to a post-office in this transaction? Tell me the similarity, the slightest resemblance, between such an institution as that and a post-office. It is a savings institution, and a savings institution is

not a post-office. That is the reason I have argued this proposition at both ends. If it was a bank, it accomplished no governmental functions, but it is not a bank. How is it possible to treat it as a necessary and proper means to carry on the post-office? That is the language of the Constitution—necessary and proper means to carry on a post-office or a post-road.

Mr. SUTHERLAND. One other suggestion. One of the things that will be accomplished by the postal savings depository, as I understand it—at least, one of the things that it is claimed will be accomplished—is that it will bring out of hiding a great amount of money. I think it is estimated by the Postmaster-General that at least a half billion dollars or more may be brought into circulation, which otherwise would be hidden away in stockings and bureau drawers, and so forth. But whatever the amount may be, it undoubtedly will bring a large amount of money into circulation.

Everybody understands the profound relation between money and commerce. Commerce can not be carried on without money.

Mr. RAYNER. Let me interrupt you. Something important may escape your mind. Postal orders are merely the means of enabling the post-office to execute its governmental power in the transmission of the mail. Postal orders are transmitted through the mails to enable the Government to execute its governmental powers. But how does the depositing of money in a post-office, which is taken right out of the post-office and put in a bank, enable the Government to execute a governmental function?

Mr. BAILEY. If it happened that the Government had an internal-revenue office in all these towns instead of a post-office this bill would provide for depositing the money with the internal-revenue collector instead of the postmaster, and it simply adopts the post-office without any pretense that it bears any relation to power to establish post-offices and post-roads.

Mr. RAYNER. Because it is convenient.

Mr. BAILEY. That is all.

Mr. SUTHERLAND. In making the first inquiry I put to the Senator from Maryland the thought in my mind was that a post-office is a thing which may take upon itself new functions. What the word "post-office" meant a hundred years ago may not be exactly what it means to-day.

Mr. BACON. Mr. President—

Mr. SUTHERLAND. In other words, the post-office to-day may embrace more than it embraced a hundred years ago; and we may have reference, in determining that question, to the usages and customs of the civilized world.

Mr. BACON. Mr. President—

Mr. RAYNER. I will answer when the Senator from Georgia shall have concluded.

Mr. BACON. I desire, with the permission of the Senator from Maryland, to ask the Senator from Utah a question. The Senator's suggestion is that while postal savings banks were not originally recognized as a legitimate part of the post-office, other nations have engrafted them upon the post-office business, and therefore they might be recognized now the world over as a legitimate part of the functions of the post-office.

Mr. SUTHERLAND. Will the Senator permit me?

Mr. BACON. The question I desire to ask is this. I have not yet asked the question. Suppose other nations, after having completed their system by having engrafted postal savings banks upon the Post-Office Department, should go further and inaugurate a system of government insurance—life insurance and fire insurance—and should engraft it upon the post-office systems of their several countries, would the Senator contend that that would give warrant for us to enlarge, as a legitimate function, under the Constitution of the United States, of the Post-Office Department, the entering by the Government of the United States into the business of life insurance or fire insurance, to be performed through the agency of the Post-Office Department?

Mr. SUTHERLAND. The Senator from Utah was not contending for either proposition. The Senator from Utah was simply asking for the view of the Senator from Maryland.

Mr. BACON. But the Senator did suggest this, and I understood he suggested it necessarily with his personal approval, that as the business of the post-office departments in other governments had been enlarged the legitimate functions of the Post-Office Department had been enlarged by the general recognition in foreign governments of the propriety of ingrafting upon the business of the post-office the business of postal savings banks, and that therefore our constitutional limits had been enlarged correspondingly, and that as this was a legitimate part of the function of the post-office in other governments it would also be a legitimate part of its function in this Government.

I simply desire to know of the Senator whether, if that were true, there could not be an enlargement of the functions of the Post-Office Department under the Constitution of the United States to the extent that it would take in also fire insurance and life insurance or any other department of business, and where possibly would the line be drawn, if perhaps other governments, not having our constitutional limitations, should seek to ingraft upon their post-office departments functions which they have not heretofore recognized as legitimately belonging to them?

Mr. SUTHERLAND. Of course I recognize that we may go so far that the proposition may lose all reason. But within reasonable limits—and I am not prepared now to say where those limits are—we may have some reference to what is being done in other countries as pointing the meaning of a word in our own Constitution. As I said in the first question I put to the Senator from Maryland, the word "commerce" has come to have a more extended meaning; at least it has come to include things which it did not include when originally used. It includes railroads, which, of course, it did not include at the time of its adoption.

Mr. BACON. Therefore the Senator argues that postal savings banks are properly included within the functions of the postal business; and hence I desire to know of the Senator if we could not with equal logic, if other governments should seek to engraff fire or life insurance upon the post-office, extend it to those lines as a legitimate business of the Post-Office Department, as well as the function of savings banks?

Mr. SUTHERLAND. I do not care at this time to enter upon a discussion of that particular question, and I was entirely in earnest when I said to the Senator from Maryland—

Mr. RAYNER. I want to say a word—

Mr. SUTHERLAND (continuing). That my question was asked with a view to getting the opinion of the Senator from Maryland upon that subject.

Mr. BAILEY. The Senator from Utah is too good a lawyer to adopt the view that he suggested, and I have looked in his face and watched the operation of his mind answer his suggestion. That is the reason he does not answer.

Mr. RAYNER. I was just going to pay the Senator from Utah the same compliment—that upon reflection he would come to the conclusion—

Mr. SUTHERLAND. I will say to the Senator—

Mr. RAYNER. Let me answer the question. There is no more connection between a savings institution and a post-office than there is between a savings institution and the army and the navy. We have the right to declare war. We might provide that the people might take their money into the War Department and hand it to the Secretary of War, because he could use it in case of war. There is just as close connection between the one as the other.

Mr. CARTER rose.

Mr. RAYNER. I see the Senator from Montana has risen.

The Senator from Utah would not stand in court, and the Senator from Montana would not stand in court—both of them are too good lawyers—and say to the Supreme Court of the United States that a post-office is the same thing as a savings institution.

Mr. CARTER. No; but with the permission of both Senators—

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Montana?

Mr. SUTHERLAND. In just a moment. The Senator from Utah is simply seeking light, and he thinks he is applying to the proper source.

Mr. RAYNER. I think it requires very little light to illumine this proposition, and the Senator from Utah, capable as he is, will upon reflection, I am sure, come to the same conclusion.

Mr. SUTHERLAND. I was about to put to the Senator another question when I was interrupted, and had partly formulated it, but not entirely. I was calling the attention of the Senator to the fact that commerce and money are intimately related. I think it was Mr. Webster or Mr. Hamilton who said that money is the very lifeblood of commerce. We can not carry on commerce without money. Now, may it not be that if the savings depositories bring into circulation a large amount of money which would otherwise be hidden away, they have such a profound relation to commerce that they may be said in a measure to regulate commerce? In other words, if we would pass a law here which would retire from circulation entirely all the money in the country, commerce would be destroyed; it would be brought to an end.

Mr. RAYNER. There is one response to that question without answering it in full. That a bill may possibly do some-

thing that it does not indicate or purport to do is no warrant for action, because if you go upon that line you could go through a hundred grades until you come to the incidental power you want. The bill must demonstrate that the method it adopts is necessary for carrying out a governmental power. This money is to go to the state banks, and state banks can not exercise a governmental function.

Mr. SUTHERLAND. But it brings the money into circulation.

Mr. RAYNER. It brings the money into circulation by loaning it out to state banks, and state banks have no right or power to exercise a governmental function, and Congress has no right to invest them with it.

Mr. SUTHERLAND. The result of this institution is to bring into circulation for the use of commerce a vastly increased sum of money. It profoundly affects commerce, and the question I wanted to submit to the Senator was whether or not—

Mr. BACON. Suppose the Government was to go into the gold-mining business for the same reason—to bring more money into circulation?

Mr. SUTHERLAND. I do not think the Government could go into the gold-mining business.

Mr. BACON. That is true; but it is a fact that the Senator's argument carried to a legitimate conclusion would bring it exactly to that point. The Senator's argument simply is that anything that will bring more money into circulation is a governmental function. If the Government should develop gold mines, it would bring more money into circulation.

Mr. SUTHERLAND. That was one of the strong arguments for the United States bank—that by promoting the circulation of money it would affect commerce and in that way be a regulation of commerce.

Mr. BAILEY. The Senator persistently speaks of commerce. Of course, he knows as well as I do that it must be interstate commerce before it is subject to the jurisdiction of the General Government. I would ask the Senator from Utah if he thinks that the act of receiving deposits and making a loan bears any resemblance to interstate commerce?

Mr. SUTHERLAND. If you increase the supply of money you increase the facility with which commerce may be carried on among the States; the fact that it may also incidentally affect intrastate commerce would not, in my judgment, affect the power of Congress.

Mr. BAILEY. The Senator from Maryland has well suggested that the purpose to be served must be an immediate purpose. You can not go through the various gradations until you serve what the lawyers call a "causa remota." It must not only be proximate, but it must be immediate; and the idea of the Federal Government regulating discounts and deposits, or if you do not choose to call it "discount," then call it "deposit and loan of money," within a State, upon the theory that it might remotely affect interstate commerce, is going altogether too far.

I am not so sure but that the Federal Government would have ample power to purchase and operate a gold mine if it was purchasing and operating it in order to obtain gold to perform its constitutional function of coining money. I express no decided opinion on that. But I do express the decided opinion, as has been so often and well stated by the Senator from Maryland, that before the Government can do anything under what are called the "implied powers" of the Constitution it must find some specific grant of power. That grant of power being found, then the Congress can choose the means of executing it. But certainly until you find the power to regulate the thing itself, Congress has no choice of means.

Now, I will state it in this way: If the Constitution of the United States were to say that Congress shall have power to encourage thrift and economy among the people, then undoubtedly, if we conclude that a postal savings bank is a necessary and appropriate means of encouraging thrift and economy, we would have the power to establish it. But the purpose of this bill, as proclaimed by all its supporters and as asserted by the President of the United States—not the present President, but his predecessor in that great office—is to encourage thrift by guaranteeing the safety of deposits. The Government having no power to encourage thrift, having no power to guarantee the deposit of any man's money, it has no power to create an instrumentality for that purpose; and that is the whole argument against the matter.

Mr. SUTHERLAND. The Senator from Texas has spoken about the power to coin money. I think it is conceded, at any rate the Supreme Court has determined, that one of the constitutional functions of the Government is to provide a currency for the people, and if I am not mistaken in the Veazie

Bank case said that having assumed that constitutional duty it was also the duty of the Government to see that the currency was preserved and that an adequate supply was provided.

If that statement of the power of the Government is correct, then the Government would have the power to increase the quantity of money to be circulated through the country by adding to the supply, by coining more money, by issuing more bank notes, or in some such way as that. If it has the constitutional power to do that, why may it not also have the constitutional power to add to the quantity of money by some device of this character which will bring it out of hiding and put it into circulation quite as effectively as would be done by additional coinage?

Mr. BAILEY. Of course the Senator from Utah knows as well as I do the conflict between the decisions of the Supreme Court of the United States on the question of paper currency. He understands very well that the court twice decided the legal-tender acts unconstitutional, and finally decided they were constitutional. The Senator from Utah also understands there was a divided court in the case of *Veazie Bank v. Fenno*. But I waive all that, and I admit it is not only the right, but the duty, of the Government to supply the country with a sufficient volume of currency. But I deny that in the performance of that duty the Government can act on anybody except itself. If it is true that the Government has the power to bring this money out of hiding by enticing it from its hiding place, it has the power to bring it out by punishing the man who hides it. The Senator from Utah would not contend that a statute making it a crime for a man to bury or lock up his money would be within the competence of Congress; and yet if Congress possesses the power to keep the money in circulation after it has issued it and possesses the power to act upon those who are disposed to keep it at their homes in any way they please, then it must have ample power, because, the power granted, all the courts say it is plenary, and it is sufficient to fulfill its purpose.

I think nobody would be willing to say the Congress of the United States could make it a crime if I chose to lock up my money or if anybody else chose to do so.

Mr. CARTER. Mr. President, it is not my purpose to further delay the consideration of the bill; the Senator from Washington is very desirous of proceeding; but I deem it appropriate at this time to make a brief statement on the subject-matter which has been under discussion.

I think the Senator from Maryland is entitled to the thanks of the Senate for making the timely and exhaustive statement he has made in opposition to this measure on constitutional grounds, and it is quite important that we should understand his position clearly.

First, be it understood that the Senator from Maryland does not insist that the establishment of a postal savings-bank system as contemplated by the pending bill would be in violation of any clause of the Constitution to which he can refer. It is important to bear this in mind. The Senator does not assert—and because he does not so assert I assume it can not be asserted—that any particular provision of the Federal Constitution would be violated by this enactment. What the Senator does contend is that there is no specific authority to be found in the Constitution to warrant this kind of legislation.

Mr. RAYNER. Let me say just a word. Do not make any mistake. I do not contend for that. I contend that there is no specific authority and no implied authority. This is not a specific grant, nor is the bill the necessary and proper means to carry out any specific grant.

Mr. CARTER. I will liberalize to the end that the Senator may have the full benefit of the statement as he qualifies it. The Senator contends that he can not find specific or implied authority in the Constitution for this proposed enactment.

Mr. President, much has been written on the Constitution of the United States, and many views originally adhered to with great strength have been abandoned. The Constitution itself, although the subject of long discussion, probably destined to be the subject of difference of opinion to the end of time, seems to be, after all, what the framers intended it should be—a very simple, plain document. Section 8 of Article I of the Constitution enumerates the powers which Congress shall have—the power to do various things. I think there are about 18 subdivisions of that section. Section 9 proceeds to state what the Congress can not do. Section 10 proceeds to prohibit the States from doing certain things. If every act of government must be traced back to some specific authorization contained in section 8, then it would be necessary for us to curtail government activities in a thousand general and special directions, if you please, which will occur at once to the mind of every Senator present without recapitulation on my part.

The very building in which we are deliberating was erected without special constitutional warrant. The whole detailed fabric of Government has been established in many particulars without any special warrant of law. Who can find any constitutional authority for the examination of soils in the States by the Department of Agriculture? Who can find any specific constitutional authority for placing fish in the streams in the various States? Who can find forest reserves named in the Constitution?

Mr. President, there is no prohibition on this legislation. But bear in mind that while the Constitution prohibited certain things to the Congress and gave certain powers, that same Constitution created a sovereign State, and in the exercise of an attribute of sovereignty this Government was authorized to do whatsoever was not prohibited which might lead to the betterment of the people and the accomplishment of the high ends of Government.

Mr. President, the question here, and the only question, is, May the Government of the United States authorize the people of the United States, for their own benefit and convenience, to subject existing machinery of Government to an additional use in no sense inconsistent with the purposes for which the machinery was created? We permit the States to occupy the old Hall of the House of Representatives with statues of former citizens of renown in the respective States. It is believed that that is an exhibition conducive of patriotism and its growth. But there is no constitutional warrant for it, of course, more than there is a constitutional warrant for the Smithsonian Institution and its administration.

Mr. President, I hope Senators who hereafter address themselves to the constitutional proposition here involved will answer this question: Is it competent for the Government of the United States, having an established governmental institution with widespread facilities, consisting of post-roads, post-offices, and officers in charge, to permit the people of this country to use these facilities for purposes wholly consistent with, and in no sense inconsistent with, the purpose for which the facilities were created? That is the only question involved in this case.

Mr. RAYNER. Will the Senator allow me to say just one word?

Mr. CARTER. Certainly; I would be glad to have the Senator do so.

Mr. RAYNER. I want to say only a word.

The proposition the Senator states is stated often here. Whenever we are dealing with an unconstitutional act some one cites some unconstitutional statute in support of it. I have heard it often here that we have passed such-and-such a law, and such-and-such a law. These laws have never gone before the Supreme Court of the United States.

I want to read merely two lines to the Senator from Montana, instructive lines, from a decision from the case of *The United States v. Boyer*, delivered by Judge Rogers in the district court for the western district of Missouri, when the same citation was made in the court and the very question that the Senator asks was answered. This was under the meat-inspection law, and the question was whether Congress had a right to send an inspector to a State for the purpose of examining cattle. We passed the law, and when the law was passed dozens of statutes were cited in support of it, that we have passed such-and-such a law; but when the law came into court the judge who presided, and who is a man of great ability, and served, I think, in the House of Representatives with the Senator from Montana and myself, used this language. He said:

The learned counsel, in this connection, has cited various acts of Congress of a nature quite similar to the one in question, but no number of statutes or infractions of the Constitution, however numerous, can be permitted to import a power into the Constitution which does not exist, or to furnish a construction not warranted.

What we want in this case is not some law that has never been passed upon by any of the federal courts, but we want a law that has been passed upon by some of the federal courts. These laws, one by one, as they come before the Supreme Court will perhaps be pronounced to be unconstitutional.

In this case a party was charged with an attempt to bribe an inspector. The point was made that under the meat-inspection law you had no right to send an inspector into the State of Illinois. The court held you could not bribe him, because the act sending him into the State of Illinois was an unconstitutional act. This decision has never been appealed from by the law officers of the Government. You can not send these inspectors into our States. About a year ago I went to the Secretary of Agriculture. He had sent an inspector into one of the farming districts of my own State, into Carroll

County, and had assumed powers he had no right to exercise. I called the Secretary's attention to this decision. He said his attention had never been called to it before.

You have no right to go into the States and exercise a power that does not carry out some enumerated power of the Constitution, unless that power itself is necessary and proper within the language of the cases I have cited to effect an enumerated power. If the only constitutional warrant—and I say it with the greatest respect and deference, because there are no two Senators in this body for whom I have greater respect—if the only constitutional warrant for this act is the argument that has been made by the Senator from Utah and the Senator from Montana, then we can all assume that it is unconstitutional.

Mr. CARTER. Mr. President, perchance at a later hour in the course of the discussion of this question, I shall undertake to review the authorities presented by the Senator from Maryland and those to be presented by the Senator from Texas. My purpose in arising at this time has been served by a presentation of the question to be considered, as I understand it; and that I will repeat so that no misunderstanding may arise.

The Senator states that this is not in violation of any clause of the Constitution, but it is unwarranted by any delegated or implied power. I put the question again: Does the Senator deem it a violation of the Constitution of the United States for the Congress, in the exercise of its wisdom as to a course of policy deemed wise, to extend to the body of the people the right to use facilities created, existing, and maintained under constitutional authority, when the use thus extended is in no wise inconsistent with the original purpose of creating the governmental facility or machinery?

Mr. RAYNER. I hope the Senator from Montana, in the presence of the distinguished Senator from New York [Mr. ROOR], will not pursue the proposition that we can pass any legislation here that we want if it does not violate the Constitution of the United States.

#### EXTRADITION OF FUGITIVES FROM JUSTICE.

Mr. PILES. Mr. President, I ask that Senate bill 4462 be laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4462) to amend section 5278 of the Revised Statutes.

Mr. PILES. The Senator from Idaho [Mr. HEYBURN] has an amendment pending. I have sent for the Senator to come in.

The PRESIDENT pro tempore. The pending question is on the amendment offered by the Senator from Idaho [Mr. HEYBURN]. The amendment will be stated.

The SECRETARY. On page 1, line 10, strike out the words "duly filed" and insert "made after an examination and the hearing of sworn testimony and filed in a court of competent jurisdiction to try the parties charged for the offense charged."

Mr. BORAH. Mr. President, it does not seem to me that that amendment is at all essential. It covers that which may now be done by the governor of the State before the prisoner is demanded to be given up, and it is in a measure overhauling the law as it now exists.

While I am on my feet I may say that this provision which has been reported here simply covers the question of an information and leaves the statute otherwise just as it is now. Under the present law the governor may demand a hearing and he may refuse to give up the prisoner demanded if the hearing is not satisfactory to him.

It was not the intention of the committee to redraft and overhaul the entire statute with reference to extradition. It was simply the desire of the committee to include in the extradition law a provision that a man may be extradited upon indictment, or upon information, or upon affidavit filed before a magistrate.

It was suggested the other day while we were discussing this matter that it did not necessarily follow that a party would have to be in the State where he was charged before he could be extradited; that is to say, that it did not necessarily follow that if the party was charged with crime in the State of Washington, he should have been in the State of Washington before extradition would lie.

I call attention to the fact that a party can not be extradited under the statute nor under the Constitution unless he has been in the State which is demanding him. This matter has been well settled by the Supreme Court in the case of *Hyatt v. Corkran*, where it is held that if a party was not in the State which charged him with the offense, he is not subject to extradition. It does not make any difference whether he is charged by indictment, by affidavit, or information, he must

have been a fugitive from justice, and he can only be a fugitive from justice when he was physically present in the State at the time he violated the law of the State.

So, we have here, Mr. President, in the first place, States which prosecute men by information. There are recognized methods of procedure in those States. The purpose of the committee was to recognize that method of procedure and to recognize it in the extradition law.

Second, we have as a safeguard to that the fact that the governors of the States are never compelled to deliver up the party.

Third, that the governors of the States may demand any showing that they desire.

And, fourth, that the party must have been physically present in the State where he is charged before he can be extradited at all.

There can be no possible injury worked to anyone under this amendment of the law. There can be no possible harm done, because it is a recognized act of procedure in the State, and the governor has the absolute control of it and is not in any sense compelled to act upon the mere showing that can be made under the statute.

Mr. PILES. Mr. President, I have sent for the senior Senator from Idaho, who is down in the lunch room. I do not like to have the amendment disposed of in his absence. Therefore, I will say a few words in respect to it, in order that the Senator may reach the Chamber before the amendment is disposed of.

The amendment as proposed by the senior Senator from Idaho would put the existing law in a much worse condition than it is at the present time. The law now provides that one may be extradited from one State to another State upon the production of an indictment found or an affidavit filed before a magistrate. The proposed amendment provides that before extradition can be had upon an information there must be an examination and the sworn testimony filed in a court of competent jurisdiction. This would, as I view it, entail a needless and a useless expense upon the States which prosecute by information. The examination could be of no benefit to the alleged fugitive, because he would not be within the limits of the State and could not participate in the examination.

I hope, therefore, that this amendment will not prevail, as it would simply encumber the existing law and put us in a worse condition than we are at the present time.

#### GOVERNMENT OF ALASKA.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 5436) to create a legislative council in the district of Alaska, to confer legislative powers thereon, and for other purposes.

Mr. PILES. It is the desire of the Senator having charge of the bill that it be temporarily laid aside without prejudice. I ask unanimous consent that the bill be temporarily laid aside without prejudice.

The PRESIDENT pro tempore. The Senator from Washington asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and that order is made.

#### MONONGAHELA RIVER BRIDGE, WEST VIRGINIA.

Mr. ELKINS. Mr. President, with the permission of the Senator in charge of the bill pending, I should like to ask unanimous consent to take up a bridge bill. It is House bill 17161. It is merely a bridge bill, to which there is no objection.

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

Mr. PILES. I yield to the Senator from West Virginia.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate, if there be no objection.

The Secretary read the bill (H. R. 17161) to authorize the Union Railroad and Dock Company to construct and operate a bridge across the Monongahela River, in the State of West Virginia, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

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

#### EXTRADITION OF FUGITIVES FROM JUSTICE.

Mr. PILES. I now ask that Senate bill 4462 be proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4462) to amend section 5278 of the Revised Statutes.

The PRESIDENT pro tempore. The pending question is on the amendment offered by the Senator from Idaho.

Mr. ROOT. Mr. President, I dislike to see the bill disposed of in the absence of the Senator from Idaho [Mr. HEYBURN]. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

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

Bailey	Crawford	Gamble	Purcell
Beveridge	Cullom	Guggenheim	Root
Borah	Curtis	Hale	Shively
Bourne	Depew	Heyburn	Simmons
Bradley	Dillingham	Johnston	Smith, Mich.
Briggs	Dixon	Kean	Smoot
Bristow	Dolliver	La Follette	Stephenson
Brown	du Pont	McCumber	Stone
Burkett	Elkins	Martin	Sutherland
Burnham	Fletcher	Nixon	Taylor
Carter	Flint	Oliver	Tillman
Clapp	Foster	Overman	Warner
Clark, Wyo.	Frazier	Page	Warren
Clarke, Ark.	Frye	Paynter	
Clay	Gallinger	Piles	

Mr. FLINT. I desire to announce that my colleague [Mr. PERKINS] is ill and unable to be present.

The PRESIDENT pro tempore. Fifty-eight Senators have responded to their names. There is a quorum present. The pending question is on the amendment offered by the Senator from Idaho [Mr. HEYBURN], which will be stated.

The SECRETARY. On page 1, line 10, strike out the words "duly filed" and insert "made after an examination and the hearing of sworn testimony and filed in a court of competent jurisdiction to try parties charged for the offense charged."

Mr. HEYBURN. Mr. President, it is not my intention to discuss the amendment further than to restate what it proposes in this, I presume the moment of voting, so that it may be understood. There can be no reason why the amendment should not be adopted. It simply requires that the responsibility of some one shall be behind the issuance of requisition papers, so that a party may have some redress, either in the nature of damages or to hold the party responsible in other ways who files or makes a statement that proves to be utterly baseless.

I have in my mind two instances that came under my notice where parties were taken the full length of the country and brought up in court only to have a nol-pros entered under the instructions of the judge, who said, "This is apparently an effort to invoke the criminal law for the collection of a debt;" and the debt was a disputed item. They had been taken across the continent in order to be told that. Had some one been compelled to put some responsibility behind the charge, perhaps they would have been a little more careful. I am willing to submit it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Idaho [Mr. HEYBURN].

The amendment was rejected.

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

#### ORDER OF BUSINESS.

Mr. BEVERIDGE. It was the understanding between the Senator who is in charge of the postal savings-bank bill and the chairman of the Committee on Territories that the unfinished business should be laid aside from day to day until the consideration of that bill had proceeded a reasonable time. That is the reason why the unfinished business is still laid aside, and will not be asked to be considered until 2 o'clock to-morrow.

Mr. HEYBURN. I think I should say at this time that within a few days, or a comparatively short period, the Committee on the Revision of the Laws will present the judiciary title for the consideration of the Senate, and because of the importance and the character of the measure we would like to have it in the position of unfinished business at as early a day as possible. It will be a long and laborious task, undoubtedly, to present it and consider it in this body.

I merely make that suggestion so that existing orders may, if it is convenient to the Senators and in their judgment wise and possible, be disposed of before that measure comes in.

#### ASSAY OFFICE AT LOS ANGELES, CAL.

Mr. FLINT. I ask unanimous consent for the present consideration of the bill (S. 2902) to establish an assay office at Los Angeles, State of California.

The PRESIDENT pro tempore. The bill will be read for information, subject to objection.

The Secretary read the bill.

Mr. STONE. I should like to ask the Senator from California if there is not an assay office now at the city of San Francisco?

Mr. FLINT. There is one at San Francisco.

Mr. STONE. What is the distance between Los Angeles and San Francisco?

Mr. FLINT. Over 500 miles.

Mr. STONE. What is the special need for another assay office so near to San Francisco?

Mr. FLINT. On account of the enormous business coming from the southern part of Nevada and from Arizona, which is entirely tributary to southern California now, and not to San Francisco.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to establish an assay office of the United States at Los Angeles, in California; the office to be conducted under the provisions of the act entitled "An act revising and amending the laws relating to the mints and assay offices and the coinage of the United States," approved February 12, 1873, and provides that the officers of the assay office shall be an assayer in charge, at a salary of \$2,500 per annum, who shall also perform the duties of melter; an assayer, at a salary of \$1,800 per annum; a cashier, at a salary of \$1,500 per annum, who shall perform the duties of the assayer in charge in his absence. It also authorizes the Secretary of the Treasury to rent a suitable building for the use of the assay office, and appropriates \$20,000 for salaries of assayer in charge, assayer, cashier, and wages of workmen, and for rent and contingent expenses.

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

#### ELIZABETH G. MARTIN.

Mr. CURTIS. I ask unanimous consent for the immediate consideration of the bill (S. 3082) for the relief of Elizabeth G. Martin.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Claims with an amendment, on page 1, line 3, before the word "thousand," to strike out "twenty" and insert "twenty-five," so as to make the bill read:

*Be it enacted, etc.,* That the sum of \$25,000, for the aid and support of Elizabeth G. Martin, widow of James P. Martin, who lost his life as the result of injuries received on the 6th day of April, 1906, by being run over by an engine of the Isthmian Canal Commission at Paraiso, belonging to the United States, being operated on the Panama Railroad at Paraiso, in the Canal Zone, be hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same to be paid to the said Elizabeth G. Martin by the Secretary of the Treasury immediately upon the approval of this act.

Mr. CURTIS. The amendment as printed in the bill is incorrect. I move to correct it by striking out "twenty-five" and inserting "five," so as to read "five thousand dollars."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

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

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

#### FISH-CULTURAL STATION, ST. JOHNS RIVER, FLORIDA.

Mr. FLETCHER. I ask unanimous consent for the present consideration of the bill (S. 1377) for the establishment of a fish-cultural station on the St. Johns River, in the State of Florida.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station on the St. Johns River, in the State of Florida, for the propagation of shad, mullet, and other fishes, the purchase of site, construction of buildings and ponds, and equipment.

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

#### ORDER OF BUSINESS.

Mr. FLETCHER. I ask unanimous consent for the present consideration of the bill (S. 1378) to authorize the establishment of a fish-cultural and biological station on the Gulf of Mexico within the limits of the State of Florida.

Mr. STONE. Mr. President, why can we not take up the calendar in regular order?

Mr. BEVERIDGE. Mr. President, I have no objection to taking up the calendar in regular order, but I have just sent word to the Senator who is in charge of the postal savings-

bank bill that from the appearance of things here the Senate is waiting to pass his bill. I assume, of course, that he will want to have it taken up and passed at the earliest moment. I would not want to give unanimous consent for the present consideration of the calendar when that measure, so far as appearances are concerned, is ready to be passed. I suggest to the Senator from Missouri [Mr. STONE], in the interest of the expedition of legislation, that until the Senator from Montana [Mr. CARTER] gets here, he allow Senators to call up bills in which they are interested and have them considered, instead of going to the calendar.

Mr. STONE. There is no objection, Mr. President, to Senators calling up bills, but there are several bills here which have been reported from different committees—several which I reported—and they are not very far away from the top of the calendar. It seems to me that we ought to proceed in the regular way, so that we can get those bills disposed of.

Mr. BEVERIDGE. Mr. President, I perceive that there is a member of the Post-Office Committee present. I believe the Senator from Iowa [Mr. DOLLIVER] is a member of the Post-Office Committee. Perhaps there are three or four more members of the committee present. Is there any reason why the postal savings-bank bill should not proceed to a vote? I am not in charge of the bill, but the understanding was that the unfinished business should be laid aside from day to day for its consideration. Now, the Senate, I think, is willing to proceed, as it has been, to its consideration.

Mr. DOLLIVER. Mr. President, I know of no reason why the postal savings-bank bill might not be submitted to a vote now, except an understanding by the Senator in charge of the bill that other Senators shall have, I think, until Thursday of this week to prepare and deliver to the Senate their views upon the constitutional aspects of the measure. I do not think it would be agreeable to them to have the measure disposed of before they take the proper steps to safeguard the Constitution.

Mr. BEVERIDGE. Mr. President, if there are any Senators who wish to speak on that bill, I, in charge of the unfinished business, did not know of it. It simply seemed to be a position in which the Senate sometimes gets, where it has been considering a bill and is ready to pass it. But, of course, if Senators have informed the committee in charge of the bill that they desire to expound the constitutional or any other phases of the bill, that is sufficient reason why we should proceed with any particular bill or with the calendar, according to the request of the Senator from Missouri [Mr. STONE].

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Florida [Mr. FLETCHER] to consider the bill the title of which has been stated?

Mr. ROOT. I think the bill had better go over.

The PRESIDENT pro tempore. Objection is made. The calendar, under Rule IX, would really be in order, but the Senator from Missouri [Mr. STONE] asks unanimous consent that the Senate proceed with the consideration of bills on the calendar under Rule VIII.

Mr. STONE. I ask unanimous consent of the Senate to proceed to the consideration of the calendar under Rule VIII.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Missouri? The Chair hears none. The Secretary will state the first bill on the calendar.

#### PAROLE OF UNITED STATES PRISONERS.

The bill (S. 870) to parole United States prisoners, and for other purposes, was announced as next in order.

Mr. KEAN. Let that go over.

The PRESIDENT pro tempore. The bill goes over on the objection of the Senator from New Jersey.

#### INJUNCTIONS AND PRACTICE OF DISTRICT AND CIRCUIT COURTS.

The bill (S. 3724) regulating injunctions and the practice of the district and circuit courts of the United States was announced as next in order.

Mr. KEAN. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over under objection.

#### ARLINGTON MEMORIAL BRIDGE.

The bill (S. 1630) to provide for the construction of a memorial bridge across the Potomac River from Washington to the Arlington estate property was announced as next in order.

The PRESIDENT pro tempore. This bill has been read to the Senate several times. Is there objection to its present consideration?

Mr. BORAH. I object to the consideration of the bill at the present time.

The PRESIDENT pro tempore. Objection is made to the consideration of the bill, and it goes over without prejudice.

DESCENDANTS OF THE SIGNERS.

The bill (S. 1425) to incorporate the Descendants of the Signers was announced as next in order.  
 Mr. KEAN. Let that bill go over.  
 The PRESIDENT pro tempore. The bill goes over on the objection of the Senator from New Jersey.

GLACIER NATIONAL PARK IN MONTANA.

The bill (S. 2777) to establish the Glacier National Park, in the Rocky Mountains, south of the international boundary line, in the State of Montana, and for other purposes, was announced as next in order.  
 Mr. BORAH. I ask that that bill go over.  
 The PRESIDENT pro tempore. The bill will go over without prejudice.

HENRY W. LEE.

The bill (S. 5018) for the relief of Henry W. Lee, was considered as in Committee of the Whole. It proposes to pay to Henry W. Lee, out of the funds of the Winnebago Indians of Wisconsin, \$2,000, that being the amount found due him by the Court of Claims in congressional case No. 10219.  
 The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GOVERNMENT OF HAWAII.

The bill (S. 3360) to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 13, 1900, was announced as next in order.  
 Mr. KEAN. Mr. President, that is a long and a very important bill, and I think it had better go over.  
 Mr. DEPEW. What is the bill?  
 Mr. KEAN. It is a bill in relation to the government of Hawaii.  
 Mr. DEPEW. That is a very long and a very important bill. I think it had better go over, retaining its place.  
 The PRESIDENT pro tempore. The bill will go over, retaining its place on the calendar.

GOVERNMENT OF ALASKA.

The bill (S. 5436) to create a legislative council in the district of Alaska, to confer legislative powers thereon, and for other purposes, was announced as next in order.  
 The PRESIDENT pro tempore. That bill, being the unfinished business, will be passed over.

MISSISSIPPI RIVER BRIDGE AT MINNEAPOLIS, MINN.

The bill (H. R. 12289) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, was considered as in Committee of the Whole. It proposes to authorize the city of Minneapolis, in the State of Minnesota, to construct, maintain, and operate a new bridge and approaches thereto across the Mississippi River, where an old bridge is now standing, from Plymouth avenue north, on the west side of the river, to Eighth avenue NE., on the east side of the river.  
 The bill was reported to the Senate without amendment, or deferred to a third reading, read the third time, and passed.

UNITED STATES MILITARY ACADEMY.

The bill (S. 2325) to increase the efficiency of the United States Military Academy, and for other purposes, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Military Affairs with an amendment in line 4, after the word "Academy," to strike out the words "the succeeding appointment may be made from his congressional district or at large in accordance with the existing law," and to insert "his successor may be admitted to the academy; and the corps of cadets is hereby increased to meet the provisions of this act;" so as to make the bill read:

*Be it enacted, etc.,* That whenever any cadet shall have finished three years of his course at the United States Military Academy his successor may be admitted to the academy; and the corps of cadets is hereby increased to meet the provisions of this act.

The amendment was agreed to.  
 The bill was reported to the Senate as amended, and the amendment was concurred in.  
 The bill was ordered to be engrossed for a third reading, read the third time, and passed.  
 Mr. KEAN. I should like to have printed in connection with the bill just passed the report of the committee thereon.  
 The PRESIDENT pro tempore. In the absence of objection it will be so ordered.

The report referred to is as follows:

[Senate Report No. 144, Sixty-first Congress, second session.]

INCREASE IN CORPS OF CADETS AT THE UNITED STATES MILITARY ACADEMY.

Mr. DU PONT, from the Committee on Military Affairs, submitted the following report, to accompany S. 2325:

The Committee on Military Affairs, which has had under consideration the bill (S. 2325) to increase the efficiency of the United States Military Academy, and for other purposes, hereby reports the same favorably to the Senate, and recommends that it be passed, amended as follows:

Strike out all after the comma in line 4 and insert in lieu thereof the words "his successor may be admitted to the academy; and the corps of cadets is hereby increased to meet the provisions of this act."

The act of March 1, 1843, provided that there should be 1 cadet at the Military Academy from each congressional district, 1 from each Territory, and 10 appointments at large by the President. This act was amended on the 6th of June, 1900, by giving 2 additional cadets to each State and 30 appointments at large to the President.

Under the law as amended the authorized number of cadets is 533, while the actual number at West Point is but 411, due to the fact that there are always a number of vacancies caused by candidates failing to report or to pass the entrance examinations, or by the elimination of cadets who are found deficient in their studies or in conduct.

The object of this bill is to increase the number of cadets at the Military Academy by a slight modification in the method of making appointments. It is proposed that Members of Congress and the President who recommend or make the appointments shall have the right to a second appointment as soon as their appointee shall have become a member of the graduating class after three years' service at the academy. In other words, those recommending or making cadet appointments will each have 1 cadet at the Military Academy during three years and 2 cadets during every fourth year.

The effect of this bill, if passed, would be to increase the authorized number of cadets from 533 to 710, while the actual number, judging from the experience of many years, would be about 550 cadets, or an increase of about 135, which would give an annual average of about 140 graduates. This increase, however, would be progressive—88 additional cadets would enter the academy in March, 1911, who would not graduate until 1915, and the corps of cadets would be gradually enlarged until 1915, at which time the whole number of the additional cadets would be at the academy.

From 1878 to 1898 the average number of appointments to the grade of second lieutenant was 87 per year, while the average number of West Point graduates was but 55 per year. From 1898 to 1907 the average number of appointments was 262 per year, while the average number of graduates was 90 per year; so that an average of 140 graduates each year will not begin to fill the average number of annual vacancies in the army, and will not have the effect of closing the doors to promotions from the ranks or to appointments from civil life.

The extra expense involved for the first year—being the pay and rations of the additional cadets—would be only about \$6,243, but later it would be necessary to make a moderate increase in the number of instructors, and this, with other items, would bring the additional cost up to about \$15,000 a year, which is less than 1 per cent of the annual cost of maintaining the Military Academy. The cost of maintaining this school is practically the same whether it be attended by the entire number of cadets authorized by the bill, or only by half of that number, as the care and maintenance of the buildings, their heating, lighting, etc., the pay of instructors and employees, and other expenses of the institution would be nearly equal in both cases.

It is to be observed that since 1902 Congress has authorized the expenditure of \$7,500,000 for the purpose of reconstructing and enlarging the buildings at the Military Academy so as to accommodate 750 cadets and for improvements generally. Most of this money has been spent, and there are ample accommodations and quarters now vacant for the proposed additional cadets. Notwithstanding these facts, while the navy has a much smaller commissioned personnel than the army, there are 754 midshipmen under instruction at Annapolis and but 411 cadets at West Point. Further, the proportion of West Point graduates to the whole population of the country is less than it ever has been before and very much less than it was in former days. From 1820 to 1830 the average of West Point graduates to the population of the country was 1 to 347,730, while from 1890 to 1900 the average was 1 to 1,251,203.

The following table shows the proportion which one graduate at the Military Academy bore to the entire population of the United States at the various decades from 1811 to 1900, the average number of graduates for each decade, and the percentage which the average number bore to the total population:

Decade.	Average for decade.	In proportion to population, one graduate equals—	Per cent of total population.
1811-1820 (census 1820)	21	+ 458,753	+ 0.000023
1821-1830 (census 1830)	37	+ 347,730	- .00003
1831-1840 (census 1840)	43	+ 396,864	+ .000025
1841-1850 (census 1850)	44	+ 327,088	+ .000014
1851-1860 (census 1860)	39	+ 806,239	+ .000012
1861-1870 (census 1870)	48	+ 803,924	+ .000012
1871-1880 (census 1880)	51	+ 983,446	± .0000101
1881-1890 (census 1890)	51	+ 1,227,887	+ .000008
1891-1900 (census 1900)	61	+ 1,251,203	+ .000008

\* Two classes graduated in 1861.

Looking at the matter from the standpoint of salary alone: A cadet who enters the academy between the ages of 17 and 22 is paid a salary of \$600 per annum during his four years' attendance at the academy; and when he receives his commission he is still a young man in the early twenties. An officer commissioned from civil life at an age between 21 and 27 years is paid a salary of \$1,700 during each of his first five years of service, and he must in that time take substantially the same course of military instruction as that which a cadet

receives at the Military Academy; but with a salary of \$1,700 per annum instead of \$600, and while the expense of the latter's education is larger, his average age being greater, the length of his active service in the army is apt to be considerably less.

The following table shows the number of appointments to second lieutenantcies in the army in each year since 1898 from the Military Academy, from the ranks and from civil life:

Table showing appointments to grade of second lieutenant, United States Army, since January 1, 1898.

Year.	Military Academy.	Ranks.	Civil life.	Total.
<b>Calendar:</b>				
1898	52	27	204	283
1899	66	54	180	300
1900	49	66	19	134
1901	62	215	524	801
1902 (to June 30)	47	14	161	222
<b>Fiscal:</b>				
1903	83	44	50	177
1904	124	37	13	174
1905	111	24	20	155
1906	77	19	96	192
1907	110	27	18	155
1908	108	15	29	152
1909 and to October 1 of fiscal year				
1910	101	22	160	283
<b>Total</b>	<b>990</b>	<b>564</b>	<b>1,378</b>	<b>2,932</b>

\* Includes 615 appointed from United States Volunteers.

From these totals it will be seen that in the years covered there were appointed:

From the Military Academy, 990, or	Per cent.	33.76
From the ranks, 564, or		19.24
From civil life, 1,378, or		47.00

Of the total number of officers now in the army, the percentages run as follows:

From the Military Academy	Per cent.	43.36
From the ranks		12.97
From civil life		43.67

It will be seen, then, that the number of cadets under instruction is insufficient for the reasonable demands of the army, that there are ample accommodations for the proposed additional cadets now lying idle and unused, and that the increase provided for by the proposed legislation will involve less than 1 per cent of the annual cost of maintaining the academy.

The object of Congress in authorizing the very large expenditures made at West Point was undoubtedly to supply a larger number of officers to meet the demands of an increased army, and, now that the money has been expended, the obvious dictates of good business and economy would seem to demand that a larger proportion of the commissioned officers of the army be educated at the academy.

Attention is invited to the following favorable indorsement of this measure received from the Acting Secretary of War and the accompanying memorandum of the Chief of Staff of the Army, containing interesting and valuable information and figures upon the subject of the proposed legislation.

WAR DEPARTMENT,  
Washington, January 5, 1910.

SIR: Referring to Senate bill No. 2325, the Sixty-first Congress, which was referred to this department for report and recommendation, I have the honor to recommend that the bill be amended by striking out all after the comma in line 4 and substituting therefor the words "his successor may be admitted to the academy, and the corps of cadets is hereby increased to meet this provision," so that the bill will read as follows:

"Be it enacted, etc., That whenever any cadet shall have finished three years of his course at the United States Military Academy, his successor may be admitted to the academy, and the corps of cadets is hereby increased to meet this provision."

This change appears to be desirable for the reason that existing law authorizes the appointment of cadets one year in advance of the date of admission, and it is believed that the real purpose of the provisions of the bill should be more clearly stated.

I beg to invite attention to the inclosed memorandum of the Chief of Staff, in which I concur. The memorandum explains the purposes of the bill, and I am forwarding under separate cover a portfolio containing photographs illustrating the present progress of construction and enlargement at the Military Academy.

Very respectfully,

ROBERT SHAW OLIVER,  
Acting Secretary of War.

CHAIRMAN COMMITTEE ON MILITARY AFFAIRS,  
United States Senate.

[Memorandum for the Acting Secretary of War.]

WAR DEPARTMENT, OFFICE OF THE CHIEF OF STAFF,  
Washington, January 4, 1910.

It is proposed to increase the number of cadets at the United States Military Academy by enacting into law the following:

"Whenever any cadet shall have finished three years of his course at the United States Military Academy, his successor may be admitted to the academy, and the corps of cadets is hereby increased to meet this provision."

If this provision is enacted into law it will increase the corps of cadets about 25 per cent, but will increase the cost of the Military Academy less than 1 per cent. The increase would be made without disturbing the present method of making appointments upon the recommendation of Senators and Members of Congress. Appointments would be made from States at large and congressional districts in accordance with existing law, but they would be made more frequently—every

three years instead of every four years, as is now the case. As soon as a cadet reached the graduating class he would create a vacancy, and his successor would enter as a fourth class man. The three lower classes would contain as many cadets as are now contained in the whole corps. The size of the corps would, therefore, be increased theoretically 33 per cent, but practically only 25 per cent, because of the number who would fail in their entrance examinations and in their studies at the academy, rendering it impracticable to keep all the vacancies filled all the time. There would be no increase in the army due to this increase in cadets, but of the vacancies occurring in the army under existing law a greater proportion would be filled by graduated cadets and a lesser proportion by appointments direct from civil life.

In order to understand more fully the necessity for this legislation at this time, it may be well here to review a summary of the development and purposes of the Military Academy.

The United States Military Academy was established by an act of Congress approved March 12, 1802, a corps of 10 cadets being authorized. In 1808 the number of cadets was increased to 156 and in 1812 to 250. By the act of March 1, 1843, it was provided that there should be 1 cadet from each congressional district, 1 from each Territory, and 10 appointed at large by the President. This law remained in force for fifty-six years, and under it, due to the increase in the number of congressional districts, the authorized number of cadets grew from 257 in 1843 to 371 in 1899. On June 6, 1900, the law was amended to authorize 2 additional cadets from each State and 30 appointments at large by the President. Under this law (which has since been slightly modified) and due to an increase in the number of congressional districts, the authorized number of cadets is now 533.

By the act of June 28, 1902, Congress authorized an expenditure of \$5,500,000—which has subsequently been increased to \$7,500,000—for the purpose of increasing the Military Academy in accordance with a plan by which 750 cadets can be accommodated. The law, however, made no provision for increasing the number of cadets, and the purpose of the legislation now proposed is to authorize some of the additional cadets which can at this time be accommodated under that plan. The work of enlargement has progressed to the extent that 260 additional cadets can now be accommodated without crowding. The proposed legislation, however, will only add about half that number. This will be explained more in detail later. The figures heretofore mentioned with reference to the number of cadets have in each case been the authorized number and not the actual number. The actual number in each case has been very much less—in recent years about 20 per cent less. For example, in 1894, when the authorized number of cadets was 371, the actual number was 290; and at the present time, when the authorized number is 533, the actual number is 411. This shortage is due to the failure of candidates to report and to the failure of cadets in their examinations.

The purpose of the Military Academy, of course, is to furnish officers for the army. But of the 4,852 cadets, who have graduated, about one-fourth have at one time or another in their careers gone into civil life and become most useful citizens.

President Finley, of the College of the City of New York, in a study of the value of collegiate education as a factor of success in life, gives a list of 18 leading universities and colleges and the percentage of their graduates who have met with "success," based upon data compiled from biographical dictionaries, etc. He places West Point at the head of the list, with a percentage of 5.9; the Naval Academy and Harvard are placed second, each with a percentage of 5.5. The West Point list includes 1 President, 3 presidential candidates, 2 vice-presidential candidates, 4 Cabinet officers, the president of the confederacy, 1 ambassador, 14 ministers, 24 United States Senators and Representatives, 16 governors of States, 17 mayors of cities, 14 judges, 21 bishops and clergymen, 46 presidents of colleges and universities, 87 presidents of railroads and corporations, 125 chief engineers and superintendents of railroads and public works, and many others.

The value of the Military Academy in furnishing officers for the American Army is so well known that it hardly seems necessary to dwell upon it here. With reference to the services of graduates in the Mexican war, General Scott, himself not a graduate, says:

"I give it my fixed opinion that but for our graduated cadets the war between the United States and Mexico might, and probably would, have lasted some four or five years, with, in its first half, more defeats than victories falling to our share; whereas in less than two campaigns we conquered a great country and a peace without the loss of a single battle or skirmish."

During the civil war every important battle was commanded on one side or the other by graduates of the Military Academy. When the war ended all the armies in the field were commanded on both sides by graduates, as were nearly all the corps, most of the divisions, and many of the brigades. In all, 11 per cent of all the graduates have risen to the grade of general officer.

The Military Academy has a world-wide reputation and is probably the best institution of its kind that has ever existed. Between the close of the Mexican war and the beginning of the civil war practically all officers of the army came from West Point. From the close of the civil war up to 1898 the great majority came from West Point, but since 1898 only a small proportion have come from West Point, and a great majority of officers commissioned in the army have come from civil life and from the ranks.

Between 1878 and 1898 the average number of appointments to the grade of second lieutenant was 87 per year, while the average number of West Point graduates was 55 per year. Between June 30, 1898, and June 30, 1907, the average number of appointments was 262 per year, while the average number of graduates was 90 per year. The total number of appointments during this latter period was 2,941, while the total number of graduated cadets was 985. Of the 2,941 appointments mentioned, 1,561 were to fill vacancies caused by legislation, and 1,380 were to fill vacancies caused by retirements, deaths, resignations, etc.

It is thus seen that during the past eleven years the number of graduated cadets has averaged 45 per year short of the number required to fill ordinary vacancies and 172 short of the number required to fill all vacancies, including those caused by legislation. Of the officers now in the army, 43.36 per cent are from West Point, 43.67 per cent are from civil life, and 12.97 per cent are from the ranks.

Some have always held that it is desirable to hold open a certain proportion of commissions in the army for the appointment of enlisted men and civilians, but it hardly seems likely that anyone should advocate running the Military Academy at half its normal capacity and at the same time commissioning more men direct from civil life than from West Point. Congress could never have intended such a thing, and, as a matter of fact, the legislation of 1902 and subsequent years authorizing an expenditure of \$7,500,000 could have had no purpose if not to



increase the Military Academy to meet the demands of an increased army. In 1901 the army was increased from 25,000 to 80,000. West Point in order to supply the officers must be similarly increased, but not in the same proportion.

Though the navy has a much smaller commissioned personnel than the army, the Naval Academy has an authorized strength double that of West Point, and at this time has 754 cadets under instruction as against 411 at West Point.

Assuming, therefore, that it is the intention of Congress to provide a sufficient number of cadets to insure a reasonable return for the money invested—that is, the running of the institution at its normal capacity—the only question to consider is whether the work of enlargement has progressed to such an extent that the increase in cadets should be authorized at this time or should be postponed until a later date. It is believed to be of the greatest importance that the increase should be authorized during the present session of Congress. If the proposed bill is enacted into law, it will provide for the appointment of 88 additional cadets to enter the academy in March, 1911. These cadets would not graduate until June, 1915. In the meantime, under the provisions of the bill, a certain number of additional cadets would be appointed to the lower classes, so that by June, 1915, the corps would have been increased by about 125, the total number of cadets under instruction being increased from 411 to about 535.

Practically the only additional expense connected with the increase for the first year will be the pay and rations of the cadets—about \$6,243 per year. Subsequently, no doubt, there will be a slight increase in the number of instructors, and other incidental expenses will occur, but the total cost by 1915 could not well be placed at more than from \$10,000 to \$20,000 per year—less than 1 per cent of the present cost of conducting the Military Academy. In other words, the output of the institution could be increased 25 per cent by an increase of 1 per cent in cost.

Without going into the details of the progress of enlargement, it may be stated in general terms that there are now ample accommodations for 130 additional cadets. There are vacant sleeping and messing accommodations for twice this number, but due to the fact that the new academic building has not yet been constructed, a certain number of rooms in the cadet barracks would probably have to be used temporarily for instruction purposes, as has been done in the past. The new cadet barracks, with a capacity of 312 cadets, without crowding, is occupied now by only 51 cadets. If the additional cadets are authorized, the average number of graduates will still be considerably short of the average number of vacancies occurring in the army, and a number of vacancies will still be open for the appointment of enlisted men and civilians.

Very respectfully, J. F. BELL,  
Major-General, General Staff, Chief of Staff.

Approved January 5, 1910.

ROBERT SHAW OLIVER,  
Acting Secretary of War.

#### WALES ISLAND PACKING COMPANY.

The bill (S. 1035) authorizing and directing the Secretary of State to examine and settle the claim of the Wales Island Packing Company was announced as next in order.

Mr. SMOOT. I ask that that bill go over, Mr. President.

The PRESIDENT pro tempore. Objection being made, the bill goes over.

#### MONHEGAN ISLAND LIGHT-SHIP, MAINE.

The bill (S. 2955) to construct and place a light-ship near Monhegan Island, entrance to Penobscot Bay, Maine, was considered as in Committee of the Whole. It appropriates not exceeding \$175,000 to construct and place near Monhegan Island, entrance to Penobscot Bay, Maine, a light-ship.

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

#### SILETZ INDIAN RESERVATION, OREG.

The bill (S. 539) to authorize the sale of certain lands belonging to the Indians on the Siletz Indian Reservation, in the State of Oregon, was considered as in Committee of the Whole.

Mr. CULLOM. I ask from what committee that bill comes?

The PRESIDENT pro tempore. The bill is reported from the Committee on Indian Affairs with amendments.

The amendments reported by the Committee on Indian Affairs were, in section 2, page 2, line 7, after the word "shall," to strike out "offer for" and insert "reserve from;" and in line 9, after the word "reserved," to strike out "under such conditions as will, in his judgment, bring the best price obtainable without regard to the platting of such lands for town sites," so as to make the section read:

SEC. 2. That he is also authorized to cause the lands reserved for administrative purposes in connection with the affairs of the Siletz Indians and those reserved for educational and missionary purposes to be surveyed, platted, appraised without considering any improvements located thereon, and sold for town lots or for such other purposes as he may deem advisable: *Provided, however,* That he shall reserve from sale any water-power sites that may be located on the lands so reserved.

The amendments were agreed to.

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

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

#### LIGHT-HOUSE STATION, ELIZA ISLAND, WASHINGTON.

The bill (S. 4109) to establish a light-house and fog-signal station on Eliza Island, Bellingham Bay, State of Washington, was considered as in Committee of the Whole. It proposes to appropriate \$30,000 to establish a light-house and fog-signal

station on Eliza Island, Bellingham Bay, State of Washington, together with a suitable building.

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

#### ONE HUNDRED AND TWO RIVER, MISSOURI.

The bill (H. R. 13438) to declare One hundred and two River in Missouri nonnavigable was considered as in Committee of the Whole. It declares that One hundred and two River south of the north boundary line of Andrew County, Mo., as now located, to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

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

#### NODAWAY RIVER, MISSOURI.

The bill (H. R. 13439) to declare Nodaway River, in Missouri, nonnavigable was considered as in Committee of the Whole. It declares Nodaway River, in the counties of Andrew, Holt, and Nodaway, in the State of Missouri, to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

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

#### BIG TARKIO RIVER, MISSOURI.

The bill (H. R. 13440) to declare the Big Tarkio River, in Holt and Atchison counties, Mo., nonnavigable was considered as in Committee of the Whole. It declares Big Tarkio River, in the counties of Holt and Atchison, in the State of Missouri, to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

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

#### TELEPHONE SERVICE AT TWO RIVERS LIFE-SAVING STATION, WISCONSIN.

The bill (H. R. 16221) for the establishment of telephone service between the life-saving station at Two Rivers, Wis., and the light-house at Twin River Point, Wisconsin, was considered as in Committee of the Whole. It directs the Secretary of the Treasury to cause to be established, at a cost not to exceed \$1,000, telephone service from the Two Rivers life-saving station, at the city of Two Rivers, Wis., to the Twin River Point light-house, located at Twin River Point, Wisconsin.

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

#### PROHIBITION OF INTOXICANTS TO INDIANS.

The bill (S. 1981) to amend section 1 of an act approved January 30, 1897, entitled "An act to prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes," was announced as next in order, and the Secretary read the bill.

Mr. SMITH of Michigan. Mr. President, I notice the absence of the Senator from Minnesota [Mr. CLAPP], chairman of the Committee on Indian Affairs, and so I suggest that that bill go over.

The PRESIDENT pro tempore. The bill will go over without prejudice.

#### WILLIAM R. LITTLE.

The bill (S. 1324) 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 was announced as next in order, and the Secretary read the bill.

Mr. CARTER. Mr. President, will any Senator explain whether it is necessary to give this power or whether the power does not exist under the law at the present time? It is rather an unusual bill, and I suggest that it go over.

The PRESIDENT pro tempore. At the suggestion of the Senator from Montana, the bill will go over without prejudice.

#### E. C. MANSFIELD.

The bill (S. 3808) for the relief of E. C. Mansfield was considered as in Committee of the Whole. It directs the Postmaster-General to cause the accounts of E. C. Mansfield, postmaster at Boston, Mass., to be credited with \$215.67, and that he cause this credit to be certified to the Auditor of the Treasury for the Post-Office Department, being on account of the loss of that sum in postal funds stolen from the Back Bay station of the Boston post-office, it appearing that the loss was without fault or negligence on the part of the postmaster.

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

#### POSTAL SAVINGS DEPOSITORIES.

The bill (S. 5876) to establish postal savings depositories for depositing savings at interest, with security of the Government for repayment thereof, and for other purposes, was announced as next in order.

The PRESIDENT pro tempore. Under the arrangement already suggested by the Senator from Indiana [Mr. BEVERIDGE], the bill will go over without prejudice.

#### MISSISSIPPI RIVER BRIDGE, HILL CITY, MINN.

The bill (H. R. 11307) to legalize the construction of a bridge across the Mississippi River at Hill City, Aitkin County, Minn., was considered as in Committee of the Whole.

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

#### CURRENT RIVER BRIDGE, ARKANSAS.

The bill (H. R. 17743) to authorize Clay County, Ark., to construct a bridge across Current River was considered as in Committee of the Whole.

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

#### ST. FRANCIS RIVER BRIDGE, ARKANSAS.

The bill (S. 5523) to authorize the reconstruction, maintenance, and operation of a bridge across the St. Francis River near Parkin, Ark., was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with an amendment, in line 8, after the word "River," to insert "at a point suitable to the interests of navigation."

The amendment was agreed to.

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

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

#### BLACK RIVER BRIDGE, ARKANSAS.

The bill (S. 5522) to authorize the reconstruction, maintenance, and operation of a bridge across the Black River near Paroquet, Ark., was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with an amendment, in line 8, after the word "River," to insert "at a point suitable to the interests of navigation."

The amendment was agreed to.

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

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

#### WHITE RIVER BRIDGE, ARKANSAS.

The bill (S. 5524) to authorize the reconstruction, maintenance, and operation of a bridge across the White River, at Augusta, Ark., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Commerce, with an amendment, in line 8, after the word "River," to insert "at a point suitable to the interests of navigation."

The amendment was agreed to.

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

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

#### FISH-CULTURAL STATION IN IDAHO.

The bill (S. 11) to establish a fish-cultural station in the State of Idaho was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Idaho.

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

#### FISH-CULTURAL STATION, FARGO, N. DAK.

The bill (S. 130) to establish a fish-culture station at the city of Fargo, in the State of North Dakota, was considered as in Committee of the Whole.

The bill was reported from the Committee on Fisheries, with an amendment, in line 5, after the word "station," to strike out "at the city of Fargo," so as to make the bill read:

*Be it enacted, etc.*, That the sum of \$25,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated for the establishment of a fish-culture station in the State of North Dakota, including purchase of site, construction of buildings and ponds, and equipment, at some suitable point to be selected by the Secretary of Commerce and Labor.

Mr. McCUMBER. I hope the amendment will not be agreed to.

The amendment was rejected.

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

The committee reported an amendment to the title so as to make it read:

A bill to establish a fish-cultural station in the State of North Dakota.

The amendment was rejected.

#### FISH-CULTURAL STATION IN NEBRASKA.

The bill (S. 219) to establish a fish-cultural station in the State of Nebraska was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Nebraska.

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

#### FISH-CULTURAL STATION IN RHODE ISLAND.

The bill (S. 291) to establish a fish-cultural station in the State of Rhode Island was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station at a point in the State of Rhode Island to be selected by the Secretary of Commerce and Labor.

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

#### FISH-CULTURAL STATION IN MINNESOTA.

The bill (S. 627) to establish a fish-cultural station in the State of Minnesota was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Minnesota.

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

#### FISH-CULTURAL STATION IN GEORGIA.

The bill (S. 869) to establish a fish-hatching and fish-cultural station for the hatching and propagation of shad upon or near the seacoast in the State of Georgia was considered as in Committee of the Whole. It proposes to appropriate \$15,000 for the establishing of a fish-hatching and fish-cultural station for the hatching and propagation of shad at some suitable point to be selected by the Secretary of Commerce and Labor upon or near the seacoast in the State of Georgia.

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

#### FISH-CULTURAL STATION IN DELAWARE.

The bill (S. 975) to establish a fish-cultural station in the State of Delaware was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Delaware.

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

#### FISH-CULTURAL STATION IN WYOMING.

The bill (S. 1039) to establish a fish-cultural station in the State of Wyoming was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Wyoming.

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

#### FISH-CULTURAL STATION IN KENTUCKY.

The bill (S. 1251) to establish a fish-cultural station in the State of Kentucky was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station at a point in the State of Kentucky to be selected by the Secretary of Commerce and Labor.

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

#### MARINE BIOLOGICAL STATION IN FLORIDA.

The bill (S. 1378) to authorize the establishment of a fish-cultural and biological station on the Gulf of Mexico within the limits of the State of Florida was considered as in Committee of the Whole.

The bill had been reported from the Committee on Fisheries with amendments.

The first amendment was, in section 1, page 1, line 3, after the word "the," to strike out "Commissioner of Fish and Fish-

eries" and insert "Secretary of Commerce and Labor;" in line 6, before the word "biological," to strike out "fish cultural and;" in the same line, after the word "on," to strike out "or near;" and in line 7, after the word "on," to strike out "or near," so as to read:

That the Secretary of Commerce and Labor be, and he is hereby, authorized, empowered, and directed to establish a biological station on the Gulf of Mexico at a point on the coast of the State of Florida, to be selected by him in said State.

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 9, after the word "the," to strike out "Commissioner of Fish and Fisheries" and insert "Secretary of Commerce and Labor," so as to make the section read:

SEC. 2. That the professors, instructors, and students of the several land-grant, agricultural, and mechanical colleges of the United States shall be admitted to said station to pursue such investigation in fish culture and biology as may be practicable, without cost to the Government, under such rules and regulations as may be from time to time prescribed by the Secretary of Commerce and Labor.

The amendment was agreed to.

The next amendment was, in section 3, page 2, line 14, before the word "thousand," to strike out "one hundred" and insert "fifty," so as to make the section read:

SEC. 3. That for the necessary surveys, erection of buildings and other structures, and for the proper equipment of said fish-cultural and biological station, the sum of \$50,000, or so much as may be necessary, be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to establish a marine biological station on the Gulf coast of the State of Florida."

#### FISH-CULTURAL STATION IN CONNECTICUT.

The bill (S. 2002) to establish a fish-cultural station in the State of Connecticut was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Connecticut.

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

#### FISH-CULTURAL STATION IN NEW MEXICO.

The bill (S. 2545) to establish a fish-culture station in New Mexico was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-culture station in New Mexico.

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

#### FISH-CULTURAL STATION IN UTAH.

The bill (S. 3246) to establish a fish-culture station in the State of Utah was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-culture station in the State of Utah.

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

#### FISH-CULTURAL STATION IN ALABAMA.

The bill (S. 3733) to establish a fish-cultural station in the State of Alabama was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Alabama.

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

#### PACIFIC STATES MARINE-FISHERY INTERESTS.

The bill (S. 4461) to establish on the coast of the Pacific States a station for the investigation of problems connected with the marine-fishery interests of that region was considered as in Committee of the Whole. It directs the Secretary of Commerce and Labor to establish, at some suitable point on the coast of the Pacific States, a station for the investigation of problems connected with the marine-fishery interests of that region, and for that purpose appropriates \$50,000.

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

#### PAROLE OF UNITED STATES PRISONERS.

Mr. BACON. Mr. President, there is an order which was passed over under objection, and which objection will be withdrawn, and I ask that the Senate may recur to the bill. It is

the bill (S. 870) to parole United States prisoners, and for other purposes.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT pro tempore. The bill has heretofore been read in full.

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

#### FISH-CULTURAL STATION IN NEVADA.

The bill (S. 4785) to establish a fish-cultural station in the State of Nevada was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of Nevada.

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

#### FISH-CULTURAL STATION IN NORTH CAROLINA.

The bill (S. 5198) to establish a fish-cultural station in the State of North Carolina was considered as in Committee of the Whole. It proposes to appropriate \$25,000 for the establishment of a fish-cultural station in the State of North Carolina.

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

#### ELLA M. COLLINS.

The bill (S. 4781) to reimburse Ella M. Collins, late postmaster at Goldfield, Nev., for money expended for clerical assistance and supplies, was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Ella M. Collins \$821.08, to reimburse her for money expended for necessary clerical assistance and supplies.

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

#### APPEALS IN FORMA PAUPERIS.

The bill (S. 5836) to amend section 1, chapter 209, of the United States Statutes at Large, volume 27, entitled "An act providing when plaintiff may sue as a poor person and when counsel shall be assigned by the court," and to provide for the prosecution of writs of error and appeals in forma pauperis, was announced as the next business in order on the calendar.

Mr. KEAN. Let the bill go over.

Mr. OVERMAN. I hope the Senator will not object to the consideration of the bill. It has been thrashed out by the Judiciary Committee and is a very important matter.

Mr. KEAN. I think it is a very important matter, and therefore I should like to examine it.

Mr. OVERMAN. It merely allows a poor man to prosecute his appeal in the court of appeals. The law was so construed by the circuit court of appeals, but the Supreme Court of the United States overruled the circuit court of appeals. I move to take it up.

Mr. KEAN. As near as I can get at it—I have read it only hastily—it makes no provision for the payment.

Mr. OVERMAN. It is the old statute exactly as it is with only two or three words added.

Mr. KEAN. The trouble is with the two or three words added. I think the Senator ought to be satisfied with the passage to-day of the bill for a fish-cultural station in North Carolina.

Mr. BACON. Will the Senator permit me—informally, of course—before the objection is pressed, to make a statement? The law was passed by Congress to the effect that one unable to pay the costs of a suit should be allowed to prosecute his suit to conclusion by making that fact properly to appear. The evident intention of Congress was that it should relate to all the courts. But a case which had gone through the court of original jurisdiction afterwards went to the circuit court of appeals and then went to the Supreme Court of the United States, and the Supreme Court decided that the word "conclusion" used in that statute did not relate to the final conclusion of the suit in the court of ultimate resort, but that it meant simply the original court. There was the purpose, and the well-approved purpose of Congress to let a man who had a cause of action, but who was unable to pay the cost of the suit, to pursue his case in forma pauperis, and by the construction of the word "conclusion" by the Supreme Court that purpose of the law is defeated.

The sole purpose of this bill is to enlarge the law as it now stands upon the statute books as it has been construed by the Supreme Court, so that one who is unable to pay the costs of a suit shall not only be permitted to pursue it in the court where it originates, but also in the appellate courts. It simply gives

him the right to go into the appellate court in the same way that he now has the right to go into the original court. That is the sole scope of the bill.

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

Mr. HEYBURN. I suggest that the statement in italics be reversed—that is, instead of proceeding in the absence of a certificate, require the certificate. That is more in conformity with the methods of legislation on such matters. Instead of making it a negative proposition, make it a positive one. The amendment reads:

Unless the trial court shall certify in writing that in the opinion of the court such appeal or writ of error is not taken in good faith.

A party who desires to sue as a pauper must, of course, proceed affirmatively. He must express his desire to do so and give the reasons for doing so. That is an affirmative proposition. That principle should be carried clear through the proceeding and not stop at a certain stage of it and say he may do these things unless the court says he shall not do them. I do not believe in negative legislation.

Mr. BACON. If the Senator will pardon me, if the condition was such as would be indicated by the closing words used by him, his contention would be correct. But it is not that he shall do certain things or shall not do certain things to which the court shall certify. It is simply this: If the court shall be satisfied that the litigant is not proceeding in good faith, the court can prevent his proceeding in forma pauperis by saying "I do not believe this litigant is proceeding in good faith."

The Senator will recognize that in a very large majority of the cases, probably 999 out of 1,000, suits are instituted in good faith, in the effort to obtain what the plaintiffs consider to be their just dues; and very much less difficulty will be presented if it is only in a case where a judge shall certify that a litigant is proceeding in bad faith that he shall arrest it by that certificate rather than that the judge shall be called upon each time to say, "I believe this litigant is proceeding in good faith."

I will say to the Senator that the exact question he has raised was before the Judiciary Committee, and the Judiciary Committee, upon consideration, thought it better that it should be put in the negative.

Mr. HEYBURN. I will ask the Senator from Georgia, Does not this put the burden upon some one to prevent any man from proceeding as a pauper?

Mr. BACON. It does not put any burden, but here is the judge who heard the case—

Mr. HEYBURN. Could not anyone proceed in that way until, if I may use the term, he was headed off by some objection?

Mr. BACON. No. The judge is the officer who hears the case. He knows all about it. He is the judge to whom at last goes for his approval the record which is to go to the appellate court, and he is in a position not only by knowledge, but by opportunity to arrest it if it is a case where the party is not proceeding in good faith.

Mr. HEYBURN. Should not the judge pass upon it in the first instance? Now, a party desiring so to proceed must set forth the facts and ask the court for the privilege.

Mr. BACON. He will have to do that under the law. He has to make that appear.

Mr. HEYBURN. Well?

Mr. BACON. Now, when he fails to arrest it with a statement that he does not think the litigant is proceeding in good faith, it is an acquiescence in the assumption that he is proceeding in good faith.

Mr. HEYBURN. That would be all right perhaps if this were confined to the appellate proceedings, but as appears on the first page it would seem to relate back to the original proceeding. I think the law should be that a party coming into court—

Mr. BACON. That is the law now.

Mr. HEYBURN. I understand that. I have had to do quite recently with the consideration of it. The party, before he is recognized as a pauper, because every presumption is against him, should make that known to the court and then be permitted by the court to proceed as a pauper. Now, why should not that order run clear through the proceeding?

Mr. BACON. I will make this suggestion to the Senator. When a judge has heard a case and it is about to be carried to an appellate court, he is in possession of all the facts. He has seen the litigants, possibly; certainly so in a large majority of instances. He is in a position to judge whether it is a case proceeding captiously, or viciously, or with prejudice, or from any other improper motive, or whether the litigant is proceeding in good faith.

But when the case is first brought—in many such cases a deposit, as the Senator knows, is required—it is impossible for

a judge to make a certificate one way or the other, because he has not the familiarity with the case which would enable him to say whether or not the litigant is proceeding in good faith or in bad faith. The law now on the statute book authorizes the litigant to proceed in the original court, and the suggestion the Senator makes does not go to the amendment proposed by this bill, but goes to the law as it now stands upon the book.

I think the statement I have made shows that it would be impracticable to require a judge, before a litigant may proceed in the original court and before he has heard the case, to certify whether or not, in his opinion, the litigant is proceeding in good faith. But he can do that with propriety and with convenience and with reasonable impartiality after he has heard the case.

Mr. HEYBURN. Yes. The existing law is quite sufficient, so far as I have had occasion to observe it, and the thing which attracted my attention particularly was that the negative proposition applies to a part of the proceeding and the affirmative to a part. Of course a man must affirmatively show that he is in this position before he can proceed at all. Now, then, he has proceeded to the stage of an appeal. Why should not the same rule apply when he files his petition for an appeal or the necessary writ, that it be accompanied with an affidavit?

Mr. BACON. He does.

Mr. HEYBURN. Yes; but this does not require him to do that. In other words, it provides that he may, under the first showing, go along to the court of last resort unless some order is made that prevents him from doing it. It is rather an unusual method of legislating.

Mr. OVERMAN. Mr. President, all the proceedings as to being a pauper have been certified, and he is now suing as a pauper in the lower court by reason of the order made by the court upon the affidavits and the proceedings below. Therefore this whole question has been passed upon before, and if the appeal is not in good faith, the judge can dismiss it. But if the bona fides are there, the appeal is taken or the writ of error prosecuted in forma pauperis.

Mr. HEYBURN. Yes; our statute is complete. I have before me the existing law authorizing him to do so. I was not aware that any necessity had arisen for further legislation upon it, because under existing law it is always within the power of the court by an order to allow him to proceed.

Mr. OVERMAN. In a case in the One hundred and ninety-fifth United States Reports this act was construed. The circuit court had construed it as the Senator has construed it, but the Supreme Court overruled the circuit court, holding that the provision only applied to the trial court and did not extend to the circuit court of appeals.

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

Mr. HEYBURN. If I may be permitted to make just a suggestion, was not that prior to the existing law of 1892?

Mr. OVERMAN. No. A case reported in One hundred and ninety-fifth United States was carried up under this statute.

Mr. HEYBURN. One hundred and ninety-fifth United States. It was just about that time. I have it not before me. I do not know the date of it. However, I think the matter had better go over for a day. I will look into it. It is one of those measures which is not pressing.

Mr. CLARKE of Arkansas. Mr. President, before the matter goes over I desire to say there is not any answer to what the Senator from Idaho [Mr. HEYBURN] has said about it. It is very proper that a person should be permitted, as a pauper, to prosecute, in the first instance, a meritorious cause of action in the absence of a statement of the evidence upon which the cause is based. But after the case has been tried and all of its features are understood, and he then seeks to prosecute an appeal in a litigation, unsuccessful up to that point, it would be most extraordinary to expect the trial judge to give an affirmative certificate that the whole litigation was without merit. I think the record should be submitted to somebody, to the trial judge, or one of the judges of the appellate court, for a determination of the question whether such errors were made or were probably made as to make it an act of proper grace on the part of the Government to permit an appeal. Otherwise the party may go to the appellate tribunal at any time within the period prescribed by the law, as a matter of course, and it would be an unusual judge, one not to be ordinarily found, who would interpose an objection, with a written statement that any particular appeal from his court was prosecuted in bad faith.

It reverses the order; and I think the original suggestion made by the Senator from Idaho ought to be incorporated in this bill. It will cover every meritorious case that can by any possibility arise. At that stage of the case it is eminently

proper that somebody disinterested should pass upon the record to know whether the costs incident to an appeal to one of the appellate courts of the United States should be incurred. It involves a very considerable printing bill; the clerks are allowed very considerable costs, and they deduct their costs from the amount paid by other litigants. So it is practically a donation by the United States Government of the expense of the appeal wholly upon the initiative of an unsuccessful litigant and his lawyer.

There is no use overlooking the fact that many cases presented in forma pauperis are gotten up by ambulance-chasing lawyers, whose business it is to trump up personal-injury cases against corporations. They are decided adversely by the nisi prius court, and there is an appeal. It is the easiest thing in the world to keep that state of uncertainty going for several years by perfecting an appeal, when it is done at the expense of the United States, wholly without regard to the fact whether or not there is any merit in the appeal.

My own judgment, based on an observation of some years, is that the Government has done much for the litigant when it says that if he shall prepare a record and present it to a judge—either to the judge who tried the case or some other—(and I would select one convenient to approach) and if in the judgment of the judge, upon an examination of the record, such errors were reserved as might result in the reversal of the verdict below, the case may proceed in this manner. But this bill reverses the proper order of procedure, in my humble judgment, because it permits an appeal to be docketed and proceeded with—because once it gets upon the docket the court must go through with it—which, upon an examination, may turn out to be wholly unnecessary, and that, too, at the expense of the General Government. That is a degree of liberality which I do not think the due administration of justice calls for.

I believe where a meritorious cause of action exists in the judgment of some disinterested person upon a casual inspection, resolving all doubts in favor of an appeal, it would not be a misuse of discretion to say that such case might be docketed and proceed to trial. But to open the door and say that every litigation that proves unsuccessful should be carried to the court of appeals or the Supreme Court of the United States as a matter of course and at the expense of the National Government is carrying the matter a little too far.

Mr. HEYBURN. Mr. President, I would supplement the remarks of the Senator by calling attention to the fact that the appealing party would have rather an impaired standing in the appellate court after the trial judge had certified that the appeal was not taken in good faith.

Mr. CLARKE of Arkansas. He would never get that certificate.

Mr. HEYBURN. He ought not to get a certificate where the right of appeal lies. If the right of appeal lies it should be an unimpaired right of appeal that would allow the party to go to the appellate court without an adverse expression on the part of the judge who tried the case.

Another thing. The existing law provides that the United States shall not be liable for any of the costs incurred in that trial. That is the existing law. I think under the circumstances the least we can ask is that the bill may go over. It ought to be considered in the light of these suggestions.

Mr. CLARKE of Arkansas. I do not object to its fullest consideration.

Mr. OVERMAN. Mr. President—

The PRESIDENT pro tempore. Debate is proceeding by unanimous consent.

Mr. OVERMAN. I have no objection to the bill going over until to-morrow, of course, if the Senator from Idaho wants to look into it.

Mr. HEYBURN. Let it go over.

Mr. OVERMAN. I am satisfied the Senator will agree to the bill when he reads the case of *Harvey v. The Railroad in One hundred and ninety-fifth United States*.

The PRESIDENT pro tempore. The bill goes over without prejudice.

#### FISH-CULTURAL STATION IN COLORADO.

The bill (S. 4197) to establish a fish-cultural station in the State of Colorado was considered as in Committee of the Whole. It directs the Secretary of Commerce and Labor to establish a fish-cultural station in the State of Colorado, at a suitable place to be selected by him, and appropriates \$20,000 for the purchase of site, construction of buildings and ponds, and equipment.

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

#### APPRAISER OF MERCHANDISE, DISTRICT OF PUGET SOUND.

The bill (S. 4464) providing for the appointment of an appraiser of merchandise for the customs collection district of Puget Sound, State of Washington, was considered as in Committee of the Whole. It provides that there shall be in the customs collection district of Puget Sound, State of Washington, an appraiser of merchandise, to be appointed by the President, by and with the advice and consent of the Senate, and with compensation at the rate of \$4,000 per annum.

The bill was reported to the Senate without amendment.

Mr. SMOOT. Mr. President, since the bill was reported from the Finance Committee I find that the compensation paid the appraisers at the ports of Chicago, Ill.; Baltimore, Md.; New Orleans, La.; Portland, Me.; St. Louis, Mo.; and Buffalo, N. Y., is \$3,000 per annum.

I move to amend the bill in line 7 by striking out "four" and inserting "three," so that it will read "and with compensation at the rate of \$3,000 per annum."

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Utah.

The amendment was agreed to.

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

#### ESTATE OF WILLIAM H. MILLER.

The bill (S. 1105) for the relief of the legal representatives of William H. Miller, deceased, was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDENT pro tempore. The bill will go over without prejudice.

#### MARCELLUS TROXELL.

The bill (S. 115) for the relief of Marcellus Troxell was read.

Mr. BURKETT. Mr. President, I should like to ask some member of the committee a question. I do not want to object to this bill. I see that it comes from the Committee on Inter-oceanic Canals, and I should like to ask some member of the committee what, by this legislation, we are going to establish?

The PRESIDENT pro tempore. The Committee on Inter-oceanic Canals was discharged from the further consideration of the bill, and it was referred to the Committee on Claims, from which committee it was reported with an amendment.

Mr. BURKETT. Yes; I see that the Committee on Inter-oceanic Canals was discharged. I thought it should have come from the Committee on Claims.

It seems to me if we start this method of adjusting these claims it is liable to lead to a great many such bills and to a rather laborious undertaking on our part. I am not objecting to the bill on the merits, for I certainly have not given it time to know anything about it, and therefore I would not doubt the merits of it or even question the amount proposed to be appropriated, but by passing this bill it seems to me we will establish a precedent for adjusting such claims in this particular way, and with the great number of people who are employed there and the great number of accidents that must occur, it will certainly bring before Congress a great flood of this sort of legislation.

I make the inquiry because it occurred to me that there ought to be some way established, I presume by general legislation, by which such claimants can have their claims adjusted. I should like to have the committee make some sort of a statement as to whether they expect to let the claims always go through in this way or whether they have in view some other system of settling the claims.

I realize, of course, that under the law we passed a year or so ago one who is injured is entitled to a year's pay. That might, perhaps, cut out a good many claims. I understand that this accident occurred before that law was in operation. But in any event, to start out in this way, it seems to me, will open up a great amount of similar legislation that will take a great deal of time and attention.

I doubt also whether this is the best way to settle these claims. I am clearly certain that it is not. It seems to me that a congressional committee can not very well turn itself into a court to take up the question of evidence, the question of liability, determine the amount that should be paid, and all that sort of thing. It seems to me that there ought to be some more general way provided for a determination by a court.

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

Mr. BURKETT. I will not object. I wish to withhold the objection until the Senator reporting the bill can make some sort of an explanation.

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

Claims was, in line 7, before the word "dollars," to strike out "twenty thousand" and insert "two thousand five hundred," so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Marcellus Troxel, of Sutton, W. Va., out of any funds in the Treasury of the United States not otherwise appropriated, the sum of \$2,500, to compensate him for injuries received while in the employ of the Government on the Panama Canal.

Mr. CRAWFORD. Mr. President, this is a bill to recompense an employee on the Isthmus of Panama who was injured by a freight train, which ran over his left leg and made amputation necessary. It occurred before the general law went into effect, which allowed to all injured employees one year's salary as compensation for an injury sustained.

Only a half hour ago the Senate, without a single objection, unanimously passed a bill in favor of the widow of a deceased employee on the Isthmus, who is to receive \$5,000 as compensation for the injuries sustained.

The injury was received by this man a short time before the general law went into effect giving all employees sustaining injuries on the Isthmus one year's compensation. The proposed legislation is just, because the man who was injured has, in morals and justice and right, the same claim upon the Government to be compensated for the loss of his leg as other employees who come in and get similar compensation by virtue of the subsequent enactment. I do not see upon what ground the Government of the United States can discriminate against injured employees in justice and equity who received the injuries before the passage of the act.

Mr. SMOOT. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Utah?

Mr. CRAWFORD. Certainly.

Mr. SMOOT. The Senator is mistaken, I think, in saying that we passed a bill to-day appropriating \$5,000 in such a case. I do not think we have a right to do that.

Mr. CRAWFORD. Yes; half an hour ago the bill for the relief of Mrs. Martin was passed.

Mr. SMOOT. Then that was done while I was out of the Senate.

Mr. CRAWFORD. The bill had been reported by the Senator from Arkansas [Mr. DAVIS].

Mr. GAMBLE. Mr. President, I recall legislation had on a similar proposition about a year ago. A bill was introduced by the then senior Senator from Iowa, Mr. Allison, to compensate for a severe injury to a citizen of Iowa who was then employed in the Canal Zone. The person was disabled for life, as I recall the case, and an appropriation of \$10,000 was made. That was before the enactment of the general law. So this is following the precedent already established. I recall that the name was Banton, and I think he was a resident of Cedar Rapids, or some place in the central part of Iowa. This I remember for the reason that he has a brother living in my home town, who spoke to me concerning the legislation.

Mr. SMOOT. The Martin bill was passed when I was out of the Chamber. The Senator from South Dakota was correct in saying that it had passed.

Mr. CRAWFORD. Does not the Senator understand that the Martin bill was passed?

Mr. SMOOT. I so understand it now. The Senator from Kansas [Mr. CURTIS] tells me it did pass. However, I think this bill is entirely different from the Martin bill, and if I had been in the Senate at the time I certainly would have objected to the passage of the Martin bill.

This bill is following out the rule that has been adopted in the past in allowing claims similar in character, where it was no fault of the man himself, and where, if it had happened in ordinary life when a corporation was employing the man, they would have been responsible, and no doubt he would have collected this amount of money. The committee, taking that into consideration, allowed a favorable report upon the bill, but the Martin bill is of an entirely different character, and I can state that if I had been here I certainly would have objected to its passage.

Mr. CRAWFORD. I may state to the Senate, as a short recital of fact, that this man was in charge of a gang in the canal who were blasting, and while he was engaged in the performance of his duties as an employee of the Government, without any negligence whatever on his part, a freight train loaded with freight backed down the track, when he was caught in the space between the dredging engine and train. He was thrown under the wheels and the entire train ran over the poor man's left leg, crushing it until it was practically severed from his body. In addition to that, he received very severe bruises and wounds upon his head and back and shoulder, and sus-

tained a nervous and mental shock from which he has never recovered. The permanent injury he has sustained has not been simply the loss of his good left leg, but a nervous and mental shock which permanently unfits the poor fellow from supporting himself.

His home is over here at Sutton, W. Va. He has an old mother, 80 years of age, dependent upon him. All they have in the world is a little home there in her name, in which they reside, and a part of which they rent at an income of \$10 a month.

Soon after this man received his injuries, out of a spirit of justice and fairness to the thousands of American employees who have gone down on the Isthmus to help in this great work, Congress passed a law providing that all employees after receiving an injury shall receive one year's salary as compensation. But this poor fellow gets no benefit whatever of the act. It was enacted after he received his injury. It seems to me that it is very narrow and very penurious on the part of this great Government, when inviting employees down there to carry on that work, to question so small and reasonable a claim as this is.

The committee allowed him, by a unanimous report, \$2,500 for the loss of the leg and the permanent injury which he has received, and I hope there will be no question raised about the granting of the relief under the circumstances.

Mr. BURKETT. Mr. President, the Senator may have misunderstood my inquiry. Of course there are two exceptions in this case. One is that it happened before the general law was enacted, and I will not undertake to gainsay the justness of that law. I helped pass it. I think certainly the Government ought to put itself in a position with these employees at least equal to the liability of private concerns. But that law provides that a person injured in the service shall draw a year's salary. Of course, this happened before that law went into effect, and therefore necessitates special legislation; but the point that attracted my attention particularly and on which I wanted some explanation was that this bill grants a thousand dollars more than the year's salary would have been.

I am not questioning the propriety of a bill to reimburse the man because, perhaps, it was his injuries and others that suggested the enactment of the general legislation; but if we are going to take up a special case and make the amount larger than the general law provides for, why should we not then, in justice, take up each of these other claims as they come along and add an additional amount to what the general law would give? If you pass this special law and give more than the general law provides, are you not inviting all those who may have been injured not to accept payment under the general law, but to come to Congress with a special bill, and in that case are you not opening up a vast amount of legislation? If the amount provided is not sufficient in certain cases—cases like this, where there has been serious injury—would it not be better, if we are going beyond the limit of the law, to provide some general system whereby the claimants can get their rights adjusted?

Mr. CRAWFORD. Mr. President—

The PRESIDENT pro tempore. Under the rule no Senator can speak more than once nor over five minutes.

Mr. CRAWFORD. Very well. The Senator from Nebraska asked for an explanation.

The PRESIDENT pro tempore. The Chair hears no objection to the Senator proceeding.

Mr. CRAWFORD. I wish to say just a word with reference to the report of the committee which allows this man a thousand dollars more than his salary would have amounted to. The action of the committee was based, not upon the subsequent statute, under which of course all employees injured since that time would come, but it was based upon what seemed to be due the man as a matter of justice and equity. He was getting \$125 a month. His salary for one year would be \$1,500. The evidence submitted with his claim is very convincing in its character, coming from physicians and acquaintances of a lifetime, who went into the details and showed that since his injury he has incurred expenses week after week and year after year because of his condition. The nervous and mental shock that made him a wreck, trouble with his leg, and the condition in which he finds himself have made it necessary for him to incur quite a bit of expense since he returned from the Isthmus; and as long as we were simply undertaking, in a measure, to do what seemed to be justice to this man, we did not feel bound technically and narrowly by a subsequent statute, and as something of a compensation for the expenses he incurred for surgeons and physicians since his return we allowed him the additional \$1,000. I believe that it is right and just to him that we should do this as long as we are legislating for his benefit.

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

The amendment was agreed to.

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

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

W. B. GRAHAM.

The bill (S. 4778) to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance, was considered as in Committee of the Whole. It proposes to pay to W. B. Graham, late postmaster at Ely, Nev., \$3,335, to reimburse him for money expended for necessary clerical assistance.

Mr. BRISTOW. I should like to inquire what are the reasons for this reimbursement?

Mr. NIXON. Mr. President, the reasons for the passage of this bill, I think, are covered by the report which accompanies the bill. A similar measure to this was passed by the Senate at the last session of Congress under the recommendation of the Post-Office Department, but failed to pass the other House. Another bill was introduced at this session covering the same point. I should like to have the Secretary read the report accompanying the bill.

The PRESIDENT pro tempore. The report will be read.

The Secretary read the report submitted by Mr. BURROWS on February 3, 1910, as follows:

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 4778) to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance, having considered the same, report thereon with a recommendation that it pass.

A similar bill (S. 6682) was reported favorably from the Committee on Post-Offices and Post-Roads during the first session of the Sixtieth Congress, and the report made thereon is herewith made a part of the report on S. 4778.

[Senate Report No. 649, Sixtieth Congress, first session.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 6682) to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Post-Office Department, as will appear by the following letter:

OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., May 7, 1908.

MY DEAR SIR: In reply to your letter of the 22d ultimo, relative to the merits of Senate bill 6682, "to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance," I beg to inform you that in view of the fact that Mr. Graham was forced to pay the amount claimed from his personal funds in excess of the amount allowed by the department, and the further fact that the department could not give him an increased allowance on account of the exhausted condition of the appropriation for unusual conditions, it is believed that this case is meritorious.

Very truly, yours,

C. P. GRANDFIELD,  
Acting Postmaster-General.

HON. BOIES PENROSE,  
Chairman Committee on Post-Offices and Post-Roads,  
United States Senate.

Mr. BRISTOW. Mr. President, what I wanted to find out was for what this expense was incurred, why there was an exhaustion of the fund, and why did this postmaster need \$3,000 more than he was entitled to under the laws or under the appropriation?

Mr. NIXON. If the Senator will allow me, Mr. President, I will state that this occurred during the excitement at the mining camp of Ely some two or three years ago, when that camp grew from a small place to a city of several thousand people. In the meantime the postmaster was unable to secure the clerical assistance with the allowance which had been given him by the Post-Office Department, and he hired the extra clerical help and paid them out of his own pocket. I can say that I am personally acquainted with the facts in this case, and that if there ever was a just claim this is one. I trust the Senator from Kansas will not make any objection to it.

Mr. BRISTOW. Mr. President, the criticism which I would pass is not so much on the merits of the claim as applied to the individual who received the money, but Congress every year appropriates so much money for just such cases. When the Post-Office Department sends in a claim here for \$3,000 it means an increase in that appropriation. If the appropriation which is allowed for these extraordinary conditions had been used, then this claim would not have been necessary. Why is it that this was not paid from the fund that is provided for that purpose instead of being sent in here as an additional and extraordinary appropriation?

Mr. NIXON. At that time, Mr. President, the appropriation for extraordinary expenses had not yet been allowed.

Mr. BRISTOW. But, Mr. President, it is allowed whenever there is an appropriation made. There is an appropriation made for that purpose every year, and the Post-Office Depart-

ment has the discretionary power to appropriate that money to meet such expenditures. For a claim of this kind to come in means an increase in that appropriation, because the department has got the money, or ought to have it, to meet just such claims.

Mr. NIXON. As I understand it, under the law the Post-Office Department is only allowed to pay a certain rate of wages for employees; and in the mining camp of Ely no one was allowed to work for under \$4 a day. The postmaster had to pay this in excess of what the Post-Office Department allowed him to pay for clerical help. The same conditions exactly existed in southern Nevada, at Goldfield, at Tonopah, and at Rhyolite. Claims of this same kind have been allowed by this body. They are entirely just. In this case it was a question of either entirely closing up the post-office or securing employees at a higher rate of wages.

Mr. KEAN. Let me ask the Senator from Nevada a question. Was it not the case at both Goldfield and Ely that the offices were fourth-class post-offices, and therefore the Government could not make the allowances? Then, there came an influx of miners and others, which increased the receipts of those offices before they were changed from fourth-class to third-class post-offices. Therefore no extra allowance could be made between those times.

Mr. NIXON. That is very true.

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

Mr. BRISTOW. Mr. President, I shall have to ask that the bill go over. I shall be glad if the Senator from Nevada [Mr. NIXON] will get a detailed statement as to the amount of money which was allowed this post-office by the Post-Office Department for extra clerical help, and why it was that it was necessary to send here this kind of a claim, for that is what it is. It is an increase in their appropriation, and should have been brought in as a deficiency.

The PRESIDENT pro tempore. The bill goes over without prejudice.

#### PENSIONS AND INCREASE OF PENSIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 18006) granting pensions and increase of pension to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors, which had been reported from the Committee on Pensions with amendments.

The first amendment was, on page 4, line 20, after the words "rate of," to strike out "16" and insert "12," so as to make the clause read:

The name of Thad Parrish, late of Company K, First Regiment Alabama Volunteer Infantry, war with Spain, and pay him a pension at the rate of \$12 per month.

The amendment was agreed to.

The next amendment was, on page 5, after line 11, to strike out:

The name of John D. Smith, late first-class machinist, U. S. S. Buffalo, United States Navy, and pay him a pension at the rate of \$30 per month.

The amendment was agreed to.

The next amendment was, on page 6, line 5, after the word "Infantry," to insert "and pay him a pension at the rate of \$12 per month," so as to make the clause read:

The name of Eugene Bourassa, late of Company A, Sixteenth Regiment United States Infantry, and pay him a pension at the rate of \$12 per month.

The amendment was agreed to.

The next amendment was, on page 6, line 8, after the name "Spain," to insert "and pay him a pension at the rate of \$12 per month," so as to make the clause read:

The name of Charles F. Brown, late of Company H, Second Regiment United States Infantry, war with Spain, and pay him a pension at the rate of \$12 per month.

The amendment was agreed to.

The next amendment was, on page 7, line 16, after the words "rate of," to strike out "twenty-five" and insert "sixteen," so as to make the clause read:

The name of Claudia D. Blakeman, widow of Robert S. Blakeman, late passed assistant surgeon, United States Navy, and pay her a pension at the rate of \$16 per month.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 16311) granting pensions and increase of

pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors, which had been reported from the Committee on Pensions with amendments.

The first amendment was, on page 3, line 5, after the words "rate of," to strike out "twenty" and insert "twenty-four," so as to make the clause read:

The name of William H. H. Yakey, late of Company F, Thirtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 18, after line 10, to strike out:

The name of Henry A. Cook, late of Company K, Eighty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 29, line 19, after the words "rate of," to strike out "fifty" and insert "forty," so as to make the clause read:

The name of Benjamin C. Barnes, late of Company B, Eighth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 31, line 7, after the word "rate of," to strike out "twenty" and insert "twenty-four," so as to make the clause read:

The name of Robert W. McStraw, late of Company I, Ninety-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 36, line 9, after the words "rate of," to strike out "fifty" and insert "forty," so as to make the clause read:

The name of John R. Brambley, late of Company A, Twenty-second Regiment New York Volunteer Cavalry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

Mr. McCUMBER. I ask the Senate to disagree to that amendment. Evidence which has been furnished since the report was made satisfies the Committee on Pensions that the reduction should not be made.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Pensions was, on page 45, after line 3, to strike out:

The name of William O. Marvin, late of U. S. S. North Carolina and Vanderbilt, United States Navy, and pay him a pension at the rate of \$12 per month.

The amendment was agreed to.

The next amendment was, on page 48, line 20, after the word "receiving," to strike out "said pension to commence from February 18, 1909," so as to make the clause read:

The name of Henry B. Fenton, late of Company B, Seventy-seventh Regiment Indiana Volunteer Infantry, and U. S. S. Grampus, General Bragg, and Great Western, United States Navy, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

#### CONFEDERATE VETERANS' REUNION AT MOBILE, ALA.

The joint resolution (S. J. Res. 63) authorizing the Secretary of War to loan certain tents, saddles, and bridles for the use of the confederate veterans' reunion to be held at Mobile, Ala., in April, 1910, was announced as next in order on the calendar.

Mr. HEYBURN. Mr. President, let that go over under Rule IX.

Mr. BANKHEAD. Mr. President, I move that the Senate proceed to the consideration of the joint resolution.

The PRESIDENT pro tempore. The Senator from Alabama moves that the Senate proceed to the consideration of the joint resolution just laid before the Senate, notwithstanding the objection. The question is on that motion.

Mr. KEAN. Mr. President, it is evident that the Senate is very thin this afternoon.

Mr. BAILEY. The Senate will dispose of this or it will not dispose of anything else this afternoon.

Mr. BANKHEAD. Mr. President, I should like to make a short statement in connection with this joint resolution, if it be in order. This joint resolution, Mr. President—

Mr. HEYBURN. Mr. President, I rise to a point of order. A motion to proceed to the consideration of a measure is not debatable, I think, under the rule.

Mr. BANKHEAD. Does the Senator move to proceed to the consideration of executive business?

Mr. HEYBURN. No. I understand the motion of the Senator from Alabama is that the Senate proceed with the consideration of the joint resolution.

Mr. BANKHEAD. Yes; and that motion takes precedence.

Mr. HEYBURN. I have not interposed any other motion. I have merely raised the question that the motion of the Senator from Alabama is not debatable.

The PRESIDENT pro tempore. The motion is not debatable.

Mr. BANKHEAD. Then I will not debate it.

Mr. BAILEY. Let us have the yeas and nays on the motion, Mr. President.

The PRESIDENT pro tempore. The Senator from Alabama moves that the Senate proceed to the consideration of the joint resolution just read, notwithstanding the objection. On that motion the Senator from Texas [Mr. BAILEY] demands the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSTON. I ask for the reading of the joint resolution.

Mr. BANKHEAD. Would it not now be in order to read the joint resolution before the vote is taken? I call for the reading of the joint resolution.

The PRESIDENT pro tempore. The Senator demands the reading of the joint resolution?

Mr. BANKHEAD. Yes.

The PRESIDENT pro tempore. Without objection, the joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, as follows:

#### Senate joint resolution 63.

*Resolved, etc.*, That the Secretary of War be, and is hereby, authorized to loan, at his discretion, to the executive committee, Confederate Veterans' Reunion, to be held at Mobile, Ala., April 26, 27, and 28, 1910, 500 wall tents, with poles, ridges, and pins for each; 250 saddles, 250 bridles; *Provided*, That no expense shall be caused the United States Government by the delivery and return of such property, the same to be delivered to said committee designated at such time prior to the date of said reunion as may be agreed upon by the Secretary of War and Jacob D. Bloch, general chairman of said executive committee; *And provided further*, That the Secretary of War shall, before delivering such property, take from Jacob D. Bloch a good and sufficient bond for the safe return of said property in good order and condition, and the whole without expense to the United States.

Mr. BANKHEAD. Mr. President, there is an amendment reported by the Committee on Military Affairs that I should like to have read.

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

The SECRETARY. On page 1, line 7, after the date "1910," it is proposed to strike out "500 wall tents, with poles, ridges, and pins for each; 250 saddles; 250 bridles," and insert "such tents, with necessary poles, ridges, and pins, as may be required at said reunion."

The PRESIDENT pro tempore. The question is on the motion of the Senator from Alabama [Mr. BANKHEAD] to proceed to the consideration of the joint resolution, notwithstanding the objection. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. If he were present, I should vote "yea."

Mr. STONE (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CLARK], who was called from the Chamber a short time since. With his consent, however, I will vote. I vote "yea."

The roll call was concluded.

Mr. CLAY. I inquire if the senior Senator from Massachusetts [Mr. LODGE] has voted?

The PRESIDING OFFICER (Mr. KEAN in the chair). The Chair is informed that he has not voted.

Mr. CLAY. I have a pair with that Senator, but I will transfer it to the senior Senator from Oklahoma [Mr. OWEN], and vote. I vote "yea."

Mr. CURTIS. I desire to announce that the Senator from Minnesota [Mr. CLAPP] is paired with the Senator from North Carolina [Mr. SIMMONS], and that the Senator from Oklahoma [Mr. GORE] is paired with the Senator from Connecticut [Mr. BRANDEGEE].

The result was announced—yeas 53, nays 0, as follows:

#### YEAS—53.

Bacon	Burnham	Dolliver	Hughes
Bailey	Chamberlain	du Pont	Johuston
Bankhead	Clarke, Ark.	Fletcher	Jones
Borah	Clay	Flint	La Follette
Bourne	Crawford	Foster	McCumber
Briggs	Curtis	Frazier	McEnery
Bristow	Davis	Frye	Martin
Brown	Depew	Gamble	Money
Burkett	Dillingham	Gordon	Newlands



Oliver	Rayner	Smith, S. C.	Warner
Overman	Richardson	Smoot	Warren
Page	Root	Stephenson	
Piles	Shively	Stone	
Purcell	Smith, Mich.	Tillman	

## NOT VOTING—39.

Aldrich	Crane	Guggenheim	Penrose
Beveridge	Culberson	Hale	Perkins
Bradley	Cullom	Heyburn	Scott
Brandegee	Cummins	Kean	Simmons
Bulkeley	Daniel	Lodge	Smith, Md.
Burrows	Dick	Lorimer	Sutherland
Burton	Dixon	Nelson	Taliaferro
Carter	Elkins	Nixon	Taylor
Clapp	Gallinger	Owen	Wetmore
Clark, Wyo.	Gore	Paynter	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Military Affairs, which has been stated.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is before the Senate, as in Committee of the Whole, and open to amendment. If there be no further amendment, the joint resolution will be reported to the Senate.

Mr. HEYBURN. Mr. President, it is undoubtedly the pleasure of the Senate at the present time to proceed to the consideration of this joint resolution. I did not vote against the motion to proceed to its consideration, and I shall not weary the Senate with a long discussion of the reasons why I shall vote against the joint resolution. I want to say at this time that what I shall say with regard to this joint resolution, or while considering it, will be said in good temper, spoken to friends, on a conscientious principle that is not the creature of a day.

There are some questions upon which all men may have a candid, fair, tolerant, and honest difference of opinion. There are some questions that are at all times open to differing opinions and differing conclusions. There are some questions upon which conclusions have been reached that are binding upon all men under the law and in conscience.

This joint resolution refers in terms to the confederate veterans' reunion to be held at Mobile, Ala., upon three days which are specified, and proposes that the Government of the United States in recognition of that celebration shall loan to those engaged in it the property of the United States in order to carry out the purpose of the celebration. I trust I will not be charged with bad faith in saying that I have inquired this day of a Senator who is interested in the passage of this joint resolution whether or not upon that occasion, under the protection of the Government of the United States, the men engaged in this celebration would wear the rebel uniform. I propounded that question to him to-day, and he answered me in the affirmative. I asked him whether or not they would carry over this property of the Government of the United States the rebel flag, and he said "We always carry both flags." The Senator is present, and I violate no confidence when I make this statement, because he knew at the time why I made the inquiry.

I would be the last man in this body who would wantonly reopen wounds of that war. They were ghastly enough, God knows, in that hour, to appall men on either side of it, and I would not reopen them. I carry in my heart no rancor against the men who fought in the ranks in that war. But I carry in my heart and in my mind a pity for the mistakes of men. All men are prone to make mistakes. It has always been so, and, in my judgment, it will always be so. But when men make mistakes, and especially mistakes so grave in their nature and far-reaching in their results, they should be the parties to keep them in the background, rather than to bring them out for investigation or review.

I was asked, "Do you not loan these articles to the Grand Army of the Republic?" Yes, thank God, we do, because they fought on the side of the Government of the United States, and their cause was a glorious and an honorable one. I speak with all kindness, but with all candor. I have received here ill-tempered, scurrilous squibs from many papers and many pens, because I have dared to have a patriotic opinion and have dared to express it. They have in no measure modified my views as to the right and the wrong of this question. Join with us in letting the issues of that day fade out from consideration, if possible, I would say, from the memory of mankind. I detract nothing from the individual valor of the men who fought against the Union. The record of the great battles of the war attest in letters of blood that the Americans are brave people and know how to fight. But when they divide within their own household, one or the other side must be mistaken.

Sometimes the mistake is determined by the courts, sometimes it is determined by the votes of the people. On this occasion only it was determined upon the battlefield.

And do you expect that those whose affiliations and whose support were with the Union will sit idly or silently by and see these questions brought up in this responsible field of action and say nothing? Are men less patriotic to-day than they were in 1862 and 1863 and 1864? Is patriotism a subject of jest in this age? If it is, the sooner we know it the better.

I presume to say to those who are supporting this measure you should not, in the interest of good feeling, support it or any measure like it. Do you not believe that the spirit of patriotism and loyalty to the flag still exists? Believing it, do you suppose that men will stand by and see the Government of the United States made the instrument for the vesting of honorable position upon those who made the mistake? Brave men make mistakes. Because men make mistakes they are not cowards. They are not to be despised because they make mistakes. But the man who makes the mistake must not claim the same credit as the man who did not make it.

I refrain from drawing the comparison which arises in my mind between the spirit which actuated the men in the ranks of the South and that which actuated the men in the ranks which opposed them, because they, too, many of them, were of the South, and I demand the right here to speak without either feeling or incurring rancor. It is my right, just as it is the right of every other man, to speak his mind and his conscience. There is no personal equation at all in this matter with me. I speak for a principle that is as dear to me as any you can entertain which is dear to you, and I stand just as ready to back that principle with the responsibility of manhood as any man dares to stand for a principle he espouses. Let us be candid with each other. You are too brave to admire a man who is afraid to stand up and speak for his principles, whether you agree with him or not. The shirking of these issues leads to wider differences and more disastrous conditions. I would not dream of standing here and bringing up the scenes of the war and thrashing them over for the purpose of creating a feeling of rancor in the bosom of any man.

Mr. DAVIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Arkansas?

Mr. HEYBURN. For a question.

Mr. DAVIS. I should like to ask whether the Senator from Idaho was in the war?

Mr. HEYBURN. I did not catch all of the question. I understood the Senator to say he would like to ask me—

Mr. DAVIS. If you were in the war.

Mr. HEYBURN. O Mr. President, that is the stock question of the cheap reporter. It has been rung incessantly. I have had clippings from papers in the Senator's State just along those lines. I will answer it.

Mr. DAVIS rose.

Mr. HEYBURN. I will answer it right now.

Mr. DAVIS. I understand—

The PRESIDING OFFICER. The Senator from Idaho is entitled to the floor.

Mr. DAVIS. I understand the Senator represents 264 negroes in his State; that is all.

Mr. HEYBURN. I am somewhat puzzled to know just exactly what that kind of a statement has to do with anything I am talking about. The Senator from Arkansas need have no difficulty in knowing exactly how old I was when the war commenced and when it ended. There are no leaves in my history that are not open to the Senator or which may not be opened by him. When he asked that question he probably had looked at the Congressional Directory to answer it first. The second part of the question was spoken indistinctly, and I will ask to have it repeated. Does the Senator from Arkansas desire to repeat the second question, or shall I have it read from the reporter's notes?

Mr. DAVIS. I said I understood the Senator from Idaho represents 264 negroes in his State.

Mr. HEYBURN. If they live there I do. I represent all the people there, and the Senator from Arkansas also represents all the people in Idaho as I represent also all the people in Arkansas. The Senator perhaps has overlooked the fact that he was commissioned a Senator of the United States and not a Senator of the State of Arkansas. Here there are no State lines in patriotism.

Now I will yield to a reasonable, dignified question, but not to those petty questions which have nothing to do with the matter under consideration.

Mr. President, if there are any Senators here now or when this vote shall be taken who think it is appropriate that the

rebel flag should wave over property of the United States, by recognition of Congress, they can vote for the joint resolution and answer for it. If they believe that the rebel flag was furled forever at Appomattox, they had better look to their vote. If there are any Senators here who believe that the rebel flag should be carried under the recognition and by the assistance of Congress, let them vote for this measure; and if they do not believe it, let them look to their vote.

There are millions and millions and millions of people in the United States, North and South, East and West, who have implanted deep in their hearts the spirit of loyalty and patriotism. There are men now, who, as boys—as I was in that day—saw the soldiers of the Nation go forth, many of whom they never saw come back, in whose breasts burns not resentment but love of country and loyalty, not to some faction, but to the great Nation and its flag. Is it not better in this age to teach the children in all sections of the country that reward of loyalty is honor among men? Does anyone dream that this generation is going to apologize to the world for the loyalty of the men who participated in that contest or the sons or the grandsons of those men? Do not dream that you can do it and that the people will let it pass by. They will not.

I have seen neighborhoods in our community thinned down until there was nothing left but the women of the household and the decrepit and the children. I stood by the open graves and heard the clods fall upon the coffins of members of my own family and household. While the roar of cannon and the rattle of musketry might have made a deeper impression upon my mind, yet I tell you that that impression was so deep that no span of years will ever obliterate it or allow it to grow dim. Inasmuch as this occasion has demanded the consideration of this and kindred questions, I may just as well express myself, respectful of the consideration of men, but at the same time with that candor which is due to men from men. I may as well say on this occasion as another that conservative wisdom on the part of the South would seem to me to dictate a policy of contentment—contentment that they recovered their country. They recovered their Government and they recovered all that is great and good in American citizenship by the loss they incurred at Appomattox. Like many other things in this life, those which seem to us disasters prove to be the blessings of our lives. Why can not we, in this hour, with almost half a century between those days and these, dwell in the harmonious contentment that belongs to a condition which all men unite in saying they would not change were the issue before them to-day?

Why not devote ourselves to harmonious action for the upbuilding of the spirit of liberty, the welding together of the great principles upon which this Union of States rests, and not the forgetfulness of the sentiment of the household, but of the rancor and contention of war? Why not? What do they gain—I will not use the term "what do you gain," but what do they gain who insist on stirring up these questions by action that inevitably does bring it up for consideration, and what would you think of men, whose sentiment was with the Union, who would shirk the issue?

I did not vote against taking up the joint resolution, because there never was an hour, and there never will be one so long as life shall pulse in my veins, when I do not stand ready to speak for the Union and the sentiment that held the Union together and the sentiment that denounced the attempt at secession.

Mr. President, I would not assume the attitude or the air of a volunteer adviser of men, but I feel I am justified in making the suggestion that you look to the history of the great men who were patriots, loyal and true, in the founding of the Government and the maintenance of it, leaving out that little block of years which marks the error of a generation, and when you select men to place in marble statuary in places of high honor, do not overlook your Marshalls, and your early Lees, and your Masons, and your Monroes, and your Henrys; and I might name some who have come since. Do not forget them. Do not use the occasion to provoke a sentiment that you know exists. It exists as deep to-day as it did in the sixties. There is some wisdom in that counsel.

I have had thrust upon me, through the mails of the United States, for the last few weeks volumes of stuff that would invoke the criminal law to read on the public streets. Do you think it has sent any terror to my soul? It has been a justification of all that I have said and may say, because it demonstrated the fact that the rancor which would keep those issues alive to-day, by thrusting forward the things that pertain to them, was not in the high-minded, but in the minds only of those who are incapable of decent humanity.

Mr. President, years ago I thought the time had come when these questions would never again be presented; when the occa-

sion for their presentation would not arise. I hope now that the conservative judgment of the South and of those who cast their lot with it in the dark hours in the history of this Government will avoid pressing conditions under the mistaken impression that they will not be met openly, candidly, fully.

I have been told in many communications I have received that England had honored Cromwell; that his statue stood in the streets and by the highways and in places of honor. Cromwell was at the head of the Government of England by the will of the people of England. That can not be said of those in issue to-day.

I think I have successfully avoided the use of harsh terms in referring to men. I have not mentioned men by names. I dare to do it if I am challenged. I prefer not to do it, because the principle is clear-cut enough and well enough known and understood to make it unnecessary.

Those days come up before my mind as I discuss this subject until they almost overwhelm me with sentiments which, if I were to express them, would carry me way beyond the bounds I have set for myself in expressing myself to-day. I am doing it in a spirit of fraternal kindness. I see Senators smile as though they did not understand that a man can be kind and yet fight, if necessary. I restrain myself against violence in expression because I want every word that I shall utter here to-day to stand upon the pages of the record of the Senate, so that I shall never blush to face them and that no man will feel obliged to apologize for what I may say.

To the Senators upon this side of the Chamber the matter will rest with your conscience. I find I must make some exceptions, by reference if not by name, and perhaps by name, and I know that you will give me credit for not doing it in a spirit of bitterness.

The war would never have crossed the line of one month had it not been for certain things which transpired at the beginning. The violation of the obligations of men high in rank and position who had taken upon themselves to support and defend the Constitution of the United States and who had sworn allegiance to the flag, and the forgetfulness of that pledge, did more than anything else to encourage men who would otherwise have been content in their homes to leave them and die upon the battlefield. The example of those men cost hundreds of thousand of lives and thousands of millions of dollars. It was not an irresponsible act upon their part; I mean an act of thoughtlessness. In the Army of the United States there was—educated at the expense of the Government of the United States—an officer holding a high rank who was sent for by the Commander in Chief of the Army of the United States and tendered a high commission in the army, for its defense. He held a commission in that hour, and he held the commission of an officer in the Army of the United States when he stood up and took the oath of allegiance to a rebellious organization.

I say this to hurt no man's feelings. No man's feelings could be hurt more than mine are when I see this man put forward as worthy of a high place in the hall of fame. In that very hour when Congress was setting apart the old Hall of the House of Representatives to receive the statues of men worthy to be honored by their country, the State he represented was not a part of the Congress of the United States, in either body.

It cast no vote at all in favor of it. They can not claim at all that they participated in opening this avenue of glory to men. In that very hour, on that very day, they were engaged in trying to destroy the Union. And then we, in this hour, come in here and propose to waive what? The memory? God grant that we could waive the memory of those days. When we come in here and propose to waive the conditions under which this organization is to celebrate for three days and to extend to them the fraternal hand of the Government by loaning them the Government's property to assist them in doing it, if there is no other voice raised and no other vote cast I stand against it; and I do it because I am as loyal to-day as I ever was or ever will be.

The principles of loyalty do not change. I would not charge a man in this Hall, wheresoever he sit, with being disloyal for one minute. I glory in the fact that all men here are loyal and that they have stood up before this high tribunal with their hand raised to heaven and taken an oath of loyalty. I believe that they are sincere in their hearts, and that they will keep it. I am talking now about times that are past, happily—not the condition of men's minds to-day. If my words find no lodgment in the breast of any man, still would I speak them, still would I be true to the principles that are a part of and belong to my whole life.

It is in no spirit of reproach that I have said what I say to-day. The faith of the pledge of liberty rests not only in

the hands of the men who were boys then and are men now, but it rests upon even children unborn. It is no reproach to a man that he was not born in time to have participated in the war, but it would be a reproach to him if, not having been born at that time or old enough to participate, he should stand to-day mum and silent as to the principles for which men who were old enough were willing to sacrifice and lay down their lives in that day.

I ask you in the interest of harmony, in the interest of loyalty to the country in all hours and at all times, to say to the people who sent it here, "Come and take away the image which, though dear to you, is not dear to the American people." Take it away to your own homes and worship it, if you please, and teach your children to; but do not intrude those sentiments upon the American people. I ask you that. I ask it in all candor, because I think it is the only thing to do.

It is in no reproach, and in no spirit of reproach to Virginia, that I say she did not participate in inviting the States to place any statues there. She can not claim that she was part of the spirit that set in motion that sentiment. Now, take him home and make him the most sacred, if you please, of all the gods in your local countries, but do not—do not, for God's sake—start again the spirit which resulted in such horrible times, in such terrible conditions. Do not start it again.

I do not mean that I predict war. War will never come again between the American people. The war of the sword will never come, thank God, in this country again. But in order that there may be that harmony which is absolutely essential to good government let us avoid these conditions.

Do not undertake for a moment to urge that the Grand Army of the Republic, the army of heroes that saved the Union, that saved to the men of the South the right to sit in this Hall, shall be placed from a national standpoint upon the same basis as those who did not fight upon that side. Claim the glory of your own household within it, but do not take it out and parade it and demand, like Gessler, that we shall doff our hats to it. We will never do it. We will respect and honor the individual's bravery and manhood and honor, but we will close our eyes to those pages unless you bring them out.

Much senseless talk has appeared, charging that I was—to use an expression for which an American should blush, except that it is made necessary—waving the "bloody shirt." I am as far in my mind from doing that as any man has ever dreamed of. The war was a very real thing to me. I happened to live upon the border line. I was 13 years old and more when it closed. I had been waiting day after day that I might be tall enough and heavy enough to participate in it, not from thirst for blood, but because I had been taught to love my country, and I love it too well to see it drifting upon these shores of discontent or these shores of personal strife.

I appeal to you as American citizens to send these memories back to the firesides where they belong and where they are appreciated. You gain nothing by bringing them out to be paraded, either between the North and South or elsewhere. This great building is dedicated to loyalty. It belongs to the Union. There is no North, no South, no East, no West in this building. It is the great Capitol of the greatest Nation on earth. Bring no element of discord or inharmony within its walls, either in image or in speech. Can you not refrain from it? Can you not fold within your own embrace things that are dear to you without thrusting them upon those who feel differently?

I hope for such a termination of this question. I do not regret that you have called forth this occasion. I will not say I do not care how the vote is, because I do, because I would like to see every man on that side and this side of the Chamber express the sentiment in his vote that we would push back all that pertains to those terrible times, and that we would henceforth regard them in the light of memories, to be cherished each according to his own conscience.

Mr. BANKHEAD. I am sure, Mr. President, that the Senator from Idaho feels much better now, and I ask for a vote.

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

The PRESIDENT pro tempore. The question is on ordering the joint resolution to a third reading.

Mr. BACON and Mr. MONEY demanded the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. CLAY (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. LODGE]. I transfer that pair to the senior Senator from Oklahoma [Mr. OWEN] and vote "yea."

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGEN-

HEIM]. I transfer that pair to the junior Senator from Maryland [Mr. SMITH] and vote "yea."

Mr. SIMMONS (when his name was called). I have a general pair with the Senator from Minnesota [Mr. CLAPP]. I do not regard this as a question covered by that pair, and I shall vote. I vote "yea."

The roll call was concluded.

Mr. CLAPP. I vote "yea."

The result was announced—yeas 61, nays 1, as follows:

## YEAS—61.

Bacon	Crawford	Hughes	Purcell
Bailey	Davis	Johnston	Rayner
Bankhead	Depew	Jones	Richardson
Borah	Dillingham	La Follette	Root
Briggs	Dixon	McCumber	Shively
Bristow	Dolliver	McHenry	Simmons
Brown	du Pont	Martin	Smith, Mich.
Burkett	Elkins	Money	Smith, S. C.
Burnham	Fletcher	Neison	Smoot
Burton	Flint	Newlands	Stone
Carter	Foster	Nixon	Tillman
Chamberlain	Frazier	Oliver	Warner
Clapp	Frye	Overman	Warren
Clark, Wyo.	Gallinger	Page	
Clarke, Ark.	Gamble	Paynter	
Clay	Gordon	Piles	

## NAYS—1.

Heyburn

## NOT VOTING—30.

Aldrich	Culberson	Hale	Smith, Md.
Beveridge	Cullom	Kean	Stephenson
Bourne	Cummins	Lodge	Sutherland
Bradley	Curtis	Lorimer	Talliferro
Brandegee	Daniel	Owen	Taylor
Bulkeley	Dick	Penrose	Wetmore
Burrows	Gore	Perkins	
Crane	Guggehelm	Scott	

So the joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "Joint resolution authorizing the Secretary of War to loan certain tents for the use of the confederate veterans' reunion to be held at Mobile, Ala., in April, 1910."

## EXECUTIVE SESSION.

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

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 7 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, February 8, 1910, at 12 o'clock meridian.

## NOMINATIONS.

*Executive nominations received by the Senate February 7, 1910.*

## COLLECTORS OF CUSTOMS.

Rufus A. Soule, of Massachusetts, to be collector of customs for the district of New Bedford, in the State of Massachusetts. (Reappointment.)

Thacher T. Hallet, of Massachusetts, to be collector of customs for the district of Barnstable, in the State of Massachusetts. (Reappointment.)

## PENSION AGENT.

William L. Curry, of Columbus, Ohio, to be pension agent at Columbus, Ohio, vice William R. Warnock, term expired.

## PROMOTIONS IN THE NAVY.

Lieut. Commander George N. Hayward to be a commander in the navy from the 4th day of December, 1909, vice Commander William L. Rodgers, promoted.

Second Lieut. Frederick A. Gardener to be a first lieutenant in the United States Marine Corps from the 13th day of May, 1908, vice First Lieut. Thomas M. Clinton, promoted.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate February 7, 1910.*

## SURVEYOR OF CUSTOMS.

Charles F. Gallenkamp to be surveyor of customs for the port of St. Louis, Mo.

## PENSION AGENT.

Daniel Ashworth to be pension agent at Pittsburg, Pa.

## POSTMASTERS.

## ARKANSAS.

U. S. Bratton, at Little Rock, Ark.  
Thomas O. Fitzpatrick, at Forrest City, Ark.  
Jack Grayson, at Prescott, Ark.  
Harry Harriman, at Eudora, Ark.

Jeffrey H. Houghton, at Jonesboro, Ark.  
Thomas Mull, at Holly Grove, Ark.  
John N. Sarber, jr., at Clarksville, Ark.

## IDAHO.

S. D. Beebe, at Coeur d'Alene, Idaho.

## ILLINOIS.

Charles M. Carpenter, at Neponset, Ill.  
Henry Schneider, at Waterloo, Ill.  
Charles A. Simington, at Sheffield, Ill.  
Cornelius Sullivan, at Riversdale, Ill.

## IOWA.

William C. McCurdy, at Massena, Iowa.  
Kate C. Warner, at Dayton, Iowa.

## MASSACHUSETTS.

John Duff, at New Bedford, Mass.

## MICHIGAN.

George A. Brown, at Pontiac, Mich.  
Angus G. Grayson, at Pellston, Mich.  
John O'Donnell, at Munising, Mich.

## MONTANA.

Lucius Whitney, at Joliet, Mont.

## NORTH DAKOTA.

Edgar C. Lucas, at Lisbon, N. Dak.

## OREGON.

O. A. Wolverton, at Monmouth, Oreg.

## PENNSYLVANIA.

Harry S. Angle, at Milford, Pa.

## TEXAS.

James J. Dickerson, at Paris, Tex.  
H. E. Kinsloe, at Corsicana, Tex.

## WASHINGTON.

Joseph B. Furby, at Almira, Wash.

## HOUSE OF REPRESENTATIVES.

MONDAY, February 7, 1910.

The House met at 12 o'clock m.

Prayer by the Rev. I. M. Atwood, D. D., of Rochester, N. Y.  
The Journal of the proceedings of Friday last was read and approved.

## SWEARING IN OF A MEMBER.

The SPEAKER laid before the House the following credentials, which were read:

THE STATE OF MISSOURI,  
State Department.

To all who shall see these presents, greeting:

Know ye, that by reason of the death of David A. De Armond, late Representative in Congress from the Sixth Congressional District in the State of Missouri, a vacancy in said office was occasioned, by reason whereof Hon. Herbert S. Hadley, governor of Missouri, duly and lawfully issued his proclamation calling a special election in the several counties in said district to fill said vacancy in said office in said district, and setting the 1st day of February, A. D. 1910, as the day on which said special election should be held in the several precincts in the several counties of said Sixth Congressional District of said State; that said special election was duly and lawfully held in each of the precincts of each of said counties in said congressional district, and that the complete returns from each of said counties have been duly certified to the secretary of state and to the governor of this State; that said returns were duly opened by the said secretary of state, in the presence of the governor, as required by law, and the votes for the candidates for Congress in said district at said special election duly cast up and counted, whereupon it appeared that CLEMENT C. DICKINSON, of Henry County, Mo., had received 16,777 votes, and that Phil S. Griffith, of Dade County, Mo., had received 12,999 votes for said office of Representative in Congress in said Sixth Congressional District of the State of Missouri.

Now, therefore, I, Cornelius Roach, secretary of state of the State of Missouri, do hereby certify that CLEMENT C. DICKINSON, at the special election held in the Sixth Congressional District of Missouri, in each precinct of each county thereof, on the 1st day of February, 1910, said election having been lawfully called and held to fill the vacancy occasioned by the death of David A. De Armond, having received a majority of all the votes cast at said election for candidate for the office of Representative in Congress in and for said district, has been and is duly and lawfully elected Representative in Congress from the sixth district of Missouri to fill said vacancy.

In witness whereof I have hereunto set my hand as secretary of state and affixed the great seal of the State of Missouri. Done at my office, in Jefferson City, Mo., this 5th day of February, 1910.

[SEAL.]

CORNELIUS ROACH,  
Secretary of State.

The SPEAKER. The Chair understands the Member-elect is present and desires to qualify.

Mr. DICKINSON appeared at the bar of the House, and took the oath of the office.

## QUESTION OF PRIVILEGE.

Mr. FINLEY. Mr. Speaker, I rise to a question of privilege. The SPEAKER. The gentleman will state it.

Mr. FINLEY. Mr. Speaker, as is known, in the organization of the House the gentleman from Pennsylvania [Mr. COOPER], the gentleman from West Virginia [Mr. STURGISS], and myself constitute the House Committee on Printing, and as such are members of the Joint Committee on Printing, which consists of three Members of the Senate and three Members of the House, constituting the full committee. Recently, on the 21st of January, bids were opened, as required by law, for the purpose of receiving propositions to supply the Government Printing Office with material for the year commencing March 1. One week after that the awards were made. A bid which had been submitted by the Valley Paper Company (Incorporated) was rejected. A few days ago a suit was commenced against the Joint Committee on Printing of Congress, naming the Members of the Senate and Members of the House constituting the Joint Committee on Printing of Congress as the defendants. On that a rule was issued by a justice of the supreme court of the District of Columbia against the members of the Joint Committee on Printing to appear on the 11th day of February next and show cause why a mandamus should not issue requiring the committee to set aside certain awards that had been made and to award certain contracts to the Valley Paper Company (Incorporated). The Committees on Printing of the House and Senate, constituting the joint committee, have considered the matter, and at a meeting this morning action was taken directing me, so far as the House is concerned, to offer the preamble and resolution that I hold in my hand. We are of the opinion that should we appear in court and answer that proceeding without first obtaining the instruction of the House, we would be guilty of a breach of privilege and liable to censure, so that, Mr. Speaker, I offer the resolution which I send to the Clerk's desk. The SPEAKER. The gentleman offers the following preamble and resolution, which the Clerk will report:

The Clerk read as follows:

## House resolution 371.

Whereas ALLEN F. COOPER, GEORGE C. STURGISS, and DAVID E. FINLEY, Members of the House of Representatives, and constituting the Committee on Printing, and along with three members of the Senate, constituting the Joint Committee on Printing, have at the instance of the Valley Paper Company (Incorporated), plaintiffs, been sued in the supreme court of the District of Columbia as members of the Joint Committee on Printing of Congress, calling in question their action as members of such joint committee in rejecting the proposals of the said Valley Paper Company (Incorporated) for furnishing paper for public printing and binding for the period from March 1, 1910, to February 28, 1911, as was done by said Joint Committee on Printing of Congress at the present session of Congress; and

Whereas it is sought by the said plaintiffs or petitioners that a writ of mandamus be issued and directed against said members of the Joint Committee on Printing of Congress, to wit, the three members of the Senate, who, together with the three Members of the House above mentioned, constitute the said joint committee, commanding them to withdraw awards which have heretofore been made and to award said contracts to the plaintiffs; and

Whereas the following rule to show cause has been issued by Mr. Justice Wright in the supreme court of the District of Columbia, to wit:

In the supreme court of the District of Columbia.

THE VALLEY PAPER COMPANY (INC.), Plaintiff,

v.  
THE JOINT COMMITTEE ON PRINTING OF CONGRESS,  
composed of REED SMOOT, JONATHAN BOURNE, JR.,  
DUNCAN U. FLETCHER, GEORGE C. STURGISS,  
ALLEN F. COOPER, and DAVID E. FINLEY, Respondents.

At law, No. —.

## RULE TO SHOW CAUSE.

Upon consideration of the petition of Valley Paper Company filed herein this 2d day of February, 1910, it is by the court this 2d day of February, 1910, ordered that the respondents, the said REED SMOOT, JONATHAN BOURNE, JR., DUNCAN U. FLETCHER, GEORGE C. STURGISS, ALLEN F. COOPER, and DAVID E. FINLEY, members of the Joint Committee on Printing of Congress, show cause, if any they may have, on or before the 11th day of February, 1910, at 10 o'clock a. m., why a writ of mandamus should not be issued as prayed in said petition; provided a copy of said petition and this rule be served upon said respondents, members of the Joint Committee on Printing of Congress, on or before the 7th day of February, 1910.

WRIGHT, Justice.

A true copy.

Test:

J. R. YOUNG, Clerk.

By H. BINGHAM,

Assistant Clerk.

Resolved, That it be referred to the Committee on the Judiciary of the House of Representatives to inquire and report what action the House of Representatives should take in the premises, and particularly in the matter of instructing the said ALLEN F. COOPER, GEORGE C. STURGISS, and DAVID E. FINLEY as to the course they should pursue in the premises.

Mr. FINLEY. Mr. Speaker, this is in accordance with the instruction of my colleagues on the committee. We are of the opinion that a Member of Congress can not waive his privilege as a Member of Congress, that if he should do so without first obtaining permission of the House he would lay himself liable

to censure by the House. So that we have thought it best, we have thought it the only course open to us, to come to the House and submit the matter to the House and receive the instructions of the House.

Mr. KEIFER. Will the gentleman allow an interruption?

Mr. FINLEY. Certainly.

Mr. KEIFER. I would like to know what privilege the gentleman's committee thinks would be waived if members of the committee on the part of the House appear and show cause why the writ of mandamus should not issue?

Mr. FINLEY. I will say to the gentleman from Ohio that the precedents are numerous that an officer of the House can not have a writ of this character issued against him. It has been attempted more than once, and in the British Parliament the rule that I have cited holds good. This is the first time in the history of the Government that a committee of Congress has been used. So that the question is, if the action of Congress or the action of a committee of Congress or a Member of Congress, can be called in question by any court in all the land, when a committee of Congress or a Member of Congress acts in that capacity, then the distinction that is fundamental in the law of the land, defining the three departments of the Government, the executive, the legislative, and the judicial, will be broken down.

Mr. KEIFER. If the gentleman will allow me one question further. I know of no provision in the Constitution of the United States that protects a Member of the House from being sued, except as to matters that relate to his personal conduct, such as being privileged from arrest while in attendance upon the sessions, and perhaps he is entitled to protection on account of anything he may say or do in a legislative way. But if I am mistaken the gentleman will correct me. I understand this Joint Committee on Printing has undertaken to let contracts.

Mr. FINLEY. Under the law?

Mr. KEIFER. As authorized by law.

Mr. FINLEY. That is correct.

Mr. KEIFER. I do not understand that to answer to a court in a case like this as to whether they have done their duty as parties to a contract under the law is waiving any privilege as a mere Member of the House of Representatives. As to that there may be precedents, but I do not remember any, and I think the question has been gone over heretofore. I have no objection to the gentleman's resolution being adopted.

Mr. NORRIS. Mr. Speaker, I want to ask the gentleman a question.

Mr. FINLEY. I will yield to the gentleman.

Mr. NORRIS. I did not quite get it when the Clerk read the resolution; but what date has been fixed upon by the court for the committee to appear?

Mr. FINLEY. On the 11th day of February.

Mr. NORRIS. And the gentleman's resolution does not give the Committee on the Judiciary any instructions as to reporting prior to that date?

Mr. FINLEY. The committee is satisfied that the Committee on the Judiciary will act promptly.

Mr. NORRIS. But there might be this danger: That if the Committee on the Judiciary fail to act promptly the day might pass by.

Mr. FINLEY. We have no fears on that score. Mr. Speaker, I want to say in answer to the gentleman from Ohio that here is a committee of Congress that has performed its duties, or attempted to perform its duties, as such. Now, that committee has been sued because of its acts in the performance of its duties as a committee of Congress. This is the first time in the history of this country that a committee has been sued, and I trust it will be the last time.

Mr. KEIFER. If the gentleman will allow me, I may be mistaken—I never heard of the suit before I came in this morning—but I understand that the suit brought does not attack the duty of the Members of this House as Members or as a committee of Congress at all, but it simply undertakes to inquire whether or not a committee of Congress that is authorized by law to make the contract with outside parties have done their duty as members of that contract committee, if you please.

Mr. FITZGERALD. Does the gentleman from Ohio think that the members of the committee are acting as Members of Congress or as officers of the Government?

Mr. KEIFER. The committee is authorized by law to make contracts.

Mr. FITZGERALD. They must be acting as Members of Congress or as officers of the Government in some other capacity, and they can not be acting in some other capacity, because they could not hold some other office.

Mr. KEIFER. Oh, that question was thrashed out many years ago when a suit was brought by a humble homesteader out in Utah against Carl Schurz, as Secretary of the Interior, to require him to deliver to the homesteader a patent for land. The Secretary set up the doctrine that the Supreme Court had no right to order the delivery of a patent to that man, but the Supreme Court issued the order and required him to deliver the patent. That court went over all that doctrine in that case.

Mr. FITZGERALD. Mr. Speaker, if the gentleman will permit me, there is an earlier case, in which John Marshall held that although he could issue a subpoena to the President of the United States, he had no power to compel him to obey it. That was the celebrated Aaron Burr case.

Mr. KEIFER. That is very true.

Mr. FITZGERALD. So there may be some difference even in this case.

Mr. KEIFER. There is no analogy between that and the question whether the members of the Joint Printing Committee may be sued to inquire into their conduct in making a contract they are authorized by law to make, and not because of anything they as a committee are to report to Congress.

Mr. CLAYTON. Mr. Speaker, I desire to suggest that the proceedings of the court affects the dignity and the independency of the House and Senate, the independency of the legislative department of the Government from the judicial. And it strikes me that this committee of the House and Senate, being a joint committee of the two Houses of Congress, the proceedings against the members of the committee are based upon the theory that those members are officers within the meaning of the Constitution. Now, my offhand opinion is that they are not officers, but they are a committee, composed of Members of the House of Representatives as such and Members of the Senate as such; and, if they are, they can not be officers; and not being officers, the mandamus will not lie against them. I do not recall any case similar to the one now presented to the House, but a question did arise several years ago which was, in some respects, analogous to the one now presented. You will remember that the Hawaiian Commission was appointed of Members of the Senate and the House; that is, the commission was composed of Senators as such and Representatives as such—that is my recollection—and the question was raised as to whether or not they were "officers." The matter was referred to the Committee on the Judiciary of this House, just as the gentleman now seeks to have this question referred to the same committee, for the purpose of ascertaining the legal status of that commission. That resolution was adopted, and the question was referred to the Committee on the Judiciary. Mr. David B. Henderson, afterwards Speaker of this House, was chairman of that committee, and his committee reported unanimously and in effect that that commission, being composed of Senators and Representatives, was in the nature of a committee of Senators as such and Representatives as such, and were not officers. It may be that will be the judgment of the Committee on the Judiciary in this case. I think that, following this case, the gentleman from South Carolina and his committee have pursued an eminently proper course in suggesting this resolution here.

I do not agree with the gentleman from Ohio [Mr. KEIFER] that a member of any committee appointed by this House would be treating the House with proper respect if he should rush into court and answer a suit against him as a member of such committee without having first called the attention of the House to the suit, which can not be other than an attack upon the independency and rights of this House to appoint and control its own committees. The House must necessarily employ many agencies to discharge functions necessary for the performance of the full duties of the House, and many times it may be said that the business imposed upon such agents or agencies is merely ministerial or executive, but such duties are inseparably connected with the proper performance of the whole functions of this House. Here in this case the House must have printing done; it is a necessary part of the proper conduct of the business of the House; and so, likewise, must the Senate have printing done; it is a necessary part of the proper conduct of the business of the Senate. Of course it was merely for convenience that a plan has been provided for a standing joint committee, and, without investigation, it seems to me that the courts can not interfere with freedom of action in this regard by the House and the Senate. This committee can not be a part of the executive department of the Government. No one would contend that, I think. The Members of the House are merely instrumentalities serving for the proper legislative convenience of the two Houses of Congress. Without saying more, Mr. Speaker, let me add one word, that I believe that the gentleman from South Carolina and his associates would have com-

mitted a breach of propriety, if not of any positive rule, possibly a breach of the privilege of membership of the House—and that I have not investigated—if they had pursued any course other than the course they have here pursued, and from every standpoint, ethical and otherwise, this resolution is proper, and I trust that the House will adopt it without hesitation.

Mr. KEIFER. I want to say that the gentleman who has just taken his seat utterly misunderstood me if he understood that I opposed this resolution. On the contrary, I said it was proper, and that I was in favor of its adoption, but I questioned whether or not the members of the joint committee were officers, and in that I agree with the gentleman. I also questioned whether an effort was being made to have a writ of mandamus issued against them in their capacity as committeemen of Congress in the discharge of a legislative duty. As I understand it, they are sued because, by law, they are transformed into a body of men who are to make binding contracts with third parties outside, and in that respect I suppose the court might look into the question whether they had proceeded according to law.

Mr. CLAYTON. From a parliamentary and ethical standpoint I do not doubt that the position of the gentleman from South Carolina [Mr. FINLEY] is correct. He ought to have first submitted this question to the House, because it affects the dignity and independency of both Houses, and he and the other members of his committee would not have treated this House with proper respect if they went to the court and made answer without first consulting this House, whose creature they are in part.

Mr. KEIFER. I agree with the gentleman as to that.

Mr. FINLEY. In volume 3, page 1123, of Hinds's Precedents, section 2675:

In the case of Kilbourn v. Thompson the court affirmed the immunity of Members of the House from prosecution on account of their action in a case of alleged contempt.

The constitutional privilege as to "any speech or debate" applies generally to "things done in a session of the House by one of its Members in relation to the business before it."

Mr. GAINES. Mr. Speaker, I merely wish to make this suggestion: It seems to me that the resolution is drawn in most appropriate and temperate language, and that the House almost unanimously concurs in the propriety of its passage. Does not the gentleman think it would be better now not to debate the question upon which we are asking a report from the committee?

Mr. FINLEY. Mr. Speaker, I will state to the gentleman that debate has been limited so far as I know and as far as I can control it. I ask for a vote.

The SPEAKER. The question is on agreeing to the resolution. The question was taken, and the resolution was agreed to.

#### UNANIMOUS CONSENT CALENDAR.

The SPEAKER. The Clerk will call the Unanimous Consent Calendar.

Mr. CLARK of Missouri. Mr. Speaker, I call for order.

The SPEAKER. The House will be in order. While the House is coming to order the Chair desires to say that the Unanimous Consent Calendar, in the opinion of the Chair, is a most important one. Under former rules of the House the Chair, as a Member of the House, visited the requests for unanimous consent, and exercised his privilege as a Member in not recognizing for unanimous consent where he felt assured that the matter ought not to be treated by unanimous consent. Now it is up to the House, and the Chair suggests, especially on this calendar, that the House should be in order and that each Member should pay attention. The Clerk will call the calendar.

#### WILMINGTON HARBOR, CALIFORNIA.

The first business was House joint resolution 110, directing the Secretary of War to deepen the entrance to Wilmington Harbor, California, to 24 feet.

The SPEAKER. The joint resolution (H. J. Res. 110) is amended by a substitute, and without objection the Clerk will read the substitute.

There was no objection.

The Clerk read as follows:

Strike out all after the resolving clause and insert:  
"Resolved, etc., That the balance unexpended of appropriation heretofore made for improvement or maintenance of improvement of harbor at Wilmington, Cal., be, and the same hereby is, made available for the further improvement of the entrance to said harbor by dredging to a depth of 24 feet at mean low water within the present project limits.

The SPEAKER. Is there objection?

Mr. LIVINGSTON. Mr. Speaker, has that resolution gone to a committee; and if so, what is the report?

Mr. MACON. Mr. Speaker, reserving the right to object, I would like to have an explanation from the gentleman who introduced the resolution showing why this matter is not carried in the river and harbor bill.

Mr. LIVINGSTON. Mr. Speaker, I have asked a question.

The SPEAKER. The Chair is not informed, and did not know that such a resolution was upon the calendar.

Mr. LIVINGSTON. Has it been reported by a committee?

The SPEAKER. The Chair takes it for granted that it has been, otherwise it could not be on the calendar. The Chair is informed that it is reported by the Committee on Rivers and Harbors and is on the Union Calendar.

Mr. McLACHLAN of California. Mr. Speaker, the reason why this is not included in the bill we are now framing is because of the necessity for this work to be done at once. I will state briefly the conditions. In Wilmington there is a project in progress to deepen the harbor to 24 feet, including a turning basin of 1,600 feet in diameter. The entrance to that harbor under that project was constructed to a depth of only 20 feet. Work has already been completed under that project, except the turning basin, which, as I said before, was to be 1,600 feet in diameter. That turning basin, under that project, has been completed with the exception of a core in the center, so that now a ship can turn in that turning basin. The difficulty with the harbor now is that at the entrance it is only 20 feet in depth, while the rest of the harbor is 24 feet in depth. Inasmuch as the turning basin can now be used in its present condition, it is desired now to use the remaining money appropriated for that purpose to deepen the entrance to the harbor to 24 feet, because recently ships have arrived at that port drawing more than 20 feet and could not enter the harbor because of the shallow depth of the entrance.

Mr. MACON. Mr. Speaker, I desire to ask the gentleman if there has been a survey of this project.

Mr. McLACHLAN of California. Yes.

Mr. MACON. And a report made upon it?

Mr. McLACHLAN of California. A favorable report.

Mr. MACON. How much will it cost?

Mr. McLACHLAN of California. Well, the money has already been appropriated. We ask simply to divert it from the turning basin to the deepening of the entrance to the harbor.

Mr. MACON. It is simply to make immediately available an appropriation already made?

Mr. McLACHLAN of California. That is right.

Mr. MACON. If that is all, I will not object.

Mr. HITCHCOCK. Mr. Speaker, I will renew the reservation. Do I understand the gentleman to say that this is a diversion of a fund from one purpose to another?

Mr. McLACHLAN of California. No; it is in the same harbor. The project there contemplated deepening the entrance to the harbor to 20 feet and 24 feet inside the harbor, including a turning basin of 1,600 feet in diameter.

That work has already been done, except taking out a core in the center of the turning basin. Ships now turn in that basin even with the core there, but ships have recently called at that port drawing more than 20 feet and could not enter because of the shallow entrance, and now it is proposed, in the interest of commerce, to stop the further construction of the turning basin and to divert the unexpended balance to deepen the entrance to 24 feet and make it similar to the rest of the harbor.

Mr. HITCHCOCK. Then it does contemplate a change from the plan under which the original appropriation was made?

Mr. McLACHLAN of California. Yes; but there is an authorization already made by Congress to deepen the entrance of this harbor to that depth. That has been authorized and agreed upon by the board of engineers.

Mr. HITCHCOCK. What is the amount?

Mr. McLACHLAN of California. Between \$30,000 and \$40,000 which is sought to be diverted for this purpose.

Mr. HITCHCOCK. Will an additional amount be made necessary to complete the turning basin?

Mr. McLACHLAN of California. Certainly. We can not dig out the core of the turning basin unless more funds are appropriated in the future for that purpose, if this amount is now used to deepen the entrance to the harbor.

Mr. FITZGERALD. How much did the gentleman say is available for this purpose?

Mr. McLACHLAN of California. Between \$30,000 and \$40,000 is the unexpended balance.

Mr. FITZGERALD. The report of the committee says about \$25,000.

Mr. McLACHLAN of California. I do not know exactly, as they are constantly at work there, but the last report was that there was between \$30,000 and \$40,000.

Mr. FITZGERALD. How much is it estimated will be required to deepen the entrance to 24 feet?

Mr. McLACHLAN of California. I could not state.

Mr. FITZGERALD. There was a survey, was there not?

Mr. McLACHLAN of California. There is another survey reporting in favor of deepening the entrance of the harbor to 30 feet, but we are asking now that this be used to make the entrance 24 feet, so that the whole harbor can be made available to that depth.

Mr. FITZGERALD. Is there no estimate of what the cost will be?

Mr. McLACHLAN of California. For the 24 feet; no.

Mr. FITZGERALD. Does the gentleman know whether it will take the balance or more than the balance?

Mr. McLACHLAN of California. I do not know; but I believe this balance will complete it.

Mr. GAINES. Will the gentleman answer this question? Is it likely to commit us to something that will take a very much larger sum than the unexpended balance?

Mr. McLACHLAN of California. Not at all; not a single dollar.

Mr. MANN. Will the gentleman answer this question? When this resolution was reported it was not yet settled whether there would be a river and harbor bill brought into this House this year. As I understand it from common rumor, it is now settled that there will be brought into the House a river and harbor bill, and I assume that means it will become a law. Is there any reason why this should not go on the river and harbor bill in connection with other projects for other places?

Mr. McLACHLAN of California. There is not, except that the necessity for deepening this entrance is pressing at the present time.

Mr. MANN. Is not that true of all proposed river and harbor improvements that the necessity is pressing, at least pressing very hard upon the Members who are advocating the project?

Mr. PAYNE. As I understand it, this money is already appropriated for the purpose of making this turning basin in the harbor. There is an unexpended balance of some \$30,000 or \$40,000. It develops now the water on the bar is only 20 feet, while the turning basin will permit of a depth of 24 feet, and this is simply for the purpose of deepening that with the \$30,000 or \$40,000 of unexpended balance, to dig out this bar so that vessels drawing 24 feet of water can come in there. This is to make available what improvements have already been done there. It does not require any new appropriation, but is simply a diversion of the money for the same project, and that is, it seems to me, a good reason for taking it up now.

Mr. CLARK of Missouri. Mr. Speaker, I would like to inquire if the gentleman is on the Rivers and Harbors Committee?

Mr. McLACHLAN of California. Yes.

Mr. CLARK of Missouri. How much are you going to ask for the improvement of rivers and harbors?

Mr. McLACHLAN of California. That I am not able to say; the bill is not completed.

Mr. CLARK of Missouri. How much money is left of this unexpended balance?

Mr. McLACHLAN of California. It is impossible to say exactly, because since this resolution was introduced, some time ago, they have been going on with the work on this turning basin and spending the balance for that purpose. In my judgment, there is in the neighborhood of \$30,000 or \$40,000.

Mr. CLARK of Missouri. How much will it take to remove that core you are talking about?

Mr. McLACHLAN of California. To deepen the bar?

Mr. CLARK of Missouri. Not to deepen the bar, but to remove the core.

Mr. McLACHLAN of California. The money appropriated for that purpose will complete it.

Mr. LIVINGSTON. Provided you do not divert it.

Mr. CLARK of Missouri. If that is true, why do you want this special resolution?

Mr. McLACHLAN of California. We want the money now on hand to be expended in deepening the entrance to the harbor, because the turning basin, in the condition it now is, will allow the turning of vessels, consequently the only pressing necessity of the harbor is to deepen the entrance from 20 to 24 feet, making it the same depth as all the rest of the harbor.

Mr. CLARK of Missouri. If you use up all the money appropriated for that harbor for this performance that you are speaking about, will not that necessitate another appropriation by Congress to remove that core—

Mr. McLACHLAN of California. Certainly.

Mr. CLARK of Missouri (continuing). That this money was appropriated for originally?

Mr. McLACHLAN of California. Certainly. It is simply to relieve the pressing necessity of that harbor. Ships have come there recently drawing more than 20 feet, and could not enter

the harbor because the entrance was only 20 feet, whereas the balance of the harbor was 24 feet.

Mr. CLARK of Missouri. Why was not this thing put on the river and harbor bill?

Mr. McLACHLAN of California. Because our desire was to make this fund available at once for this purpose.

Mr. CLARK of Missouri. Is not this a fact: If we permit you to get what you want, and permit Tom, Dick, and Harry to get what they want, by special resolutions brought in here, that the rest of us who want a general scheme of river and harbor improvement will be left in the cold in the end?

Mr. McLACHLAN of California. Not at all.

Mr. LIVINGSTON. Mr. Speaker, I suggest to the gentleman why did he not have this put in the urgent deficiency bill, which has just now passed the Senate?

Mr. McLACHLAN of California. Because we selected this method as the best. It is new legislation and would require a special act in order to make this transfer. The money is already appropriated, and this act would legalize the transfer.

Mr. LIVINGSTON. But why did not you ask the committee to have it put on the bill transferring the money that was appropriated?

Mr. McLACHLAN of California. We maintain this is the proper way.

The SPEAKER. Is there objection?

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

Mr. McLACHLAN of California. Yes.

Mr. FITZGERALD. Has the gentleman requested an appropriation in the coming river and harbor bill to deepen this entrance to the channel to 30 feet on the survey already made?

Mr. McLACHLAN of California. I will say to the gentleman that I am in hopes that we can appropriate for the entire scheme to deepen the whole of that harbor, including the entrance, to 30 feet.

Mr. FITZGERALD. Well, if that be true this bill should not pass.

Mr. McLACHLAN of California. The only point, if the gentleman from New York will allow me, and the only object of this resolution, was to make this small unexpended balance available to meet the urgent necessities of that harbor at once.

Mr. FITZGERALD. There is nothing in the report to show that it is urgent; no report from the Chief of Engineers, and no statement of the local engineer as to the urgency. And if, as the gentleman says, a survey has been made for improving this entrance by deepening it to 30 feet, and an estimate of the cost of that improvement has been made, and that no estimate has been made of how much it will cost to deepen it to 24 feet, I believe the interests of the harbor will be advanced by having this improvement taken care of in the river and harbor bill, authorizing the 30 feet instead of 24 feet.

Mr. McLACHLAN of California. If the gentleman will allow me to suggest, whatever is done under this resolution to deepen the entrance to the harbor from 20 to 24 feet will be that much accomplished, and will not be necessary to be done under the general project to deepen it to 30 feet.

Mr. FITZGERALD. How much will it take to deepen it to 30 feet?

Mr. McLACHLAN of California. The project takes in the entire work in the harbor and does not segregate the entrance from the balance of the harbor.

Mr. FITZGERALD. Mr. Speaker, I think the House is entitled to know how much a projected improvement will cost, and should not be asked to permit money that has not been expended for one project to be given to another that has not yet been authorized. Until I can have an opportunity to find the real facts of the situation about this project if it is to be pressed for passage at the present, I shall object.

The SPEAKER. Is there objection?

Mr. McLACHLAN of California. I ask, if the gentleman insists upon his objection, that the bill be passed without prejudice.

Mr. GAINES. Mr. Speaker, I make the point of order that that can not be done under the rule.

The SPEAKER. The Chair will examine the rule.

Mr. MANN. It can be passed without prejudice by unanimous consent.

Mr. GAINES. Well, if that sort of practice is a proper interpretation of the rule, Mr. Speaker, we will have these matters on the Calendar for Unanimous Consent piled up to a point where it will be absolutely intolerable. In my opinion, when matters are on the Calendar for Unanimous Consent, they ought to go through or go off the calendar when they are reached.

The SPEAKER. The rule provides in the last clause:

Should objection be made to the consideration of any bill so called, it shall immediately be stricken from the Calendar for Unanimous Consent, and it shall not thereafter be placed thereon.

The rule seems mandatory.

Mr. MANN. But, Mr. Speaker, it is very important to have this matter passed on so that the House may be properly advised. Objection has not been made yet to the bill.

The SPEAKER. But the request was made for the purpose of passing it without prejudice, which would allow it to remain on the calendar.

Mr. MANN. Of course that can only be done by unanimous consent, but where an objection has not been made to the bill the rule does not require it to be stricken from the calendar. Now, it may often happen when a matter comes before the House that some one desires additional information in reference to the bill before it shall be considered by unanimous consent, and it seems to me that a proper construction of the rule would permit of the person in charge of the bill asking that the bill be passed without prejudice, no objection to its consideration having in fact been made, because that would still leave the bill where it could be acted upon by the House after the information is obtained.

The Speaker will notice that to say that when the bill is brought before the House it must act upon it, is not either the spirit or the letter of the rule. The rule says it can not go on the Unanimous Consent Calendar more than once. The rule is to a large extent following Rule VIII in the Senate, where it is common practice in the construction of the rule to permit bills to be passed over without prejudice and by unanimous consent where no objection is made to them. I should think that was the fairest construction of this rule; it still leaves it within the power of the House, by unanimous consent, to consider the bills on the calendar.

The SPEAKER. The Chair will read the rule in full. The request was made by the gentleman from California that the bill be passed over without prejudice, so as to allow it to remain on the Unanimous Consent Calendar. The whole rule is as follows:

Paragraph 3, Rule XIII:

"3. After a bill which has been favorably reported shall have been upon either the House or the Union Calendar for three days, any Member may file with the Clerk a notice that he desires such bill placed upon a special calendar, to be known as the 'Calendar for Unanimous Consent.' On days when it shall be in order to move to suspend the rules, the Speaker shall, immediately after the approval of the Journal, direct the Clerk to call the bills upon the Calendar for Unanimous Consent. Should objection be made to the consideration of any bill so called, it shall immediately be stricken from the Calendar for Unanimous Consent and it shall not thereafter be placed thereon."

Now, the Chair, in construing this rule, has held that a bill on the Unanimous Consent Calendar shall be upon the printed calendar. Why? So that every Member of the House, by consulting the calendar, may be informed what bills are subject to unanimous consent upon that calendar. The rule, it seems to the Chair, is mandatory that if objection is made, not that the bill shall be defeated, but that it shall take its departure from the Unanimous Consent Calendar and return by leave of the House to the Union Calendar. But, as a matter of fact, objection is made—

Mr. MANN. Objection has not been made in this case.

The SPEAKER. Precisely; but there comes the request that it be passed without prejudice, which is equivalent to another chance for the bill upon the Unanimous Consent Calendar.

Mr. MANN. Suppose the Member in charge of the bill were ill, unable to be on the floor, and the House desired to extend the courtesy to that Member, as might readily be the case, to pass the bill without prejudice until the Member should be present. Does the Speaker rule that it is not possible for the House to do so?

The SPEAKER. There are 391 Members of the House. If there be some Member that is especially interested in a bill upon this calendar, some other Member or colleague might act for him. Furthermore, these bills on the Unanimous Consent Calendar do not disappear from the House or the Union Calendar when they are put on this calendar. They are on two calendars, retaining their place on the House or the Union Calendar. The rule seems to be mandatory.

Mr. SHERLEY. Mr. Speaker, just a word. It seems to me that the error that the Chair is about to fall into is in not distinguishing between the consideration of the bill on its merits and such consideration on a motion to pass a bill without prejudice, such as the one that is made here. The rule does say that if consideration be objected to by any person, thereupon the bill shall go off the calendar, but the motion here does not ask consideration within the meaning of the rule. The consideration there meant is the consideration on the merits.

What is asked for here is that the bill may be passed without prejudice, and then it is in the same situation it would have been if not reached to-day on the Unanimous Consent Calendar.

The SPEAKER. This bill is not before the House; the request is to get it before the House.

Mr. SHERLEY. The bill is called by the Clerk. Now, anyone can object to consideration if consideration on its merits is raised. But if in lieu of that a motion is made to pass it without prejudice, then I submit that the rule does not require that it go off the calendar.

The SPEAKER. The Unanimous Consent Calendar appears for the first time at this session of Congress. It occurs to the Chair that bills on the House Calendar and on the Union Calendar, not losing their places, are on all fours with bills that are not upon the Unanimous Consent Calendar. The Chair made a ruling, which the House approved, that the bill must be printed upon the calendar, so that a bare glance at the calendar would inform the Members what bills were upon the calendar.

Again, a Member or Members may be present now who would object to the consideration of a bill on the calendar if objection was called for. Objection has not yet been called for. By unanimous consent—otherwise it would be impossible for the House to administer the calendar—there has been talk about this bill. But now, before it is before the House, comes the request that it may be passed. The Chair is of opinion that a fair construction of the rule is that if the bill meets with an objection, that would take it off the calendar, standing as it does upon either the Public or the Union Calendar—

Mr. FITZGERALD. I wish to submit, if the Chair will permit me, that a ruling made by the Chair itself early in the session may have some importance on this subject. Before the establishment of this calendar, when a bill was submitted for unanimous consent and objection was made, if afterwards the Member making the request was able to satisfy the objector that his objections were not well founded, the Chair would resubmit the request. The Speaker has announced, however, that he would not recognize anyone for unanimous consent for a bill which could be placed upon this calendar. Very frequently bills may be placed upon this calendar to which, after some discussion, there may be temporary objection which could be removed if an opportunity were given to furnish the additional information.

It seems to me that many cases might arise where bills would be passed temporarily without injustice, because if anybody be present who wishes to object to the bill he can protect his rights by objecting to the bill being passed and objecting to its consideration. It seems to me that in working out the business of the House in harmony with the practice that has existed heretofore it might be desirable many times to permit bills to be passed temporarily until the information that might be obtainable could be submitted to the House.

The SPEAKER. The gentleman from New York will recollect that there is a calendar Wednesday, when upon the call of committees any committee can call a bill on either the House or Union calendars, and the Chair has noticed, both from the operation of the calendar Wednesday and the state of the House and the Union calendars, that the calendars are being kept comparatively clean.

Now, it occurs to the Chair that if this rule be construed as the gentleman from New York and the gentleman from Illinois suggest, it will take much of the time of the House; that it will subject the Member who objects to an avalanche of pressure, and in the very nature of things it would bring about a practice where the Members—391 in number—would beget the custom of having kissing go by favor.

Mr. MANN. Will the Speaker permit one word more upon that point?

The SPEAKER. Yes.

Mr. MANN. It is wholly within the power of any Member of the House now to object to the consideration of this bill; and if he so objects, under the rule the bill goes off the Unanimous Consent Calendar. That is what the rule says, and there can be no question about it. It is within the power of any Member of the House now, if he be present in the House, to stop the consideration of this bill on the Unanimous Consent Calendar; but the indications are that the ruling of the Speaker will go a great deal further than that. It not only gives any Member of the House now the power to object, but forbids the House unanimously to postpone the consideration of this bill until it can acquire information in reference to it. Now, that is not the wording of the rule. That is not, it seems to me, the spirit of the rule. If when the bill is called before the House no Member does object, why can not the House, by unanimous consent—that is what it will amount to, because any Member can at any time object and stop it—why can not the House, by



unanimous consent, postpone the consideration of this measure, allowing it to retain its place on the Unanimous Consent Calendar, so that it will again come before the House with the desired information?

I have repeatedly heard the present occupant in the Speaker's chair say that the House can do anything by unanimous consent. Now, if that be true, then the House certainly can pass a bill on the Unanimous Consent Calendar, where no one objects, and leave it there, taking it off if anyone objects, and leaving it on if no one objects. Let us look at the effect of the ruling such as has been proposed. It is true that the House and Union calendars are now taken care of very well by calendar Wednesday. It is also true that a little later in this session, and more especially in the next session of Congress, when bills are being reported in with great frequency and when calendar Wednesday will have to be suspended at the next session of Congress on some days in order to pass the appropriation bills, that we may be shortly in a position that no bill, however important, can possibly be reached for consideration if some Member has accidentally or erroneously objected at some time to its consideration, or if some Member has erroneously placed it on the Unanimous Consent Calendar. He can not take it off. If it comes before the House under that ruling, it must be disposed of. He can not postpone it; if some one objects, it is lost—a bill that every Member may desire to pass. It seems to me that will get the House into a pretty bad tangle.

The SPEAKER. The Chair desires to state that the Unanimous Consent Calendar was provided by a rule adopted by the present Congress. Calendar Wednesday, one day in each week, went into the rules to deal exactly with the same class of bills, so that there is one day in each week that must be devoted to the House Calendar and the Union Calendar unless two-thirds of the Members of the House dispense with calendar Wednesday. In addition to that, under the rule, after a bill has been upon the House or Union Calendar for three days it may, upon the request of a Member, be transferred to the Calendar for Unanimous Consent without at the same time being taken off the House or the Union Calendar, where it has its chance for consideration upon calendar Wednesday, which practically can not be dispensed with. Now, if an objection is made, the bill keeps its status on the House or Union Calendar and can be treated upon calendar Wednesday.

The Chair desires to state that calendar Wednesday already is receiving something of criticism and protest, not against the disposition of bills upon the House and Union calendars, but because of the time that it takes. For instance, under a rule of the House there are two Mondays in the month devoted to business on the District of Columbia, and two for unanimous consents and suspensions, which have the right of way immediately after the Journal has been approved, a request for unanimous consent to consider first, and a motion to suspend the rules second. In addition to that, there is a day set apart each week for private bills granting pensions, paying claims, and so forth. Thus practically three days in each week—Mondays, Wednesdays, and Fridays—are segregated for classes of business. Now, the Chair, looking to the transaction of the public business, and the reason for the calendar Wednesday and the Unanimous Consent Calendar, is of opinion that the construction of the rule or the reading into the rule of something that is not there would tend to embarrass the House in the transaction of business—the great public business.

The gentleman from Illinois [Mr. MANN] says the House can do anything by unanimous consent. That is correct; but the unanimous consent must be under the rules of the House; otherwise it would be in the power of one Member or ten Members, a minority or a majority of the Members and the Speaker, to do all business by unanimous consent, whether from the committee or formed in concrete or vague form in the brain of any Member, without having received consideration by a committee of the House.

Now, having explained the views of the Chair as touching this matter, the Chair is quite willing to take the judgment of the House, because the Chair thinks, from the statement of the gentleman from New York [Mr. FITZGERALD] and the statement of the gentleman from Illinois [Mr. MANN] and the statement of the Chair, that the House understands the question, and the Chair will submit it to the House.

Mr. FITZGERALD. Mr. Speaker, before the Chair does that I wish to call attention to one thing. Under the rules the House can not do anything it pleases by unanimous consent. There are certain things that the Speaker can not submit to the House for unanimous consent.

The SPEAKER. Under the rules.

Mr. FITZGERALD. Under the rules; but there is nothing in this rule which prohibits the bill being passed by unanimous consent. One of the common expressions of the Chair has been that "the House could pass an elephant through the House by unanimous consent." Of course it was an exaggerated statement, but there is nothing in this rule which would prohibit the House, by unanimous consent, from restoring a bill to this calendar.

The SPEAKER. The Chair desires to interrupt the gentleman just at that point. After great agitation in the country, in the public press, both newspapers and magazines, about granting unanimous consent being within the power of the Speaker and about how Members would have to crawl upon their knees and in the dust abase their personal and legislative dignity by asking the Speaker to submit matters for unanimous consent, the House, in its wisdom, made calendar Wednesday and made the Unanimous Consent Calendar to get away from asking the Speaker not to run over the dignity of the Member or impose upon the House by exercising his discretion as to whether he would submit a matter for unanimous consent.

Now, then, at the beginning of the operation of this rule, when this bill is called, before objection is made, the gentleman appeals for recognition to the Speaker to submit by unanimous consent a request that this bill shall have another chance. [Applause.]

The Chair will submit this question: Shall it be in order for the Speaker to entertain a request for unanimous consent that a bill on the Unanimous Consent Calendar be passed without prejudice?

Mr. SHERLEY. Mr. Speaker—

The SPEAKER. The Chair thinks the House understands—

Mr. SHERLEY. But I submit, Mr. Speaker, if the Chair thinks of submitting the matter to the House, the matter is debatable, and I desire to be heard upon it.

The SPEAKER. The Chair will hear the gentleman.

Mr. SHERLEY. But, Mr. Speaker, that is not the point. Without meaning to be captious, if the matter is submitted to the House, then I desire to debate the matter before the House. If the Chair is to decide, then I will await the decision of the Chair.

Mr. GAINES. Mr. Speaker, I make another point of order. My point of order is, the question submitted to the House in the form in which it has been submitted does not accurately describe the question before the House. I made the original point of order, and I should like to be heard upon the point of order for a few moments—

The SPEAKER. The gentleman will suspend for a moment. The submission put by the Chair was, "Shall it be in order for the Speaker to entertain a request for unanimous consent that a bill on the Unanimous Consent Calendar be passed without prejudice?" It seems to the Chair that is just the case, but the Chair will hear the gentleman's suggestion.

Mr. GAINES. Request was made not to pass the bill on the Unanimous Consent Calendar in the first instance; that is not what occurred. The matter was called up, read by the Clerk, preliminary debate was had by unanimous consent pending the consideration of the request; and then, after it appeared that the matter had been thrashed out in the House to such a point that it was apparent objection would be made, the request was to withdraw the request for unanimous consent to consider the bill, and to ask unanimous consent that it be passed without prejudice and retain its place on the calendar. Now, it may be very well that this House and the Speaker might hold in the case of the absence of a Member or in any other case that a request should be made for unanimous consent to pass a bill on the calendar without prejudice, and that that request should be entertained and acceded to, but it is a very different proposition to pursue the matter up to the point of objection, and after a request for unanimous consent to consider it has been made, to then request a withdrawal of the bill in order to avoid an objection obviously impending. I submit that the proposition put by the Speaker to the House is not entirely accurate. The proposition is whether the House will permit a unanimous consent to be withdrawn after it is made and after a discussion has been had on the merits of the bill, pending the conclusion on the part of Members whether they will make an objection. That is the proposition before the House, and a very different one from asking in the first instance that the matter go over until some other day without prejudice. I submit, Mr. Speaker, if we are to debate these bills in the usual form, upon a request for unanimous consent until it is determined that some Member will object, and then permit such bills to be restored to their place on a calendar, then the calendar will be so crowded that bills far down on it

will never get any benefit whatever of the calendar for unanimous consent. It will be a race between Members of this House to see who can get as far up as possible on the Calendar for Unanimous Consent, and the rule will be a fruitful source of intolerable congestion of legislation and defeat the very purpose for which the House passed it.

Mr. SHERLEY. Could not that be stopped by some one simply objecting to unanimous consent to postpone?

Mr. GAINES. People will not object. My answer to that, and it seems conclusive to me, is this: That if gentlemen can make that sort of an appeal, we will never have any final objection and the same old bills will stay at the head of the calendar and clog it up, and the House will have no opportunity of reaching other bills of equal or perhaps greater merit which happen by chance to be lower down on the calendar.

Mr. SIMS. Mr. Speaker, I desire to make an additional point of order.

The SPEAKER. One moment. The gentleman from Ohio.

Mr. KEIFER. Mr. Speaker, I do not rise to occupy any time, but to ascertain certainly as to what proposition is being submitted to the House. My purpose was to raise the same question as that which has been raised by the distinguished gentleman from West Virginia. I understood the question decided, or before the Speaker, was whether after a bill had been called up for consideration from the Calendar for Unanimous Consent, and after objection is made to its consideration, that the rule must be enforced and it must go off such calendar. Now, then, is it not asking, in submitting it to the House now, whether by unanimous consent we are setting aside that rule and doing it permanently, so that in future whenever we can get a bill up, and it is objected to, we can get the privilege of keeping it on the calendar? I do not think that any other question than that is now before the House, and any other question submitted would be a mere abstraction. If the Chair is going to submit the question whether or not by unanimous consent a bill that has been called up for consideration on the Unanimous Consent Calendar can be retained on the calendar before objection to its consideration is made, that will be a proper question; but if we are going to go the whole length and set the rule aside by a mere construction directly in opposition to the plain language of the rule, then we better wait until the real question has arisen and has been discussed. If the rule is wrong, it should be amended by the House, not set aside by arbitrary construction.

Mr. SIMS. Mr. Speaker, I desire to make a point of order, if the Chair will hear me.

The SPEAKER. The Chair will hear the gentleman.

Mr. SIMS. If I understand the submission of the Chair, it virtually means an amendment to the unanimous-consent rule, or the Speaker is submitting a point of order to decision of the House; I would like to know what the Chair's ruling as to it is. If it is an amendment to the unanimous-consent rule, I make the point of order that under the rule nothing can be considered on this day not on the Unanimous Consent Calendar.

The SPEAKER. The Chair listened to the gentleman from West Virginia, also to the gentleman from Ohio, and other gentlemen. The Chair is quite free to say that he has no pride of opinion touching this matter. It occurs to the Chair that the matter proposed to be submitted to the House does not state the question as it exists in fact. Two questions in the construction of that rule arise or might arise. The one that arises now is—

Shall it be in order, after there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request that the bill be passed without prejudice?

Now, that is one. Now, there may be still another question arise, namely—

Shall it be in order, before there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request for unanimous consent that the bill be passed without prejudice?

That is not the question now pending before the House, but suggested by the gentleman from Illinois [Mr. MANN]. The Chair will again read what he will submit to the House, modifying the former submission, or withdrawing it entirely—

Shall it be in order, after there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request for unanimous consent that the bill be passed without prejudice?

Mr. SIMS. Is that virtually an amendment to the rule or construing the rule?

The SPEAKER. It is construing the rule. It is just the same in all matters about which gentlemen disagree; and each Member is quite as much interested in the proper construction of the rule as the Chair. After all, rules like laws, like all

judisdictions that control the action of men, have to be construed. We have got very few rules in the Manual; I do not know exactly, but about 40. It is the work of one hundred and twenty years, and yet the precedents that have been made by the House fill eight volumes of about a thousand pages each. So that it is the construction of the rules which make the law for the House; and the Chair has felt justified in submitting, after discussion, this question to the House to determine what shall be the construction of the rule.

Mr. SHERLEY. If I understand the Chair is to submit that question, I would like to be recognized to address the House on it.

The SPEAKER. The Chair will hear the gentleman from Kentucky.

Mr. SHERLEY. Well, Mr. Speaker, I would like to know in advance if the Speaker is going to submit the point of order to the House, because I want to address myself to the House, if it is to decide; and if the Chair is to decide, then I shall endeavor to convince the Chair.

The SPEAKER. Precisely; the Chair has submitted to the House. The Chair has just read again what the House is to vote upon.

Mr. SHERLEY. The general proposition is simply this: What construction of this rule will best promote the business of the House and best comply with all the rights of the Members of the House? Now, it has been urged by those who oppose the right to submit a motion for unanimous consent to pass without prejudice when a bill is reached on the Unanimous Consent Calendar, that if we allow such motion we would unnecessarily encumber this calendar, and that the calendar would never be cleared. My response to that proposition is simply this: A matter is called up, as it was this morning; there is discussion had upon it. During that discussion it becomes evident that some gentleman is proposing to object. The matter comes up casually, and for that reason you can not understand the question, and in order that the matter may be more clearly understood by the House, and that a Member may have time to investigate outside, the advocate of the bill moves that it may be passed without prejudice. Now, then, any man who has determined that he does not want the matter further considered can prevent the calendar from being crowded up by simply saying, "I object." Then the question is forced of the consideration of the bill, and by an objection it is put out of the way; it is off the calendar, and off forever.

But if you adopt the construction intimated by the Chair and advocated by the gentleman from West Virginia [Mr. GAINES] you have yourself in this situation: A bill may be brought up on the Unanimous Consent Calendar. It is a bill of some intricacy. During the discussion a confusion arises as to just what it means. A man with that doubt in his mind, unwilling to let it come up by unanimous consent, if forced to act upon it then, will object. Then immediately it goes off that calendar and goes onto the calendar from which it came, either the House or the Union Calendar. When it gets there, it has been stated by the Speaker that upon calendar Wednesday it could be reached; but that may or may not be true. The call of the calendar may be with a committee so far away from that bill that it will not be reached that way, and yet it is a matter that when properly understood, by a little investigation on the outside, would have gone through by unanimous consent.

Now, we adopted this rule, not to put ourselves in a worse position than we were when the Speaker recognized Members for unanimous consent, but to put ourselves in a better position; and yet every man on this floor who has had any experience knows that he has had occasion to have the Speaker recognize him for unanimous consent, the matter would be called up, and objection would be made. Subsequently, he would see the man who had objected, and explain to him the situation fully, and that man's reason for objection would be removed. He would then obtain from the Speaker recognition again and would again ask unanimous consent, and the bill would go through.

Now, if the rule is to be construed as the gentleman from West Virginia contends, we are infinitely worse off than we were before, because when a bill is called on the Unanimous Consent Calendar and objection is made, by virtue of some doubt and the need of some explanation, that bill is forever denied the right to come up on that calendar during the entire Congress, and I submit that that is not a position that the House ought to put itself in, and I hope the House will affirmatively determine that it is right for the Chair to submit a request to have a bill on the Unanimous Consent Calendar passed without prejudice. [Applause.]

Mr. GAINES. Mr. Speaker, I desire to say but a word in answer to the very lucid statement of the gentleman from Kentucky, and that is this: If we adopt the practice of permitting Members of the House to bring up for unanimous consent their bills on the Unanimous Consent Calendar, debate them, in answer to the various questions of Members of the House, and then when they reach the point of requesting unanimous consent they find that it is likely to be refused—if we allow the bills under these circumstances to remain on the calendar, we will have this condition existing: Nobody likes to object to anybody's bill. We all hate to do it. Nothing but a strong sense of duty ever induces one to make an objection when a brother Member wishes a bill passed. Now the easy way to make objections will be pointed out. Members will say, "If this bill is to be considered now I shall have to object." Then the request will be that the bill go over and remain on the Unanimous Consent Calendar. My answer to the proposition that this calendar will not relieve the old situation, if the view that I contend for is adopted, is this: We have done away now with the old situation. Whether the present rule is an improvement or a mistake I have no disposition to consider; but if we are to permit a few bills at the head of the calendar to be debated, and then to take their place upon the calendar again—for the Member would always ask unanimous consent that they be retained on the Unanimous Consent Calendar—then the top of that calendar will be blocked up, and instead of the old situation of which complaint was made, we will have a new situation from which there will be no escape whatever.

Mr. MANN. Will the gentleman yield for a question?

Mr. GAINES. Certainly.

Mr. MANN. Does the gentleman think it is practically possible for the Unanimous Consent Calendar ever to become so long that it will not be gone through with in one day?

Mr. GAINES. I should think that what is occurring here to-day would be a conclusive answer to the question.

Mr. MANN. Will the gentleman rest his case on whether we get through with this Unanimous Consent Calendar to-day or not? We will be through in an hour after the gentleman finishes his speech.

Mr. GAINES. Well, if we are, there will be less debate than usually takes place in the consideration of such matters. I do not know how many bills there are now on the calendar; I have not counted them.

Mr. MANN. There are as many as usual.

Mr. GAINES. There are 21 bills, and unless we do get some off the calendar, my answer is that the calendar will soon become so long that the foot of it can not be reached, because it will be blocked at the top.

Mr. CLARK of Missouri. I want to say to the gentleman from West Virginia that he has been here a good while, and so have I, and time and time again he has seen some gentleman get the permission of the Speaker to call up a bill by unanimous consent, and because of insufficient information some Member objects. Then the man in charge of the bill comes over and has a confabulation with the man that did the objecting, and explains to him the facts in the case, and the man that asked for unanimous consent originally went to the Speaker and told him that the man who objected had withdrawn his objection, whereupon he would get a second chance to call up his bill by unanimous consent, and it would go through. That has been done hundreds of times to my knowledge.

Now, does not this turn out to be the case—if the gentleman's contention is correct, then instead of this rule helping to expedite the business of the House it makes our present condition worse than our former condition? Is not that true?

Mr. GAINES. I will answer the gentleman from Missouri that the former condition never seemed to me to be a particularly bad one.

Mr. CLARK of Missouri. But it was one that the people objected to.

Mr. GAINES. I never found the Speaker of the House unwilling or discourteous in a matter of an application for unanimous consent.

Mr. CLARK of Missouri. I am not saying anything about that.

Mr. GAINES. I do not think the gentleman did. I never found there was any more difficulty in asking the consent of the Speaker, as a Member of this House, than in asking consent of any other Member of the House. Now, the gentleman from Missouri asked me whether our later condition will not be worse than the first. The first was rather more objectionable to the people than to the House, but we have made this modification. I am not able to make a comparison and I have no desire to make a comparison between the new rule, for which I voted,

and the old system which it superseded. But I want to say again to the Members of this House that if one who wishes to make an objection can avoid his full responsibility and say, "I shall have to object now;" and if then the gentleman asking unanimous consent may have the bill kept on the calendar, then I know that the new rule will be worse than the old condition, for we will have the calendar congested at the top, which will absolutely preclude the bottom of the calendar from any consideration.

And I want to make this further statement: This is not a case where one has asked, before the request for unanimous consent, that his bill may go over, or where a friend is sick, that the bill may go over, or because of the absence of a Member particularly acquainted with it or interested in it; but here is a case where the matter has taken up the time of the House, and a considerable amount of it, and then, being confronted with an objection, the Member asks that the same matter continue to stand on the Calendar for Unanimous Consent, preventing the other 21 bills from consideration.

Mr. SHERLEY. Can not any Member simply object to the request for unanimous consent that it go over?

Mr. GAINES. Yes; but he will not do it. The gentleman from Kentucky knows as well as any Member of this House, for he is both conscientious and courteous, that it is frequently the duty to object and always an unpleasant duty to object. I submit that the conduct of the business of this House has not advanced, but is absolutely impeded, when we make an opportunity for this kind of halfway objection, which postpones the time when one may finally refuse to give his consent to another Member of the House.

Mr. CLARK of Missouri. I want to make a suggestion. As to this particular case, I did not object. As the gentleman from West Virginia says, it is always a painful performance to object to unanimous consent; but I would object for two reasons until I am informed upon two points about the particular matter pending. In the first place, I would object to it unless I am assured that this is what the doctors call a "sporadic case" coming from the River and Harbor Committee, and was not to be a piecemeal performance, by which the members of that committee can get what they want and the rest of us can not get what we want. That is number one. In the second place, I tried to find out and could not, because the gentleman from California did not seem to know himself, whether, if the money in this particular case was diverted, it would be followed by an appeal for a new appropriation for that project out there.

If those two facts were cleared up in my mind I would not have any disposition whatever to object to this request; but what I say is that, if it goes over by consent, in order that the gentleman from California [Mr. MCLACHLAN] might be able to inform us on both of those points, and if the doubt in the case were resolved in the way I would like to see it resolved, then, as far as I am concerned, there would not be any objection to it; but if it were resolved the other way, then, when it came up the next time, I would object to it. It seems to me, in the interest of expediting business, when a man comes in here with a matter about which you can not get the information you desire, he ought to be permitted to take it out and get it back here at some other time when we can get the information.

Mr. MURDOCK. Mr. Speaker, will the gentleman yield for a question?

Mr. CLARK of Missouri. I have not the floor.

Mr. GAINES. I yield to the gentleman.

Mr. MURDOCK. Suppose the gentleman's argument is right about that. Then ought not the bill of the gentleman from California, which has had its opportunity before the House, to go to the bottom of the calendar?

Mr. CLARK of Missouri. I think that is correct.

Mr. MURDOCK. But there is no such proposition before the House. It takes its place at the head of the calendar.

Mr. GAINES. But the difficulty is that we are proceeding under the rule, and the rule does not provide any way to get it at the bottom of the calendar. Possibly the suggestion now made that by unanimous consent it may go to the bottom of the calendar introduces a third proposition. We are getting pretty far away from the original proposition.

Mr. SHERLEY. Mr. Speaker, I submit to the gentleman that while there might be some few cases where a man would make what he calls a halfway objection, and force the matter to go over, yet the other side of the question would present such a hardship on the House that of the two evils the former would be the lesser. If the gentleman's construction is concurred in, then a bill having once been on that calendar and being objected to can never by any possibility get back during the two years' life of the Congress, and while it may be that

occasionally a bill will remain on the calendar that ought to have gone off, the very next day that calendar is called it will go off in a hurry, as it should go off the first time if a man did his full duty. The whole argument of the gentleman is based on the premise that we are going to be cowardly in doing what we ought to do.

Mr. GAINES. O Mr. Speaker, not at all. The gentleman from Kentucky [Mr. SHERLEY] may use better terms, and I may modify them. I say the difficulty is that we are rather courteous to each other in doing our duty in the House. Here is this bill which has had its hearing to-day. It has had its day in court. The gentleman from Missouri [Mr. CLARK] shows that he contemplates another consideration of it when it comes up at some other time if it remains on the calendar. I submit that we are up to this proposition, whether we will so administer this rule as to advance the Calendar for Unanimous Consent, so that everybody may have his chance, or whether the Calendar for Unanimous Consent is to be monopolized by bills that happen to be at the top.

Mr. LONGWORTH. As I understand the gentleman, he makes distinction between the case of a bill on which some discussion has been had and a bill on which no discussion has been had?

Mr. GAINES. Oh, yes; a very clear distinction.

Mr. SIMS. Mr. Speaker, the proposition as submitted by the Chair, if I understand it, is that after a bill has been discussed and arguments made in favor of it, the statement and arguments not being sufficient to remove objection or satisfy every Member of the House so that he will not object after all that information is ascertained, a request then comes to pass it over without prejudice to some future day, at which time a similar request may be made. Now, the other proposition, as I understand it, is to submit at the time the bill is reached on the calendar a request to pass it over without prejudice before any statement is made or discussion is had on the bill by the proponent of the bill as to its merits, so as to cover the case of accident, like the illness or unavoidable absence of a Member.

I would be willing to vote for such a construction of the rule, but as submitted it means that after an opportunity to get up and explain a bill, when some gentleman like the gentleman from New York [Mr. FITZGERALD] gives notice that if the bill is not passed over he will object, the gentleman in charge, under compulsion, asks to pass the bill without prejudice. In the meantime he has a private conference with the objecting Member, and perhaps satisfies him, so that he will not object on the next day when unanimous consents are in order. So by such a course, when the day rolls around for the Unanimous Consent Calendar to be taken up, some other gentleman, who perhaps not being present on the occasion when the bill was first reached, says he will object unless the bill is again passed over. Thus, after taking considerable time on both occasions in explaining the bill, it goes over again. It is possible to repeat this performance on many bills, and virtually waste all the time on the only day when unanimous consents are in order.

Mr. FITZGERALD. If the gentleman will permit, the gentleman should state in fairness that I called for certain information which the gentleman was unable to give, and it was for the purpose of enabling him to get the information.

Mr. SIMS. Of course, I accept the statement of the gentleman from New York, but the bill was presented by the gentleman in charge of it, and he endeavored to satisfy the gentleman from New York and, therefore, he being unable to make out a case for unanimous consent, virtually asked for a continuance in court after the case was tried and before the verdict. Then, exactly as the gentleman from West Virginia claims, on the next unanimous-consent day he may call up his bill again. In the meantime the gentleman from New York has been satisfied. How? Not by any statement or argument before any committee, not by statements or argument before this House, but privately. I submit that such a practice as that is not a model way of removing objections to legislation. Now, then— [Cries of "Vote!"]

I know you are getting tired, but this is a good way to waste time. Now, such a proceeding as this will be just as the gentleman from West Virginia has stated. It will give any Member an opportunity to try to have his bill passed here every unanimous-consent day as long as the session may last or as long as Congress may last.

Now, is that fair, and is that justice to the House? Is that a method of legislation which ought to be encouraged? I am not speaking particularly of this bill, but it seems to me to illustrate the evil of such a course. Here is a gentleman on the Rivers and Harbors Committee asking unanimous consent to pass a bill, and nearly every one of us expect a little piece of pork in the river and harbor bill, and we are naturally em-

barrassed when it comes to objecting to a bill pressed by a member of that committee. It puts such a member in the shape of dominating to some extent the Members of the House even further than if consent had to come from the Speaker. I think this proposition ought to be voted down. I agree that a bill may be passed over, provided it is the first request and does not come after discussion has developed that unanimous consent can not be had. I hope that this proposition will be voted down in its present form and not permit a bill to be passed over after it has been thoroughly discussed and its lack of merit sufficiently developed to warrant some Member of the House in objecting to its consideration without further explanation.

Mr. MANN. Mr. Speaker, I would not detain the House if this were not such an important matter. The gentleman from West Virginia, the Speaker in the suggestion he has made, and the gentleman from Tennessee, assume that you must construe this rule one way before the discussion, perhaps, and another way after the discussion, perhaps, and I suppose it is within the power of the House to make an illogical construction of the rule; but the proposition is not to amend the rule, but to construe the rule, and if the rule allows a request for unanimous consent to be put before the bill is discussed at all, then the rule allows the request for unanimous consent to be put at any time before objection is made, because under the rule there is no difference until objection is made. Now, regardless of that, the argument made by the gentleman from West Virginia and the gentleman from Tennessee is that if a bill shall be passed without prejudice on this calendar it will permit the calendar to be so loaded up that bills will not be reached. I have watched unanimous consents in this House more or less ever since I have been in the House and I have never yet seen a day occupied in this House on unanimous consent, and if I stay in this House long enough to see a whole day occupied in the House on unanimous consents I will live to be older than Methuselah.

Mr. FITZGERALD. Will the gentleman permit an interruption?

Mr. MANN. Certainly.

Mr. FITZGERALD. The gentleman must remember that this is not only unanimous-consent day, but this is suspension day also, and unanimous consents are not all we have to deal with on unanimous-consent days.

Mr. PAYNE. Did the gentleman from Illinois ever see a day prior to this Congress when any man in the House could not stop unanimous consent by calling for the regular order? Of course the gentleman never saw a whole day occupied by unanimous consent.

Mr. MANN. I have seen the House consider a good many requests for unanimous consent, and during the time when Mr. Reed was Speaker, when unanimous consents were only considered once a month or more, I have seen the time of the House occupied for a good while—less than half a day—in going through requests for unanimous consent which were made, but any Member now can stop all bills on the Unanimous Consent Calendar in a very few moments by simply saying when the bill is presented, "I object."

Mr. PAYNE. I want to say to the gentleman, he did not see so many bills considered, although he may have seen a good many bills passed; and they were not considered by the House because Members did not like to object.

Mr. MANN. That is the situation, and always will be. The Speaker himself says that the reason for the introduction of this rule was because of the objection of many Members to going to the Speaker and making the request. That was not the whole reason that some gentlemen favored the rule, and the reason the country asked for something, by people who are not well informed. I take it that the real reason of this rule is that the Members may be informed when unanimous consent is to be asked of the House on bills, so that any Member who was interested in the investigation of any bill might know from the calendar when he would need to be in his seat to object. That was the real reason for the rule.

Now, Mr. Speaker, if the construction contended for by the gentleman from West Virginia shall prevail, there will be many bills pending in this House when the session ends, without any opportunity to bring them before the House, much to the regret of gentlemen that may be interested in them, because some one will have temporarily objected to the consideration, and there will be no opportunity afterwards to bring the bill before the House except on calendar Wednesday, and at the end of the session calendar Wednesday will be inevitably loaded with work it is unable to perform.

Mr. SHERLEY. Will the gentleman yield to a suggestion, to answer the statement made by the gentleman from Kansas [Mr. MURDOCK] that the bill ought to go to the foot of the calendar? That can be had in this way: If the request is made

for unanimous consent that it be passed without prejudice any Member can simply state, "If the gentleman will modify his request so that the bill shall go to the foot of the calendar, I will not object." But if you adopt the contention of the gentleman from West Virginia, no latitude is allowed at all; you are simply tying your hands for a whole Congress.

Mr. MANN. The suggestion made by the gentleman from Kansas met with no serious objection, I take it. The House will never see any loading up of the calendar with unanimous consents. There is no possibility of getting the calendar overloaded with unanimous consents when twice a month there will be consideration of the bills. It makes no difference whether the bills are at the top of the calendar or at the bottom of the calendar. If it is on the Unanimous Consent Calendar at all it will be reached for consideration, but this contention would take it off the calendar and put it where it can not be reached for consideration. [Cries of "Vote!"]

Mr. LONGWORTH. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LONGWORTH. In the event that the House shall determine this question in the negative, is it the intention of the Chair to submit the question as to whether the Chair shall recognize gentlemen for a discussion on the question of postponing?

The SPEAKER. When that question is presented the Chair will decide it. This is the question pending before the House, the submission to the House, in further answer to the parliamentary question. The Chair reads it again:

Shall it be in order, after there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request for unanimous consent that the bill be passed without prejudice?

When that question is decided, answering the question further, if it should be decided in the negative it would probably be in order to discuss the question of asking whether it be passed without prejudice before debate. However, that matter can be determined when it arises.

Mr. COOPER of Wisconsin. Mr. Speaker, the original question turned upon the construction to be given this sentence in the rule:

Should objection be made to the consideration of any bill so called, it shall immediately be stricken from the Calendar for Unanimous Consent and it shall not thereafter be placed thereon.

It is clear to me that the word "consideration," as here used, means present consideration—not future consideration, but present consideration—and therefore that this sentence properly construed would read as follows:

Should objection be made to the present consideration of any bill, and so forth, it shall immediately be stricken from the calendar, and so forth.

Now, in reason, any motion or request the granting of which would prevent present consideration is, under this rule, to be treated as if it were a straight-out objection to present consideration. The motion or request of the gentleman from California to permit this bill to go over without prejudice is, in effect, the exact equivalent of an objection to its present consideration. I take it that the proper construction of these words in the rule is the construction which the Speaker intimated, or seemed to intimate, that he would give them in the first instance.

But I do not think the rule as it now reads is all that it ought to be, and therefore I am very glad that the House has been accorded this opportunity to put a construction upon it.

When the opportunity presents itself, I shall vote so to construe the rule as that before any discussion of a bill a motion may be made that it shall go over until a future day without prejudice. But if a gentleman, upon his request for unanimous consent, has occupied the time of the House for half an hour or three-quarters of an hour or an hour and a half and not been able by the facts at his command to convince the House that it should grant unanimous consent and pass the bill, he ought not again upon the same measure to take up the time of the House on another unanimous-consent day.

Mr. SHACKLEFORD. He ought to have present consideration.

Mr. COOPER of Wisconsin. He ought to have present consideration and be prepared with all his facts to show that the bill should pass, or else, before debate, he should ask that the bill go over.

Several MEMBERS. Vote! Vote!

The SPEAKER. The Clerk will again report the proposition which is submitted to the House.

The Clerk read as follows:

Shall it be in order, after there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request for unanimous consent that the bill be passed without prejudice?

Mr. CANDLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CANDLER. Right in connection with that, suppose that this proposition submitted by the Speaker is voted down by the House; then will this bill, and bills similarly situated in the future, go off the calendar entirely, not only for the session in which the request is made, but for the entire Congress, so that it will be impossible to get that bill back upon the Unanimous Consent Calendar during that Congress?

The SPEAKER. The gentleman desires to know whether, under this rule, if a bill goes off the Unanimous Consent Calendar, losing its place there, but having its place, however, on the Public Calendar, it may come back on the Unanimous Consent Calendar?

Mr. CANDLER. During the whole of that Congress.

The SPEAKER. That is hardly a parliamentary question; but the Chair will answer it, if there be no objection, by reading the rule:

Should objection be made to the consideration of any bill so called, it shall be immediately stricken from the calendar and shall not thereafter be placed thereon.

The Chair supposes that means during the Congress. As many as favor—

Mr. GAINES. Let it be reported again.

The Clerk again read the pending question.

The SPEAKER. As many as wish to answer in the affirmative will say aye; as many as desire to answer in the negative will say no.

The question being taken, the Speaker announced that the yeas seemed to have it.

Mr. SHERLEY. Division!

The House divided; and there were—ayes 97, yeas 128.

Mr. MANN. Mr. Speaker, I ask for tellers.

Mr. GAINES. I demand the yeas and nays.

Mr. MANN. I do not expect to ask for the yeas and nays, as far as I am concerned. I ask for tellers.

Mr. FITZGERALD. Let us get the yeas and nays. Let us see who want to do business.

The yeas and nays were ordered.

The question was taken; and there were—yeas 140, nays 147, answered "present" 7, not voting 93, as follows:

YEAS—140.

Adair	Dixon, Ind.	Jamieson	Randell, Tex.
Adamson	Edwards, Ga.	Johnson, Ky.	Ransdell, La.
Anderson	Ellerbe	Johnson, S. C.	Rauch
Ashbrook	Englebright	Kahn	Reid
Austin	Ferris	Kennedy, Iowa	Richardson
Barnhart	Finley	Kinkaid, Neb.	Robinson
Beall, Tex.	Fitzgerald	Kinhead, N. J.	Rothermel
Bell, Ga.	Flood, Va.	Kitchin	Rucker, Colo.
Bennet, N. Y.	Floyd, Ark.	Knowland	Rucker, Mo.
Boehne	Fordney	Korbly	Russell
Booher	Foster, Ill.	Kronmiller	Sabath
Bowers	Gallagher	Lafean	Saunders
Brantley	Garner, Tex.	Langham	Sheppard
Broussard	Garrett	Lever	Sherry
Burgess	Gill, Mo.	Livingston	Sherwood
Burke, S. Dak.	Gillett	Lloyd	Sisson
Burnett	Good	McDermott	Small
Candler	Gordon	McKinlay, Cal.	Smith, Cal.
Cantrill	Goulden	McLachlan, Cal.	Smith, Tex.
Carlin	Gregg	Macon	Spight
Carter	Gronna	Madison	Talbott
Clark, Mo.	Hamlin	Mann	Tawney
Clayton	Hardy	Mays	Taylor, Ala.
Cline	Haugen	Mondell	Taylor, Colo.
Collier	Hawley	Moon, Tenn.	Taylor, Ohio
Conry	Heflin	Moore, Pa.	Thomas, Ky.
Cox, Ind.	Henry, Tex.	Moore, Tex.	Thomas, N. C.
Cox, Ohio	Houston	Morrison	Tou Velle
Craig	Howell, N. J.	Moss	Underwood
Cullop	Howell, Utah	Murphy	Volstead
Dawson	Howland	Norris	Wanger
Dent	Hughes, N. J.	Oldfield	Watkins
Dickinson, Mo.	Hull, Tenn.	Parker	Webb
Dickson, Miss.	Humphrey, Wash.	Parsons	Wickliffe
Dies	Humphreys, Miss.	Pray	Wilson, Pa.

NAYS—147.

Alexander, Mo.	Cooper, Wis.	Foss	Higgins
Allen	Coudrey	Foster, Vt.	Hollingsworth
Ames	Cowles	Fuller	Howard
Anthony	Creager	Gaines	Hubbard, Iowa
Barchfeld	Crow	Gardner, Mich.	Hubbard, W. Va.
Bartlett, Ga.	Crumpacker	Gillespie	Huff
Bates	Currier	Goebel	Hughes, Ga.
Bennett, Ky.	Dalzell	Graff	Hughes, W. Va.
Bingham	Denby	Graham, Ill.	Hull, Iowa
Borland	Diekema	Grueney	Jones
Boutell	Dodds	Hamer	Joyce
Bradley	Douglas	Hamilton	Kelfer
Brownlow	Driscoll, M. E.	Hammond	Kennedy, Ohio
Burligh	Dwight	Hanna	Knapp
Burleson	Edwards, Ky.	Hardwick	Kistermann
Butler	Ellis	Harrison	Lenroot
Byrns	Elvins	Hay	Lindbergh
Campbell	Fairchild	Hayes	Longworth
Cary	Fassett	Heald	Loud
Chapman	Fish	Helm	Loudenslager
Cook	Focht	Henry, Conn.	Lowden

Lundin	Nelson	Reynolds	Sulzer
McCall	Nicholls	Roberts	Swasey
McCredie	Nye	Scott	Tener
McGuire, Okla.	Olcott	Shackleford	Thistlewood
McKinley, Ill.	Padgett	Sharp	Tilson
Madden	Page	Sheffield	Tirrell
Maguire, Nebr.	Palmer, A. M.	Sims	Townsend
Malby	Payne	Slayden	Weeks
Miller, Kans.	Pearre	Slemp	Wheeler
Miller, Minn.	Perkins	Sperry	Wiley
Morehead	Peters	Stafford	Wilson, Ill.
Morgan, Mo.	Poindexter	Steenerson	Wood, N. J.
Morse	Pou	Stephens, Tex.	Woods, Iowa
Moxley	Pratt	Sterling	Woodyard
Murdock	Prince	Sturgiss	Young, Mich.
Needham	Reeder	Sulloway	

ANSWERED "PRESENT"—7.

Ansberry	Fornes	Martin, Colo.	Weisse
Draper	Hitchcock	Rainey	

NOT VOTING—93.

Aiken	Esch	Kendall	Patterson
Alexander, N. Y.	Estopinal	Kopp	Pickett
Andrus	Foelker	Lamb	Plumley
Barclay	Foulkrod	Langley	Pujo
Barnard	Fowler	Latta	Rhinock
Bartholdt	Gardner, Mass.	Law	Riordan
Bartlett, Nev.	Gardner, N. J.	Lawrence	Rodenberg
Burke, Pa.	Garner, Pa. J.	Lee	Simmons
Byrd	Gill, Md.	Legare	Smith, Iowa
Calder	Gilmore	Lindsay	Smith, Mich.
Calderhead	Glass	McCreary	Snapp
Capron	Godwin	McHenry	Southwick
Cassidy	Goldfogle	McKinney	Sparkman
Clark, Fla.	Graham, Pa.	McLaughlin, Mich.	Stanley
Cocks, N. Y.	Grant	McMorran	Stevens, Minn.
Cole	Greene	Martin, S. Dak.	Thomas, Ohio
Cooper, Pa.	Griest	Maynard	Vreeland
Covington	Hamill	Millington	Wallace
Cravens	Hill	Moon, Pa.	Washburn
Davidson	Hinshaw	Morgan, Okla.	Willett
Davis	Hobson	Mudd	Young, N. Y.
Denver	James	O'Connell	
Driscoll, D. A.	Johnson, Ohio	Olmsted	
Durey	Kelher	Palmer, H. W.	

So the question was answered in the negative.

The following pairs were announced:

For the session:

Mr. HILL with Mr. GLASS.

Mr. ANDRUS with Mr. RIORDAN.

Mr. MCMORRAN with Mr. PUJO.

Mr. YOUNG of New York with Mr. FORNES.

Until further notice:

Mr. MCKINNEY with Mr. ANSBERRY.

Mr. MOREHEAD with Mr. POU.

Mr. WASHBURN with Mr. RICHARDSON.

Mr. MILLINGTON with Mr. DENVER.

Mr. KOPP with Mr. WEISSE.

Mr. OLMSTED with Mr. JAMES.

Mr. GARNER of Pennsylvania with Mr. RHINOCK.

Mr. SNAPP with Mr. BYRD.

Mr. COOPER of Pennsylvania with Mr. HITCHCOCK.

Mr. MARTIN of South Dakota with Mr. MARTIN of Colorado.

Mr. CAPRON with Mr. O'CONNELL.

Mr. FOELKER with Mr. GOLDFOGLE.

Mr. SMITH of Michigan with Mr. WALLACE.

Mr. SMITH of Iowa with Mr. PATTERSON.

Mr. HENRY W. PALMER with Mr. MCHENRY.

Mr. MORGAN of Oklahoma with Mr. LEE.

Mr. MOON of Pennsylvania with Mr. LATTI.

Mr. MCCREARY with Mr. LAMB.

Mr. KENDALL with Mr. GODWIN.

Mr. JOHNSON of Ohio with Mr. GILMORE.

Mr. GRIEST with Mr. ESTOPINAL.

Mr. FOULKROD with Mr. CRAVENS.

Mr. DAVIS with Mr. COVINGTON.

Mr. COLE with Mr. CLARK of Florida.

Mr. CALDER with Mr. BARTLETT of Nevada.

Mr. BURKE of Pennsylvania with Mr. STANLEY.

Mr. BARTHOLDT with Mr. AIKEN.

Mr. SOUTHWICK with Mr. HAMILL of New Jersey.

For this day:

Mr. CALDERHEAD with Mr. LINDSAY.

Mr. GREENE with Mr. SPARKMAN.

Mr. LAWRENCE with Mr. KELIHER.

Mr. SIMMONS with Mr. DANIEL A. DRISCOLL.

Mr. CARTER. Mr. Speaker, did the gentleman from California [Mr. KAHN] vote?

The SPEAKER. He did.

Mr. CARTER. I voted "present," thinking I was paired with the gentleman from California. I wish to withdraw my vote of "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. CARTER, and he voted "aye," as above recorded.

Mr. BURGESS. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is not recorded.

Mr. BURGESS. I was present and did not hear my name called.

The SPEAKER. Was the gentleman giving attention when his name should have been called, and did not hear it?

Mr. BURGESS. Yes.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. BURGESS, and he voted "aye," as above recorded.

Mr. ENGLEBRIGHT. Mr. Speaker, I was present and giving attention and did not hear my name called.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. ENGLEBRIGHT, and he voted "aye," as above recorded.

The result of the vote was then announced, as above recorded.

The SPEAKER. The Chair desires to state, by permission of the House, it would seem that the vote in the negative in this case would fairly well imply, when taken in connection with the debate, that it would be in order before there has been discussion as to a bill called on the Calendar for Unanimous Consent, for the Speaker to entertain a request for unanimous consent that the bill be passed without prejudice, and the Chair would be so inclined to rule when the question should arise, if it did.

Mr. TALBOTT. Mr. Speaker, a parliamentary inquiry. What disposition would be made of it? Ought it not then to go to the foot of the calendar?

The SPEAKER. That question does not arise at the present time. Is there objection to the consideration of the resolution under consideration when the question of order arose?

Mr. HITCHCOCK. Mr. Speaker, I object.

The SPEAKER. The gentleman from Nebraska objects. The Clerk will call the next business.

TWO CONCURRENT GRAND JURIES IN CERTAIN CASES.

The next business was the bill (H. R. 16037) to amend section 810 of the Revised Statutes.

The Clerk read as follows:

*Be it enacted, etc.,* That section 810 of the Revised Statutes be amended so as to read:

"Sec. 810. No grand jury shall be summoned to attend any circuit or district court unless one of the judges of such circuit court, or the judge of such district, in his own discretion, or upon a notification by the district attorney that such jury will be needed, orders a venire issue therefor. If the United States attorney for the district shall certify in writing to the district judge, or the senior district judge of the district, or one of the judges of said circuit court, that the exigencies of the public service require it, the judge shall also order a venire to issue for a second grand jury. Either of said courts may in term order a grand jury to be summoned at such time, and to serve such time as it may direct, whenever in its judgment it may be proper to do so. But nothing herein shall operate to extend beyond the time permitted by law the imprisonment before indictment found of a person accused of a crime or offense, or the time during which a person so accused may be held under recognizance before indictment found."

With the following amendment: Line 3, page 2, strike out "shall" and insert "may."

The SPEAKER. Is there objection?

Mr. PERKINS. Mr. Speaker, reserving the right to object, I would like to ask an explanation from the gentleman from New York [Mr. PARSONS].

Mr. JOHNSON of South Carolina. Mr. Speaker, I reserve the right to object.

Mr. BARTLETT of Georgia. Mr. Speaker, I reserve the right to object.

Mr. PARKER. Mr. Speaker, there is only one new sentence in this bill. It is the second sentence, which allows the judge on the certificate of the district attorney that the exigency of public business requires it to impanel a second grand jury. In the city of New York business is so congested that one grand jury can not get through with it, and this section was recommended by the district attorney there, recommended by the Attorney-General of the United States in his annual report, and is desired by everyone in the interests of justice, so that the business of the district attorney at that place may be done. The word "may" is to take the place of the word "shall." The district judge may order another grand jury.

Mr. HARRISON. Mr. Speaker, will the gentleman yield for a question?

Mr. PARKER. Yes.

Mr. HARRISON. Has not a judge of the district court in New York now the power to call a second grand jury?

Mr. PARKER. After the expiration of the first, but not at the same time.

Mr. BARTLETT of Georgia. Then, as I understand it, they want to have two grand juries at a time.

Mr. PARKER. Yes; two grand juries there at once, so as to get through with the business. It is absolutely needed. The

gentleman from New York [Mr. PARSONS], who introduced the bill, may have a word more to say. I yield to him sufficient time—

Mr. BARTLETT of Georgia. Mr. Speaker, but I wanted to ask the gentleman from New Jersey a question first, inasmuch as I reserved the right to object.

Mr. PARKER. I thought perhaps the gentleman from New York [Mr. PARSONS] might answer the gentleman. What is the question? I yield to the gentleman.

Mr. BARTLETT of Georgia. Oh, no; I have no question now.

Mr. PARKER. Oh, the gentleman from Georgia—please—we have—

Mr. BARTLETT of Georgia. Mr. Speaker, I believe I shall object to the bill.

The SPEAKER. The gentleman from Georgia objects. The Clerk will report the next business.

ADDITIONAL DISTRICT JUDGE, DISTRICT OF MARYLAND.

The next business was the bill (S. 821) to provide for the appointment of an additional district judge in and for the district of Maryland.

The Clerk read as follows:

*Be it enacted, etc.*, That the President of the United States shall appoint an additional district judge for the district of Maryland, by and with the advice and consent of the Senate, who shall reside in said district and shall possess the same qualifications and have the same power and jurisdiction now prescribed by law in respect to the present district judge therein.

SEC. 2. That no vacancy in the office of the existing district judge of said district of Maryland shall be filled by appointment, and in case of such vacancy there shall be thereafter one district judge only for said district.

SEC. 3. That the present district judge in said district and the one appointed under this act shall agree between themselves upon the division of business and assignment of cases for trial in said district: *Provided, however,* That in case the said two district judges do not agree, the senior circuit judge of the fourth circuit shall make all necessary orders for the division of business and the assignment of cases for trial in said district.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. TALBOTT. Mr. Speaker, I ask that the report of the committee be read to the House.

The SPEAKER. The Clerk will read the report in the time of the gentleman.

The Clerk read as follows:

The Committee on the Judiciary, to whom was referred the bill (S. 821) to provide for the appointment of an additional district judge in and for the district of Maryland, having had the same under consideration, beg leave to report it to the House with recommendation that it do pass.

Judge Thomas J. Morris, of Baltimore, is the present district judge. He is 72 years of age, and hence entitled to retire on full pay. He is broken in health and not able to perform all the labors of the position. He, however, does not desire to retire, but will be compelled to do so on account of his health if he does not receive assistance in the way of the appointment of another judge. In case of his retirement the appointment of another judge would of course be necessary. Judge Morris feels that he can do some work and be of assistance in disposing of the congested docket in that district and prefers to remain active for a while.

It is thus to be seen that this bill will incur no additional expense on the Government. If Judge Morris should retire, he would be entitled to full pay, and thus two judicial salaries would be going to that district. If an additional judge is provided for and he continues active for a while, the Government will gain Judge Morris's services during the time that he remains on the bench.

Attorney-General Wickersham recommends the passage of the bill. It also has the indorsement of ex-Attorney-General Bonaparte and many other prominent members of the Maryland bar. The recommendation of the Judiciary Committee that the bill pass is unanimous.

Mr. TALBOTT. Mr. Speaker, I do not wish to say anything more than that report says, except that it does not involve one dollar of expense to the Government. Judge Morris can retire any day and still receive full pay. He is only willing to finish up some business that he has and to assist another judge for a time. I hope the gentleman from Illinois will not object. The gentleman said to me privately that we can pass this at some other day, but there is nothing like the present to do a thing.

Mr. MANN. Mr. Speaker, the call of committees is on Wednesday, and the Committee on the Judiciary is practically the committee on call, or very close to the committee on call, and will be reached on Wednesday. Here is a proposition to create an additional judge.

Mr. TALBOTT. But there will be not a dollar more money come out of the Treasury of the United States.

Mr. PARKER. Will the gentleman allow a question? Does the gentleman remember that one bill consumed all the time on last Calendar Wednesday, and the Committee on the Library has six bills between this one and its turn on that calendar? Judge Morris is broken in health and desires this relief or else he will be compelled to resign and we will lose his very valuable services.

Mr. MANN. I will say to the gentleman, a few years ago we were asked to pass a bill identically the same as this in the case of Ohio. We passed the bill and the appointee has since died, and now it is proposed because we provided at one time two judges that the Committee on the Judiciary shall recommend an additional judge now. I do not know whether the Committee on the Judiciary will do that or not, but I think this is a bill where we ought to have a chance in the House to put gentlemen on record as to whether they are going to come in when the old judge dies and ask an additional judge. The Committee on the Judiciary will be called next Wednesday, it is very close to the top of the calendar, and I think that is the proper time to dispose of it, and I, therefore, will object. I would not object to the bill being passed over without prejudice, but that is not possible, owing possibly to the attitude of the gentleman himself.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 16364) to amend in part section 658 of the Revised Statutes.

*Be it enacted, etc.*, That so much of section 658 of the Revised Statutes of the United States as provides for the holding of circuit courts in the southern district of New York "exclusively for the trial and disposal of criminal cases, and matters arising and pending in said court, on the second Wednesday in January, March, and May, on the third Wednesday in June, and on the second Wednesday in October and December," be amended so as to read "exclusively for the trial and disposal of criminal cases, and matters arising and pending in said court, on the first Mondays in January, March, May, July, September, and November."

The SPEAKER. Is there objection?

Mr. SHERLEY. Mr. Speaker, I reserve the right to object.

Mr. PARKER. Mr. Speaker, I yield such time as he may desire to the gentleman from Illinois [Mr. STERLING].

Mr. STERLING. Mr. Speaker, the only purpose of this bill is to change the time of some terms of court held in the southern district of New York. The courts are confined exclusively to the trial of criminal cases. They have now six terms. Four terms are two months apart, then the June term; that is, in the month after the May term, and then there are four months after the June term. The purpose of the bill is to equalize the terms of the court so as to have a term each alternate month during the year. The main purpose of changing the terms is, I think, the grand jury that is held in the summer time has a four months' term and is a great hardship, and the change has been requested by the Attorney-General and by the Department of Justice, and I do not believe there can be any objection to the passage of the bill. It is purely a local matter.

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

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

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

Joint resolution (H. J. Res. 111) to donate a brass cannon to the governor of the State of Georgia.

*Resolved, etc.*, That the Secretary of War be, and he is hereby, authorized to deliver, without expense to the United States, to the governor of the State of Georgia, at Atlanta, Ga., if the same can be done without detriment to the public service, a small brass cannon once belonging to the Georgia Military Institute, to be used on a monument to be erected in the confederate cemetery at Marietta, Ga.

The committee amendment was read, as follows:

In lines 4 and 5 strike out "the governor of."

The SPEAKER. Is there objection?

Mr. KEIFER. Mr. Speaker, I reserve the right to object merely for the purpose—

The SPEAKER. This bill is on the Union Calendar.

Mr. KEIFER. For the purpose of asking a question about this matter.

Mr. SLAYDEN. Mr. Speaker, this is a small brass cannon which belonged to the State of Georgia before the civil war and was at the Georgia Military Institute, from where it was captured. The gun is here in the possession of the Government; its history is well known; it is perfectly identified; and the State of Georgia has asked that the gun be returned to them for the purpose of ornamenting a monument. It appealed to the committee, and there was a unanimous report, and, as the report says, it seems to be a simple act of courtesy to the State of Georgia; that the gun is of no value, its historic value alone appertaining to the State of Georgia; and the committee thought that with perfect propriety the gun should be given back to that State, and so the committee made a unanimous report.

Mr. KEIFER. I want to say that my attention was attracted to this joint resolution by its title, which purported to give a brass cannon to the governor of the State of Georgia. I did not know whether or not we had reached the point where we were passing cannon around to even as distinguished a gen-

tleman as the governor of Georgia; but I find the resolution has been changed so as to return it to the State of Georgia. Now, being entirely satisfied with that form of the bill, I have no objection to the cannon going back, but I would like to ask one or two questions. Where was this cannon when it was taken from the Georgia Military Institute?

Mr. SLAYDEN. I will ask my friend from Georgia [Mr. BARTLETT], who is perfectly familiar with its history, to answer that question.

Mr. KEIFER. Where was this cannon at the time it was taken from the Georgia Military Institute?

Mr. BARTLETT of Georgia. At Marietta, Ga., at the Georgia Military Institute.

Mr. KEIFER. Was the cannon there at the time it was taken?

Mr. BARTLETT of Georgia. It was kept there where the boys were taught. I want to state that Mr. LEE, the author of the bill, is absent on account of business, attending a funeral.

Mr. KEIFER. We will take care of his bill, I think. I want to know where this cannon is that is now regarded as of some historic value. In other words, has it been devoted to some historic purpose or is it in some museum somewhere now, and it is proposed to be taken out and returned to the State of Georgia?

Mr. SLAYDEN. It is in the hands of the Ordnance Department, and I will state to my friend that this gun was really obsolete before the war—

Mr. KEIFER. I have no doubt of that.

Mr. SLAYDEN. It was of no value either as a weapon of defense or offense, and now it is proposed to return it to the State of Georgia.

Mr. KEIFER. Does the gentleman know whether or not it was turned over to some military museum?

Mr. SLAYDEN. It was not; it is in the hands of the Ordnance Department.

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

The gentleman asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of this bill and consider the same in the House. Is there objection? [After a pause.] The Chair hears none.

The amendment was agreed to.

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

The title was amended so as to read: "Joint resolution to donate a brass cannon to the State of Georgia."

#### FOOTBRIDGE ACROSS TUG RIVER, WEST VIRGINIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 18411) to authorize the Thacker Coal Mining Company to construct a footbridge across Tug River at Thacker, Mingo County, W. Va.

The bill was read, as follows:

*Be it enacted, etc.*, That the Thacker Coal Mining Company, a corporation organized under the laws of the State of West Virginia, is hereby authorized to construct, maintain, and operate a footbridge and approaches thereto across the Tug River at a point suitable to the interests of navigation, at or near Thacker, in the county of Mingo, in the State of West Virginia, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

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

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

#### NEW LAND DISTRICT IN MONTANA.

The next business on the Calendar for Unanimous Consent was the bill (S. 2523) for the establishment of a new land district in the State of Montana.

The bill was read, as follows:

*Be it enacted, etc.*, That all that portion of the State of Montana included within the boundaries hereinafter described is hereby constituted a new land district, and that the land office for said district shall be located at Havre, in Chouteau County, Mont.: Beginning on the range line when extended between ranges 28 and 29 east, where the same will intersect the international boundary line between the United States of America and the Dominion of Canada; thence south, allowing for the proper offsets on the sixth, seventh, and ninth standard parallels north, to the point of intersection with the center of the Missouri River; thence westerly and northwesterly along the center of the Missouri River to the point of intersection with the center of the Marias River; thence northwesterly along the Marias River to the point of intersection with the Montana principal meridian; thence north along said principal meridian to the point of intersection with the international boundary line; thence east to the range line when extended between ranges 28 and 29 east, to the place of beginning.

The SPEAKER. Is there objection?

Mr. UNDERWOOD. I desire to reserve the right to object.

Mr. PRAY. Mr. Speaker, I think a brief statement of the matter will be sufficient to show the necessity for the legislation. The facts are stated in the report, and I will ask the Clerk to read the first page of the report.

The Clerk read as follows:

The Committee on the Public Lands, to whom was referred the bill (S. 2523) for the establishment of a new land district in the State of Montana, having given the bill due consideration, report the same back with the recommendation that it be passed without amendment. The necessity for this legislation will be found from a perusal of the letter of the Secretary of the Interior, which is hereto appended and made a part of this report. This district, when established, will include within its boundaries a great portion of Chouteau County. The office is to be located at Havre. The nearest land office is at Great Falls, 120 miles from the proposed site of the new land office. From recent authentic information received, it appears that on January 13, 1910, there were in the Great Falls land office over 3,000 applications for entry upon public lands which had not been acted upon. New applications are coming in at the rate of 1,000 to 1,500 per month. The nearest land office on the east is about 155 miles and on the west about 250 miles. Owing to the great influx of home seekers in this section of the State, which is the greatest in its history, it appears to be necessary that this office should be established at the earliest possible date for the better accommodation of the settlers.

Mr. UNDERWOOD. Mr. Speaker, the reading of the report satisfies me in reference to the bill, and I withdraw my objection.

Mr. MANN. Mr. Speaker, I would like to ask the gentleman how much land will be embraced in the control of the new land district?

Mr. PRAY. About 16,000 square miles. It embraces nearly the whole of Chouteau County—about 15,000 square miles, to be more accurate.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The bill is on the Union Calendar.

Mr. PRAY. Then I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, and that it be considered in the House.

The SPEAKER. The gentleman asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, and that it be considered in the House. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading, and it was accordingly read the third time and passed.

#### TO ABOLISH UNITED STATES LAND OFFICE AT DES MOINES, IOWA.

The next business on the Calendar for Unanimous Consent was the bill (S. 5238) to abolish the United States land office at Des Moines, Iowa.

The bill was read, as follows:

*Be it enacted, etc.*, That the land office at Des Moines, Iowa, shall be, and is hereby, abolished from and after the 28th day of February, 1910; and the Secretary of the Interior is hereby authorized to transfer to the State of Iowa such of the transcripts, documents, and records of the office as are not required for the use of the United States and as the State may desire to preserve.

The bill was ordered to a third reading, and it was accordingly read the third time and passed.

#### CHAPTER 271, VOLUME 35, UNITED STATES STATUTES AT LARGE.

The next business on the Private Calendar was the joint resolution (H. J. Res. 116) to amend an act to correct chapter 271 of volume 35, United States Statutes at Large.

The joint resolution was read, as follows:

#### House joint resolution 116.

Whereas, through an error, chapter 271, volume 35, of the United States Statutes at Large does not express the true intent of Congress in enacting the said chapter 271, as evidenced by examination of the original House bill (H. R. 24835), together with the committee reports thereon, and together with the report of the committee of conference thereon, and the legislative history of the same as evidenced by the Journals of the Senate and House of Representatives, and as set forth in the CONGRESSIONAL RECORD for the second session of the Sixtieth Congress: Therefore be it

*Resolved, etc.*, That the words "5 per cent" in the last proviso of the said chapter 271 of volume 35 of the United States Statutes at Large be changed to read "20 per cent," so that the said chapter when so changed shall read as follows:

"That the Secretary of the Interior may, in his discretion, cause to be made, as he may deem wise, under the rectangular system now provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: *Provided*, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement: *Provided further*, That not to exceed 20 per cent of the total annual appropriation for surveys and resurveys of the public lands shall be used for the resurveys and retracements authorized hereby."

The SPEAKER. Is there objection?

Mr. REEDER. Mr. Speaker, I desire to reserve the right to object until I can ask a question or two. I want to ask the



gentleman whether this change from 5 to 20 per cent is all the change that is made?

Mr. MONDELL. It is the only change. It is to correct an error in the enrollment of the bill.

Mr. REEDER. Now, this language about not disturbing the lines of men who have settled, regardless of the shape of their claim; is that the usual language in the framing of these laws?

Mr. MONDELL. I will say to the gentleman that it is the language which has been used in the bills which have been passed from time to time providing for resurveys and retracements.

Mr. REEDER. Now, I would like to ask if a settler there has settled on land, and it is very irregular in shape, and they run these lines, supposed to be section lines, and one goes through his land, will he still hold that land on each side?

Mr. MONDELL. In carrying out the retracements in cases of that kind the line is carried to the tract claimed by the entryman, then the tract is surveyed out and he is given his lot.

Mr. REEDER. These lines would go around that, however irregular?

Mr. MONDELL. That is the usual way in which the retracements are made.

Mr. REEDER. I will not make any objection to the bill.

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

Mr. MONDELL. Certainly.

Mr. STEPHENS of Texas. Does this have any effect upon the boundary lines between public lands and the lines of Territories and States?

Mr. MONDELL. I will say to the gentleman this resolution does not change the law except that in the section of the bill which passed the last Congress the percentage of the appropriation that was to be used for the purpose of resurveying was erroneously stated, and it is proposed now to write in the law the action of both the House and Senate.

Mr. STEPHENS of Texas. The reason I asked the question—

Mr. MONDELL (continuing). There is no change made in the existing law, except to correct an error as to the amount of appropriation for surveys and resurveys which may be used in the surveys and resurveys provided for in the bill.

Mr. STEPHENS of Texas. I am glad to hear that that is true. The reason I asked the question was because 56 miles of the line between Texas and New Mexico have not been definitely settled between the United States Government and Texas.

Mr. MONDELL. This resolution could not affect that.

Mr. STEPHENS of Texas. This resolution could not affect that. We have on our part a commission already appointed, and we are awaiting the appointment of commissioners on the part of the United States Government to settle that question, and we do not wish to disturb that situation by this bill.

Mr. MONDELL. I ask that the Committee of the Whole be discharged from further consideration of the bill.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill and to consider it in the House. Is there objection?

There was no objection.

Mr. MANN. I suppose the gentleman intends to move to strike out the preamble.

Mr. MONDELL. There is no objection to that.

Mr. MANN. Then, the first two words in line 1 of page 2 ought to be stricken out.

Mr. MONDELL. I do not know that it is necessary to strike out the preamble.

Mr. MANN. It is not customary to let the preamble remain. A preamble is supposed to draw the attention of the House to certain facts. After the joint resolution is passed the preamble becomes of no importance.

Mr. MONDELL. What is the gentleman's suggestion?

Mr. MANN. To strike out the words "the said" in line 1 on page 2. Those words refer to the preamble.

Mr. MONDELL. I think those words refer to the law that we are amending.

Mr. MANN. The words "the said chapter" refer to the preamble. It should read "the last proviso of chapter 271." That covers what the gentleman wants.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the preamble be stricken from the resolution, and that the first two words in line 1 on page 2 to be stricken out.

The SPEAKER. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, strike out in line 1 the words "the said."

The amendment was agreed to.

Mr. MONDELL. Also, to strike out the preamble.

The SPEAKER. That will come later.

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

By unanimous consent the preamble was stricken out.

BOARD OF REGENTS, SMITHSONIAN INSTITUTION.

The next business on the Calendar for Unanimous Consent was the joint resolution (S. J. Res. 59) providing for the filling of vacancies to occur on January 27, 1910, in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

The joint resolution was read, as follows:

Senate joint resolution 59.

*Resolved*, That the vacancies which will occur on January 27, 1910, in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress shall be filled by the reappointment of John B. Henderson and Alexander Graham Bell, residents of the city of Washington, whose terms of office expire on that date.

The SPEAKER. Is there objection?

There was no objection.

Mr. McCALL. Mr. Speaker, this resolution should be amended, because the 27th of January has already passed.

In line 3 strike out the words "will occur" and insert in place the word "occurred."

In line 8 strike out the word "expire" and insert the word "expired."

The SPEAKER. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

In line 3 strike out the words "will occur" and insert the word "occurred," and in line 8 strike out the word "expire" and insert the word "expired."

The amendment was agreed to.

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

By unanimous consent the title was amended by striking out the words "to occur" and inserting the words "which occurred."

DEPUTY CLERKS, UNITED STATES CIRCUIT COURT OF APPEALS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15665) providing for the appointment of deputy clerks to the United States court of appeals.

The bill was read, as follows:

*Be it enacted, etc.*, That one or more deputies of the clerk of the circuit court of appeals may be appointed by the court on the application of the clerk and may be removed at the pleasure of the court. In case of the death of the clerk his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk in his name until a clerk is appointed and qualified; and for the defaults or misfeasances in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk and his estate and the sureties on his official bond shall be liable, and his executor or administrator shall have such remedy for such defaults or misfeasances committed after his death as the clerk would be entitled to if the same had occurred in his lifetime.

The SPEAKER. Is there objection?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, I should like to hear an explanation of the bill.

Mr. PARKER. I yield to the gentleman from Ohio.

Mr. GOEBEL. Mr. Speaker, the Committee on the Judiciary reported unanimously in favor of this bill. The report made by the committee contains all that I could say with reference to this bill, and I ask that the report be read.

The SPEAKER. The Clerk will read the report in the gentleman's time.

The Clerk read the report (by Mr. GOEBEL), as follows:

The Committee on the Judiciary, to whom was referred the bill (H. R. 15665) providing for the appointment of deputy clerks to the United States circuit court of appeals, having had the same under consideration, beg leave to report it back to the House with recommendation that it do pass.

The purpose of the bill is to permit the circuit court of appeals to appoint one or more deputies of the clerk of that court. At present there is no provision of law authorizing such an appointment. In case of the death or serious illness of the clerk no one has power to act for him. No process, mandate, or other official paper can issue from the clerk's office.

Congress has provided for a deputy clerk in every other court of the United States, namely, for the Supreme Court by Revised Statutes, section 678; for the circuit court by Revised Statutes, section 624; for the district court by Revised Statutes, section 558; for the Court of Claims by Revised Statutes, sections 1053-1054; for the supreme court of the District of Columbia by section 174 of the Code of Laws for the District of Columbia; and for the court of appeals for the District of Columbia by section 224 of the same code. The omission in this instance was clearly an oversight.

The bill is drawn substantially like Revised Statutes, section 678. The Attorney-General of the United States in his last report, on page 30, recommends the passage of such measure. As every clerk of the circuit court of appeals now employs one or more assistants, and their compensation being paid by the clerk out of fees received from litigants, it is not likely that the number will be increased nor that the Government will be at any expense.

Mr. SHERLEY. Mr. Speaker, I notice the bill reads "one or more deputies of the clerk of the circuit court of appeals." There are several clerks of the circuit courts of appeals, and it seems to me that the bill ought to provide, if it be proper at all, for a deputy to each clerk of a circuit court of appeals.

Mr. GOEBEL. I have no objection.

Mr. SHERLEY. But I would like the gentleman's opinion on it. I have just seen the bill and that objection occurred to me. It reads "one or more deputies to the clerk of the circuit court of appeals." There are as many clerks as there are circuits.

Mr. GOEBEL. There are nine circuits.

Mr. SHERLEY. Nine clerks. It would seem proper to so draw the bill as to authorize the clerk of each circuit court of appeals to appoint a deputy. The change might be effected by changing the word "clerk," in line 3, to "clerks," so that it would read "one of more deputies to the clerks of the circuit court of appeals."

Mr. PARKER. If you change the word "the" to "each," so that it will read "one or more deputies to each clerk of the circuit court of appeals," it will be sufficient. I ask unanimous consent that that amendment be made.

Mr. SHERLEY. There are more questions I want to ask. This does not change the compensation at all?

Mr. GOEBEL. Not at all.

Mr. SHERLEY. The clerks receive compensation through fees. It does, however, do this. I hope the time is coming very shortly when we will abolish the fee system for the payment of clerks of courts, and when that time comes you are going to find that every man who is getting money by virtue of fees will object to the change, and if you add a lot of deputies you will find hard work to change the fee system.

Mr. GOEBEL. "Sufficient unto the day is the evil thereof."

Mr. SHERLEY. I would like to ask the gentleman what reason there is for the appointment of additional deputies?

Mr. GOEBEL. Not additional deputies.

Mr. SHERLEY. Well, deputies.

Mr. GOEBEL. The reason is that if the clerk becomes sick or incapacitated there is no one to act in his place in the issuing of mandates or orders.

Mr. SHERLEY. Is that the only reason?

Mr. GOEBEL. That is the reason given by the Attorney-General.

Mr. SHERLEY. If that is the only reason, it would be better to authorize the court to appoint a clerk to act in the interim; but if he needs additional help right along, there may be a reason for authorizing these deputies.

Mr. MANN. Under the provisions of this bill and the existing law the deputy who acts for the clerk is subject to the bond of the original clerk, whereas if you waited for the court to appoint and for the deputy to give a new bond there would be a time elapse when there would be nobody authorized to sign the papers on behalf of the clerks. We had the same discussion up in reference to deputies of ordinary clerks, holding the bondsmen of the original clerk liable for the action of the deputy after the death of the original clerk. I think that is the reason it is in this form.

Mr. SHERLEY. But here you are authorizing more than one deputy.

Mr. GOEBEL. It depends upon the application of the clerk to the court.

Mr. SHERLEY. I understand it does, but I do not want it to depend on him; I want to get rid of a lot of deputies, who, when it comes to changing the law, will insist on receiving a salary; and if you have six deputies where you could get along with two, you will have difficulty in getting rid of the unnecessary four. I happen to know that there will be legislation shortly in the House looking to a change in the fee system, which ought to have occurred long ago. Now, if the gentleman will make this read "one deputy may be appointed," I will not object.

Mr. GOEBEL. This provides for one or more.

Mr. SHERLEY. Well, strike out the "or more."

Mr. GOEBEL. It leaves it within the discretion of the court to appoint one.

Mr. SHERLEY. But I do not want to leave it there.

Mr. GOEBEL. Then I understand the gentleman is not willing to trust the courts as to the number required.

Mr. SHERLEY. One of the very worst things possible is to leave a matter of this kind to somebody's discretion. Wherever

we can decide positively and not leave it to discretion, then I am in favor of deciding. I suggest that the gentleman could get the relief by putting it at one deputy.

Mr. GOEBEL. I would suggest to the gentleman that we ought to leave that to the court to determine the necessity of whether there should be one or more.

Mr. SHERLEY. But I do not think so.

Mr. GOEBEL. Then I must differ with the gentleman.

Mr. SHERLEY. Very well, then; if the gentleman wants me to object to the bill in its present form, I shall certainly do it.

Mr. GOEBEL. Mr. Speaker, a parliamentary inquiry. Is it still in order after the matter has been considered for the gentleman to make an objection?

Mr. SHERLEY. But an objection has been reserved.

The SPEAKER. Objection was reserved, as the Chair recollects, and this discussion has been going on by unanimous consent.

Mr. GOEBEL. Does the gentleman insist upon his position that the bill be so amended or that he will object?

Mr. SHERLEY. I will object unless the amendment I suggest is made to the bill.

Mr. GOEBEL. Then I shall move to amend the bill in that way.

The SPEAKER. First, is there objection to the consideration of the bill?

Mr. SHERLEY. With the understanding that the gentleman will offer that amendment, I shall not object.

Mr. GOEBEL. I will offer the amendment.

The SPEAKER. The Chair hears no objection. The Clerk will report the amendment.

The Clerk read as follows:

Line 3, page 1, strike out the words "or more," and strike out the word "deputies" and insert in lieu thereof the word "deputy."

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

The question was taken, and the amendments were agreed to. Mr. SHERLEY. Now, I suggest the other amendment of changing the word "the" to the word "each."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Line 3, before the word "circuit," strike out the word "the" and insert in lieu thereof the word "each," so as to read "clerk of each circuit court."

The SPEAKER. The question is on the amendment.

The question was taken, and the amendment was agreed to. Mr. GOEBEL. Mr. Speaker, I offer an amendment which I desire to have the Clerk report.

The Clerk read as follows:

Line 6, strike out the words "or deputies."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to. The SPEAKER. The question now is on the engrossment and third reading of the bill as amended.

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

#### CIRCUIT AND DISTRICT COURTS AT SACRAMENTO, CAL.

The next business was the bill (H. R. 4830) establishing regular terms of the United States circuit and districts courts of the northern district of California at Sacramento, Cal.

The Clerk read as follows:

*Be it enacted, etc.* That there shall be one term each of the United States district and circuit courts for the northern district of California held in the city of Sacramento, Cal., in each year from and after the passage of this act, said term to begin on the second Monday in April and continue as long as the business may require.

SEC. 2. That the clerk of the district and circuit courts for the northern district of California and the marshal and district attorney for said district shall perform the duties appertaining to their offices, respectively, for said courts.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

#### PRACTICE IN CERTAIN CIVIL AND CRIMINAL CASES, WESTERN DISTRICT OF ARKANSAS.

The next business was the bill (H. R. 18019) to amend section 2 of an act entitled "An act to regulate the practice in certain civil and criminal cases in the western district of Arkansas."

The Clerk read as follows:

*Be it enacted, etc.* That section 2 of an act entitled "An act to regulate the practice in certain civil and criminal cases in the western dis-

trict of Arkansas," approved June 2, 1906, be, and the same is hereby, amended so as to read as follows:

"Sec. 2. That the defendants in criminal cases now or hereafter pending in the district courts of the Harrison or Texarkana divisions of the western district of Arkansas and who are incarcerated at Fort Smith to await trial because of their inability to furnish bail and who desire to plead 'guilty' may, on their written motion showing those facts and filed in the case, in vacation, and upon the order of the judge, duly signed and filed in the case, have their cases transferred to the Fort Smith division of the western district of Arkansas, to the end that trials may be had and sentences imposed as in other cases of like nature; and prisoners bound over to answer to indictments in the Harrison or Texarkana divisions of the western district of Arkansas for offenses committed in those divisions and who are incarcerated in the jail at Fort Smith, Ark., for inability to furnish bail, and who desire to plead 'guilty' to such offenses, may on their own motions have their cases submitted to a grand jury of the Fort Smith division for indictment and final disposition in the courts of that division, or in proper cases may plead to informations filed in the proper court in said division and have their cases disposed of as other cases of like nature when the offense was committed in the Fort Smith division. When a transfer is ordered, as provided in this section, the clerk shall make out and forthwith send a certified copy of the record entries, together with the indictment and all the original papers, to the clerk of the court to which such case is transferred, who shall file the same, and thereupon the case shall be proceeded with as other cases of like nature pending in such court. For making out said transcript and forwarding the same, together with the original papers in said case, the clerk of the court shall have the usual compensation for making out transcripts and for filing the petition and order and entering the order, and \$2 additional, all such compensation to be taxed and paid by the United States as other costs taxed against the United States are paid."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Chair will suggest that this is on the Union Calendar.

Mr. PARKER. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill and consider the same in the House.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

#### BRIDGE ACROSS MONONGAHELA RIVER.

The next business was the bill (H. R. 18895) to authorize the Wilson and Glassport Bridge Company to construct a bridge across the Monongahela River between Wilson and Glassport shoals, Allegheny County, Pa.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Wilson and Glassport Bridge Company, a corporation organized and existing under the laws of the State of Pennsylvania, is hereby authorized to construct a bridge across the Monongahela River from a point suitable to the interests of navigation on State street, in the borough of Wilson, Allegheny County, Pa., about 1,030 feet south of the north boundary line of said borough, to a point on the opposite side of said river in the borough of Glassport, said county and State, at or near the intersection of Broadway and Michigan avenues, in accordance with the provisions of the act entitled "An act to regulate construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

With the following amendments:

Page 1, in line 7, strike out the words "on State street."  
Page 1, in lines 8, 9, and 10, strike out the words "about 1,030 feet south of the north boundary line of said borough."  
Page 1, in lines 11 and 12, strike out the words "at or near the intersection of Broadway and Michigan avenues."

The SPEAKER. Is there objection?

Mr. TALBOTT. Mr. Speaker, I reserve the right to object.

Mr. MANN. Mr. Speaker, this is an ordinary bridge bill to authorize the construction of a bridge across the Monongahela River, which is an act conforming to the practice of the House, and has the approval also of the Chief of Engineers in the War Department, and I yield to the gentleman from Pennsylvania, who introduced the bill, if any further information in regard to it is required, although I will be glad to furnish any additional information.

Mr. TALBOTT. Mr. Speaker, the gentleman from Maryland does not need any additional information; I withdraw the objection.

Mr. FITZGERALD. Has the gentleman from Illinois examined this bill?

Mr. MANN. He has, and made a lot of amendments to it.

The amendments were agreed to.

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

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 18695) to revive an act to authorize the construction of a bridge across Tug Fork of Big Sandy River, West Virginia.

*Be it enacted, etc.*, That the act entitled "An act authorizing the Borderland Coal Company to construct a bridge across Tug Branch of

Big Sandy River," approved June 29, 1906, is hereby revived and reenacted: *Provided*, That actual construction of the bridge therein authorized shall be commenced within one year and completed within three years from the date hereof.

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

Mr. MANN. Mr. Speaker, there should be an amendment there. I think this bill is improperly printed. It should have a section 2, to read:

The right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert as section 2:

"The right to alter, amend, or repeal this act is hereby expressly reserved."

The amendment was agreed to.

The committee amendment was read, as follows:

In line 9 strike out the word "hereof" and insert "of the passage of this act."

The amendment was agreed to.

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

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

A bill (H. R. 19714) authorizing the President to sell and convey to the Republic of Panama the building situated in the city of Panama known as the "Administration Building."

*Be it enacted, etc.*, That the President be, and he is hereby, authorized, in his discretion, to sell and convey to the Republic of Panama the building situated in the city of Panama known as the "Administration Building," together with the ground on which the same is located, for a sum not less than \$80,000, and the proceeds of such sale, if made, shall be covered into the Treasury of the United States.

The SPEAKER. Is there objection?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, how much is this building worth?

Mr. MANN. Mr. Speaker, I would not wish to put in the Record, if I can help it, a statement that we offered to sell a building to the Republic of Panama for more than it is worth, but I should say myself it is not worth more than \$50,000. We are offering to sell this for not less than \$80,000.

Mr. FITZGERALD. The gentleman is speaking strictly of the building?

Mr. MANN. I am speaking of the building and the ground, with which I am quite familiar, although not in the sense of an expert real-estate dealer.

Mr. FITZGERALD. How does the gentleman then fix \$80,000 as the upset price?

Mr. MANN. I fix that on the statement of the Secretary of War and gentlemen in charge of the construction of the canal, who say that \$80,000 is a fair price for the property. I suppose probably no one else would purchase it for any sort of a price except the Republic of Panama. The building is not of a character one could use for ordinary purposes at all. It was a building constructed by De Lesseps and was the administration building of the old Panama Canal Company, and was occupied shortly after we first went down there by Chief Engineer Wallace as a residence, and has never been occupied since except as a sort of storage for supplies for a few traps and things of that kind.

Mr. FITZGERALD. Is there any possibility of its being used as an embassy? They are talking about buying embassies in different places.

Mr. MANN. Well, I think not. I think we can provide an embassy down there for a great deal less money than authorized here. I will say to the gentleman that the Secretary of War has suggested that there might be authority given to the Secretary of War to sell any property down there that we had acquired from the old Panama Canal Company and the proceeds might be paid into the fund for the construction of the canal. Subsequently, when objection was made to that, the suggestion was made that he be given authority to sell this particular administration building and that the money could be paid into the fund provided for the construction of the canal. The gentleman will see that the bill is not drawn in that way, but authorizes the President to make the sale, and so far as the resolution is concerned we have dealt with the President and not the Secretary of War, and it provides that the money, if the sale is made, shall be paid into the Treasury and not as part of the Panama Canal fund.

Mr. FITZGERALD. I suppose the Panama Government desires to use this as a public building?

Mr. MANN. I think they do desire to use it for that purpose.

Mr. HARRISON. Will the gentleman permit me to say, does not the gentleman realize that there is a very grave admission

contained in an extract from the annual report of the Secretary of War, in which he says:

Upon an examination of the law I am of the opinion that the President had not the authority to dispose of this property without the sanction of Congress.

That is the very first time in that connection that this or the previous administration has ever admitted that the President could not do all and anything in connection with the administration of the Canal Zone, and I want to ask the gentleman whether it does not stultify all the arguments the gentleman has made on the floor concerning the whole subject of the Canal Zone?

Mr. MANN. Quite the contrary. No President has ever claimed any authority to sell any property upon the Canal Zone. We have had that matter up before. We passed a bill through Congress, which I think the gentleman himself voted for, although he has not voted for every proposition I have presented to the House concerning the Panama Canal, authorizing the sale of land down there for agricultural purposes; but this is for another purpose.

Mr. HARRISON. Did that pass the Senate?

Mr. MANN. Oh, yes; and is law. We have always contended, and it has been acquiesced in by the President—in fact, he has never claimed otherwise so far as real estate owned by us on the Panama strip is concerned, he has no control over it so far as the sale is concerned, except such as we give him by legislation.

Mr. HARRISON. Does the gentleman seriously believe that anybody, after the original bill he put through the House over our dead bodies, so to speak, would ever think it necessary to pass such a law as this with reference to anything?

Mr. MANN. Well, the gentleman and I look at things from different angles, sometimes. I do not see how anybody could read the bill and put any other construction upon it.

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

Mr. MANN. Certainly.

Mr. STEPHENS of Texas. Do we propose to sell any ground in connection with the building?

Mr. MANN. No ground except that on which the building stands.

Mr. STEPHENS of Texas. Is that in connection with the city of Panama, in the Republic of Panama?

Mr. MANN. This building is right in the city of Panama, on a prominent corner.

Mr. STEPHENS of Texas. Has it ground all around the building?

Mr. MANN. It has no ground around or adjacent. It is part of a city lot that the Government owns—the building without any land around it.

Mr. STEPHENS of Texas. The Government owns the ground on which the building stands?

Mr. MANN. It owns the ground on which the building stands.

Mr. STEPHENS of Texas. I believe the gentleman is one of those who says that where the flag is hoisted it shall never be hauled down; now he is proposing to sell ground of the United States. What excuse does the gentleman make?

Mr. MANN. I do not care to make any excuse, not even here.

Mr. STEPHENS of Texas. Would the gentleman object to striking out "Panama" and inserting "Philippine Islands?" If you do I will not object to the bill.

Mr. MANN. I think I would not care to do that.

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

Mr. MANN. Certainly.

Mr. FITZGERALD. Is there any statute by which the administration has the right to sell other property on the Canal Zone?

Mr. MANN. They have no right to sell any property on the Canal Zone except as we pass the laws to allow them to sell the real estate.

Mr. FITZGERALD. I do not mean real estate. I notice a contract has just been made for the sale of scrap on the zone.

Mr. MANN. Yes; I think they have that authority; they certainly exercise it.

Mr. FITZGERALD. I have no objection to this bill; I think we ought to sell the property.

Mr. MANN. I think that is the opinion of everybody who is familiar with the matter.

The SPEAKER. The Chair hears no objection.

Mr. MANN. I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, and that it be considered in the House.

The SPEAKER. The gentleman from Illinois asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, and that the same be considered in the House. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to a third reading, and it was accordingly read the third time and passed.

#### FISH HATCHERY AT PRESQUE ISLE PENINSULA, PENNSYLVANIA.

The next business reported from the Calendar for Unanimous Consent was the bill (H. R. 12397) granting certain rights and privileges to the department of fisheries in the State of Pennsylvania.

The bill was read, as follows:

*Be it enacted, etc.*, That the department of fisheries of the State of Pennsylvania is hereby granted the right to enter upon and occupy the following-described land of the United States, known as "Presque Isle Peninsula," in the county of Erie and State of Pennsylvania, to wit, all that part of said peninsula lying and being between the east line of the Erie waterworks lands and a line substantially parallel with and adjacent to the west line of the lands of the Presque Isle light-house, on the north shore of said peninsula, and the line of the present walk leading from said light-house to the north shore of Misery Bay, for the purpose of establishing and maintaining thereon a hatchery for the propagation of game and food fishes, and in pursuance thereof to improve the lands and ponds and reclaim marsh lands thereon; to construct buildings, houses, and sheds, and docks and approaches from Presque Isle Bay to said lands and to the ponds and hatchery buildings on said lands; to lay out, build, and maintain roads and walks in connection therewith, and plant trees and shrubs thereon for the preservation thereof: *Provided*, That the occupation and use of the said lands for the aforesaid purposes shall in no manner affect the right, title, and interest of the United States in and to said lands, nor the Government right of passage over and across the lands so occupied; and the said department of fisheries of the State of Pennsylvania shall do nothing on said lands that may injuriously affect the harbor of Erie or the peninsula of Presque Isle as a protection for the harbor: *Provided further*, That the United States shall not be liable for any damages whatsoever that may at any time occur to the improvements of the department of fisheries of Pennsylvania on said lands: *And provided further*, That the exercise of the rights hereby granted and the execution of any work on said lands hereby authorized shall be in accordance with such plans and specifications as may be approved by the Secretary of War and subject to such further stipulations and conditions as he may prescribe.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore (Mr. GILLET). Is there objection?

Mr. ANTHONY. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. ANTHONY. I yield to the gentleman from Pennsylvania [Mr. BATES].

The SPEAKER pro tempore. The gentleman from Kansas asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill and that it be considered in the House. Is there objection? [After a pause.] The Chair hears none.

Mr. BATES. Mr. Speaker, this bill is reported from the Committee on Military Affairs unanimously, and it came before that committee on a favorable report from the Engineer's Office of the War Department. It grants a right to the fish commission of the State of Pennsylvania to erect a fishery on the eastern portion of Presque Isle Peninsula, that peninsula being an arm of land of about 4½ miles in length, and forms Erie Harbor. It is proposed by the fish commission of Pennsylvania to erect a modern fish hatchery thereon for the propagation of game and food fishes. I think the object is a commendable one. In these days of high prices of beef, we in Pennsylvania propose to erect, possibly, the best fish hatchery in the country and show the balance of the world that Pennsylvania desires to do her full share in the supply of food products.

The title of this land is in the State of Pennsylvania, but for the purposes of national defense and harbor protection the right and custody of the same is in the United States Government and under the control of the Department of Engineers, and the favorable report has come from the Engineer Department and the Military Affairs Committee. The bill carries no appropriation, but confers upon the department of fisheries of Pennsylvania the right to use and occupy this portion of the peninsula (about 175 acres) to erect buildings, dredge pools and inlets, all, however, subject to the supervision and control of the Secretary of War. There can be no possible objection to such occupation, and the public-spirited bodies of citizens of Erie—the board of trade and chamber of commerce—promise to assist the enterprise to the fullest extent. The passage of this bill gives the opportunity for erecting one more splendid institution in Pennsylvania, and Erie, with her 70,000 people, will take a just pride in counting this hatchery as one of her

institutions as well. I trust, therefore, Mr. Speaker, that the bill will pass.

The SPEAKER pro tempore. The Clerk will read the bill for amendment.

The Clerk began the reading of the bill.

Mr. MANN. Mr. Speaker, I ask unanimous consent to dispense with the reading of the bill.

Mr. HULL of Iowa. I ask unanimous consent to dispense with the further reading of the bill, and that the Committee of the Whole be discharged from further consideration of it.

The SPEAKER pro tempore. Is there objection?

There was no objection.

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

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

#### BRIDGE ACROSS BLACK RIVER NEAR PAROQUET, ARK.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 18806) to authorize the reconstruction, maintenance, and operation of a bridge across the Black River near Paroquet, Ark.

The bill was read, as follows:

*Be it enacted, etc.*, That the St. Louis, Iron Mountain and Southern Railway Company, a corporation organized and existing under the laws of the States of Missouri and Arkansas, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a railroad bridge and approaches thereto across the Black River near Paroquet, Ark., or to reconstruct, maintain, and operate the present bridge of said company across the said river in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The following committee amendments were read, considered, and agreed to:

Strike out, in lines 5 and 6, the words "its successors and assigns, be, and they are," and insert in lieu thereof the word "is."  
Amend, in line 8, by inserting after the word "River" the words "at a point suitable to the interests of navigation."

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

The title was amended so as to read: "A bill to authorize the construction, maintenance, and operation of a bridge across the Black River near Paroquet, Ark."

#### BRIDGE ACROSS ST. FRANCIS RIVER NEAR PARKIN, ARK.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 18807) to authorize the reconstruction, maintenance, and operation of a bridge across the St. Francis River near Parkin, Ark.

The bill was read, as follows:

*Be it enacted, etc.*, That the St. Louis, Iron Mountain and Southern Railway Company, a corporation organized and existing under the laws of the States of Missouri and Arkansas, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a railroad bridge and approaches thereto across the St. Francis River near Parkin, Ark., or to reconstruct, maintain, and operate the present bridge of said company across the said river in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The following committee amendments were read, considered, and agreed to:

Strike out, in lines 5 and 6, the words "its successors and assigns, be, and they are," and insert in lieu thereof the word "is."  
Amend, in line 8, by inserting after the word "River" the words "at a point suitable to the interests of navigation."

Mr. MANN. I do not know that it is important, but there are some commas in there that ought to go out. After "Arkansas," in line 5, there is a comma which ought not to be there, and also after "hereby," in line 6. I ask unanimous consent to strike out those commas, and also the same in the bill last passed.

The SPEAKER pro tempore. The gentleman asks unanimous consent that the commas designated by him in this bill and the previous bill be stricken out. Is there objection?

There was no objection.

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

By unanimous consent the title was amended to read: "A bill to authorize the construction, maintenance, and operation of a bridge across the St. Francis River near Parkin, Ark."

#### BRIDGE ACROSS THE WHITE RIVER AT AUGUSTA, ARK.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 18808) to authorize the reconstruction,

maintenance, and operation of a bridge across the White River at Augusta, Ark.

The bill was read, as follows:

*Be it enacted, etc.*, That the St. Louis, Iron Mountain and Southern Railway Company, a corporation organized and existing under the laws of the States of Missouri and Arkansas, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a railroad bridge and approaches thereto across the White River at Augusta, Ark., to reconstruct, maintain, and operate the present bridge of said company across the said river in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Sec. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

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

There was no objection.

The following committee amendments were read, considered, and agreed to:

Strike out, in lines 5 and 6, the words "its successors and assigns, be, and they are," and insert in lieu thereof the word "is."  
Amend, in line 8, by inserting after the word "River" the words "at a point suitable to the interests of navigation."

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

By unanimous consent the title was amended so as to read: "A bill to authorize the construction, maintenance, and operation of a bridge across the White River at Augusta, Ark."

#### BRIDGE ACROSS THE MISSOURI RIVER AT KANSAS CITY, MO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 18592) to amend an act authorizing the construction of a bridge across the Missouri River at Kansas City, Mo.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the act approved February 20, 1907, entitled "An act to amend an act entitled 'An act to amend an act to construct a bridge across the Missouri River at a point between Kansas City and Sibley, in Jackson County, Mo.," approved March 19, 1904," be, and the same is hereby, amended so as to read as follows:

Sec. 2. That the construction of the bridge authorized to be constructed by the act approved March 3, 1887, and of which this act is amendatory, shall be completed within three years from March 19, 1910, and the time for so doing is hereby extended accordingly, and unless these conditions are complied with, this act and the acts of which it is amendatory shall be null and void: *Provided*, That in all matters and particulars not expressly provided for in the acts of which this act is amendatory, the construction, control, and use of such bridge shall be governed by the act of Congress approved March 23, 1906, entitled "An act to regulate the construction of bridges over navigable waters."

Sec. 3. That the Congress reserves the right to change, alter, amend, or revise this act and the acts of which it is amendatory at any time."

The Clerk read the following committee amendments:

In line 12, page 2, strike out the word "act" and insert "acts."  
In line 13, page 2, strike out the word "control" and insert the word "maintenance." Also strike out the word "use" and insert the word "operation."  
In line 14, page 2, strike out the words "governed by" and insert the words "in accordance with the provisions of."  
In line 18, page 2, strike out the words "the Congress reserves."  
In line 19, page 2, strike out the word "change." Also strike out the word "revise" and insert "repeal."  
In lines 19 and 20 strike out the words "at any time" and insert "is hereby expressly reserved."  
Strike out the preamble.

Mr. COOPER of Wisconsin. Mr. Speaker, reserving the right to object, I would like to ask a question. I observe that the act authorizing this bridge to be built was passed in 1904, and this requires it to be completed in 1913, nine years thereafter. Why has it taken so long?

Mr. MANN. I may say to the gentleman from Wisconsin that it is a great deal worse than that. The original act for the construction of that bridge was passed in 1887. It has been extended from time to time until three years ago, and when this bill was presented the committee required evidence, a portion of which is printed in the report, giving the reason why this bill should be enacted. It seemed that originally the piers of the bridge were constructed, but for many years it was practically abandoned. There were troubles in reference to the erection of the bridge and troubles in reference to the ownership of the land on either side of the river. Now, the present parties who have it got an extension of time three years ago and have expended over \$100,000. They have a number of contracts outstanding. They have recovered apparently from the stringency of the panic of 1907 and are preparing to go ahead with the construction of the bridge, a thing that the people are interested in.

Mr. COOPER of Wisconsin. What kind of a bridge is it?

Mr. MANN. It is a railroad, foot passenger, and wagon bridge.

Mr. COOPER of Wisconsin. Thirty-three years is a long time.

Mr. MANN. No doubt about it. I propose to offer an amendment striking out the word "three," in line 6, and inserting the word "two," so that it will give them only two years more to complete the bridge instead of three years. Our rule is to give one year in which to commence the construction of a bridge and two years after that in which to complete it. So that we treat them now as though they had commenced the construction of the bridge and allow them two years more to complete it. There is no doubt that for many years this was a franchise that might be up for sale, and there was not much chance to sell it and not much chance to build the bridge. These people are now ready to go ahead, at least they make the claim that they are, and the gentleman from Missouri [Mr. BORLAND] is satisfied that they are going ahead with the construction.

Mr. BORLAND. That is the only thing we wish to be assured of, that they are actually going ahead with the construction, and we are going to limit them to two years.

Mr. ANTHONY. I would like to ask the gentleman if this is the old Winner Bridge?

Mr. BORLAND. Yes.

Mr. ANTHONY. And they are actually at work on it now?

Mr. BORLAND. Yes; they are. It is now known as the Arnold, Burlington and Swift Terminal.

The committee amendments were agreed to.

Mr. MANN. Mr. Speaker, I offer the following amendment:

In line 6, page 2, strike out the word "three" and insert the word "two."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time.

The title was amended by striking out the preamble.

The question was taken, and the bill was passed.

Mr. MANN. Mr. Speaker, I ask unanimous consent to enter a motion to reconsider the votes whereby all the bills reported by the Committee on Interstate and Foreign Commerce were passed, and to lay that motion on the table.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to enter a motion to reconsider all the votes whereby the bills reported from the Committee on Interstate and Foreign Commerce were passed and to lay that motion on the table. Is there objection?

There was no objection.

#### BRIDGE ACROSS THE MISSISSIPPI RIVER AT ST. LOUIS, MO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 19399) to extend the time for the completion of the bridge across the Mississippi River at St. Louis, Mo., by the St. Louis Electric Bridge Company.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the time fixed by the act of Congress entitled "An act to authorize the St. Louis Electric Bridge Company, a corporation organized under the laws of the State of Illinois, to construct a bridge across the Mississippi River," approved February 15, 1907, for the completion of the construction of the bridge therein authorized to be constructed is hereby extended one year.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The following committee amendment was read:

Strike out all of section 1 and insert the following:

"That the time for completing the construction of the bridge authorized by the act entitled 'An act providing for the construction of a bridge across the Mississippi River,' approved February 15, 1907, is hereby extended to one year from the date of the passage of this act."

The amendment was agreed to.

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

On motion of Mr. MANN, a motion to reconsider the vote whereby the bill was passed was laid on the table.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 15384) making appropriation for the support of the army for the fiscal year ending June 30, 1911, disagreed to by the House of Representatives, had agreed to conference asked by the House of Representatives, and had appointed Mr. WARREN, Mr. BULKELEY, and Mr. OVERMAN 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. 18282) making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1910, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House of Representatives, and had appointed Mr. HALE, Mr. GALLINGER, and Mr. CLAY 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. 5697. An act to authorize the change of name of the steamers *A. B. Wolvin* and *Cambria*, owned by the Port Huron and Duluth Steamship Company;

S. 538. An act to amend sections 2586 and 2587 of the Revised Statutes of the United States, as amended by the acts of April 25, 1882, and August 28, 1890, relating to collection districts in Oregon; and

S. 234. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation and provision to carry the same into effect.

The message also announced that the Senate had passed the following resolutions:

#### Senate resolution 169.

*Resolved*, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM C. LOVERING, late a Representative from the State of Massachusetts.

*Resolved*, That a committee of five Senators be appointed by the Vice-President to join a committee appointed on the part of the House of Representatives to take order for superintending the funeral of Mr. LOVERING at Taunton, Mass.

*Resolved*, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

*Resolved*, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

And that in compliance of the foregoing resolutions the Vice-President had appointed as the committee on the part of the Senate under the second resolution Mr. LODGE, Mr. CRANE, Mr. WETMORE, Mr. BAILEY, and Mr. NEWLANDS.

#### SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5697. An act to authorize the change of name of the steamers *A. B. Wolvin* and *Cambria*, owned by the Port Huron and Duluth Steamship Company—to the Committee on the Merchant Marine and Fisheries.

S. 538. An act to amend sections 2586 and 2587 of the Revised Statutes of the United States, as amended by the acts of April 25, 1882, and August 28, 1890, relating to collection districts in Oregon—to the Committee on Ways and Means.

S. 234. An act to authorize the sale and disposition of a portion of the surplus and unallotted lands in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriations and provision to carry the same into effect—to the Committee on Indian Affairs.

#### MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had, on February 4, 1910, approved and signed bill of the following title:

H. R. 19548. An act prescribing certain provisions and conditions under which bonds and certificates of indebtedness of the United States may be issued, and for other purposes.

#### COMMITTEE ON THE JUDICIARY.

Mr. PARKER. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

#### House resolution 377.

*Resolved*, That the Committee on the Judiciary shall have leave to sit during the sitting of the House.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the resolution.

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

#### MANUFACTURE OF SUBSIDIARY SILVER COIN.

The SPEAKER laid before the House the following message from the President of the United States (H. Doc. No. 655), which was read and, together with the accompanying papers, referred to the Committee on Coinage, Weights, and Measures and ordered printed:

*To the Senate and House of Representatives:*

I submit herewith a copy of a letter from the Secretary of the Treasury, inclosing a memorandum and letter from the Director of the Mint relative to a modification of the deviations now allowed by law from the standard weight of the silver coins of the United States.

The Secretary of the Treasury approves of the suggestion of the Director of the Mint, and it is recommended by both that section 3536 of the Revised Statutes be amended by striking out the following words: "And in weighing a large number of pieces together, when delivered by the coiner to the superintendent, and by the superintendent to the depositor, the deviations from the standard weight shall not exceed two-hundredths of an ounce in one thousand dollars, half-dollars, or quarter-dollars, and one-hundredth of an ounce in one thousand dimes."

From the memorandum prepared by the Director of the Mint it is apparent that a saving in the manufacture of subsidiary silver coin would be effected by amending section 3536 of the Revised Statutes as proposed, and I recommend that favorable action be taken by Congress.

WM. H. TAFT.

THE WHITE HOUSE, February 7, 1910.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—  
To Mr. HUBBARD of West Virginia, indefinitely, on account of important business.

To Mr. ESCH, indefinitely, on account of illness in his family.  
To Mr. RIORDAN, indefinitely, on account of death in his family.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted—  
To Mr. STUBBINS to withdraw from the files of the House, without leaving copies, papers in the case of George W. Johnson, Sixtieth Congress, no adverse report having been made thereon.

To Mr. REYNOLDS to withdraw from the files of the House, without leaving copies, the papers in the case of J. H. Sparks, Fifty-sixth Congress, no adverse report having been made thereon.

CHANGE OF REFERENCE.

By unanimous consent, reference of the bill (H. R. 19871) authorizing the Secretary of War to purchase certain lands adjoining the Frankfort Arsenal, Philadelphia, Pa., was changed from the Committee on Military Affairs to the Committee on Appropriations.

By unanimous consent, reference of the bill (H. R. 19558) to authorize the Secretary of War to effect an exchange of a certain parcel of land owned by the United States for another parcel owned by the Cave Hill Cemetery Company, of Louisville, Ky., was changed from the Private Calendar to the Union Calendar.

DEPORTATION OF CONVICTED ALIENS.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent that the minority members of the Committee on Immigration and Naturalization have five days within which to file their views respecting a bill reported from the committee with reference to the deportation of convicted aliens.

The SPEAKER. Is there objection?

There was no objection.

STATUE OF GEN. LEWIS WALLACE.

Mr. CRUMPACKER. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution 378.

Resolved, That exercises appropriate to the acceptance from the State of Indiana of the statue of Gen. Lewis Wallace, erected in Statuary Hall, in the Capitol, be made the special order for Saturday, February 26, 1910, after the conclusion of the routine morning business.

The SPEAKER. The Chair thinks this is of that class of special orders that are purely matters of ceremony and feels authorized in administering the rules to submit the request for unanimous consent. Is there objection? [After a pause.] The Chair hears none.

The question is on agreeing to the resolution.

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

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. PERKINS. 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 diplomatic and consular appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the diplomatic and consular appropriation bill, with Mr. TILSON in the chair.

Mr. GARRETT. Mr. Chairman, the President of the United States, in his special message transmitted to the Congress on January 10, 1910, recommended the enactment of a general

law providing for the granting by the Federal Government of charters creating corporations to engage in interstate and foreign commerce.

It will be borne in mind that he does not recommend making it compulsory upon corporations to take out federal charters in order to engage in interstate and foreign commerce, but proposes to leave it to their own election.

If the policy recommended by the President be adopted, the Federal Government will have gone far beyond any point heretofore reached or seriously sought to be reached by it. It is a policy so sweeping in its character and so far-reaching in its intentment that the Congress surely will pause and give it exhaustive consideration before entering upon it. I beg the indulgence of the House to submit a brief review of some phases of the question in advance of the coming before us of bills from the committees having the recommendations in charge.

The President in his message has anticipated and sought to answer certain objections that would be urged to the scheme, saying:

Such a national incorporation law will be opposed, first, by those who believe that trusts should be completely broken up and their property destroyed. It will be opposed, second, by those who doubt the constitutionality of such federal incorporation, and, even if it is valid, object to it as too great federal centralization. It will be opposed, third, by those who will insist that a merely voluntary incorporation like this will not attract to its acceptance the worst of the offenders against the antitrust statute and who will therefore propose instead of it a system of compulsory licenses for all federal corporations engaged in interstate commerce. (President's Message, Jan. 10, 1910.)

And he then proceeds to consider those objections in the order stated by him.

THE CONSTITUTIONAL QUESTION FIRST.

It seems to me, Mr. Chairman, that the second objection suggested by the President as likely to arise, or at least the first portion of it—the question of the constitutionality of it—deserves first consideration, because that is a question of principle; the others may be classed as questions of policy. If such an act be unconstitutional, of course that is the end of it; if not, then we may consider the other phases and effects as matters of policy upon their respective merits.

Let us then turn to this, and let us bear strictly in mind just what is proposed. It is that Congress pass a general law authorizing the granting of charters of incorporation to private business associations desiring to carry on interstate commerce; it is not to authorize the creation of corporations that are to perform some governmental function, as, for instance, a bank with authority to issue currency, or a public highway, such as a railroad or canal, but purely private business concerns engaged wholly in private business for private profit, performing no public service, exercising no governmental function whatsoever.

Let us remember just here that there is a distinction as wide as the poles between this proposition and that which has been much agitated of a system of federal licenses or federal registry of associations engaged in interstate and foreign commerce. While I grant that much may be said upon each side of the latter proposition, still it is wholly different in its constitutional aspects from the former. The President proposes that the Federal Government be clothed with authority to create a new entity, a new commercial agency; in the other it is a form of regulation of those already in existence or hereafter to be created by the sovereign States.

Let us also remember that the corporations to be created under the proposed policy will be entirely different in character from those created under authority of Congress in the District of Columbia and in the Territories. These corporations, though created by federal authority, bear the same relations to all others and to the governments, State and Federal, as those created by the States. They are "citizens" of the District or of the Territory, as the case may be. Those created under the President's policy will be federal corporations. They will not be citizens of any State or Territory or of the District of Columbia. They will have a legal status wholly different from individuals or joint-stock companies or partnerships engaged in similar activities; wholly different from state corporations engaged in precisely similar work. They will have legal rights, immunities, and privileges which individuals acting as individuals can never attain.

Mr. Chairman, the second section of the sixth article of the Constitution of the United States provides:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

If, therefore, such federal corporations as the President advocates can be created, they will, under this section, as it has again and again been interpreted and applied by the courts, be supreme above state regulation and law. They can enter a State without so much as saying "by your leave," and carry on their business, their agents snapping their fingers contemptuously at state law and rules. The States can have no authority, can exercise no control, can impose no terms save such as the discretion and grace of the Federal Government allow them. "If it please you, O Federal Government," the States must say, "we would do this or that, make this regulation or that for your creatures, your corporations that have been given life by your law; if it please you not, however, why, not our will, nor our wisdom, but yours be exercised." How vast the sweep of the proposed policy! How tremendous the change which will be wrought if it be consummated!

A corporation may be formed having its place of business in the State of Massachusetts but desiring to cross the border and do business in New Hampshire. By taking a federal charter it will escape any regulation of New Hampshire, except such as the discretion of the Congress of the United States may permit that State to have. The judgment of representatives from Tennessee and Georgia, from California and Oregon, from 44 other States must be substituted for that of the citizens of New Hampshire.

In passing, let me say, Mr. Chairman, that if we are to have any such incorporation I quite agree that it should be under a general law, and only under a general law. There should be no special acts of Congress granting charters to particular associations for special purposes. Gentlemen may remember that during my brief service here I have frequently protested against the passage of special bills granting charters of incorporation to District associations, simply on the ground that we ought not to pass such special acts. I am glad to see that we have fewer of these than formerly. If we are to have this general policy, by all means let it be under a general law, but let us consider well before we have it at all.

#### VOLUNTARY FEATURE MAKES NO CHANGE IN CONSTITUTIONAL ASPECT.

One other matter to bear in mind in considering the constitutionality of the question is that leaving it optional with an association whether it will take a federal charter or receive its life from a State, has no bearing whatsoever.

Where the Federal Government may go, the Federal Government can go, so far as the Constitution is concerned. In other respects the voluntary feature of the proposition is a matter of great moment, but the constitutional question is unaffected by it.

If the Federal Government may constitutionally pass an act permitting a charter at the election of an association, I apprehend it could go further and say that, in order to engage in interstate commerce at all, the association, if it be a corporation, must be a federal corporation, must have a federal charter. If it can go that far, could it not go still further and say, if Congress, in its discretion should determine to do so, that only incorporations should have the right to engage in interstate trade?

At any rate, in my view of the matter, the voluntary feature does not affect the fundamental legal phase. But whether it does or not, I shall undertake to maintain that the proposed legislation lies beyond the limit of federal authority.

The President, in answer to the constitutional objection which he anticipated would be urged, says:

Second. There are those who doubt the constitutionality of such federal incorporation. The regulation of interstate and foreign commerce is certainly conferred in the fullest measure upon Congress; and if, for the purpose of securing in the most thorough manner that kind of regulation, Congress shall insist that it may provide and authorize agencies to carry on that commerce, it would seem to be within its power. This has been distinctly affirmed with respect to railroad companies doing an interstate business and interstate bridges. Why, then, with respect to any other form of interstate commerce, like the sale of goods across state boundaries and into foreign commerce, may the same power not be asserted?

The President might have added that, in the exercise of another power, the Congress created a corporation to engage in the banking business, becoming a partner in the concern, and this was sustained by the courts after what was probably the greatest legal battle in the history of the Republic.

But, Mr. Chairman, there is a vast difference, a difference which all lawyers and most laymen must appreciate, between the nature and functions of an institution which issues currency or a substitute for currency for use in exchanging commodities and values, and one which manufactures commodities to be exchanged. And there is an equal difference between the nature and functions of a railroad or canal or bridge—a public highway constructed for the transportation and passage

of persons and things—and a trading company engaged in private commerce for private gain.

The fact that the motive of those who engage in banking activities or in the construction and operation of railroads is precisely the same as the motive actuating those who sell groceries or weave the cotton fiber into clothing—that is, to make money—does not change the essential character of the businesses themselves. The test is the nature of the work in which the corporation is to engage, as that work is related to the public service or the exercise of some governmental function, and not the motives of the individuals who compose the association.

To determine whether the Federal Government has power to create a corporation we must look to the business in which that corporation is to engage. If it is to be an agency created as a matter of convenience to carry on some activity which the Government itself might engage in directly in the exercise of some one of its delegated powers, then, under the well-settled and often-reiterated decisions of the courts the Federal Government is empowered to create it; but if it is to be a private business concern carrying on no governmental work, exercising purely private functions, then, sir, there is no precedent for the Federal Government creating such an one, and it will be violative of the Constitution for it to do so.

#### SOME LEAVES FROM HISTORY.

In the convention which framed the Constitution Mr. Madison, of Virginia, often referred to as the "Father of the Constitution," and Mr. Pinckney, of South Carolina, on August 20, 1787, each submitted to the convention a proposal that the Congress be clothed with the power to create corporations. The proposition of Mr. Madison was in the following words:

Congress shall have power to grant charters of corporation in cases where the public good may require them and the authority of a single State may be incompetent.

The proposition of Mr. Pinckney was simply—

Congress shall have power to grant charters of incorporation.

These proposals were first referred to the committee on detail (see the Madison Papers) and were never heard of in that form again, so far as any records of the convention show. Other proposals made by these gentlemen at the same time and referred to that committee were favorably acted upon by the committee and by the convention, and are in the Constitution today. This was rejected.

Three days before the convention adjourned, however, Mr. Madison brought forward another proposition which I shall undertake to show was much more restricted than his first proposal. Dr. Benjamin Franklin on that day, September 14, 1787, as the Constitution was being whipped into final shape, moved to add, after the words "post-roads," section 8 of Article I (that being the section granting to Congress the power to establish post-roads), a power "to provide for cutting canals where deemed necessary," and Mr. Madison then suggested an enlargement of the motion into a power "to grant charters of incorporation where the interest of the United States might require, and the legislative provisions of individual States may be incompetent."

Gentlemen will observe the wide difference in the two propositions submitted by Mr. Madison. In the first it was proposed to authorize Congress to create corporations where the public good might require, and in the last where the interest of the United States might require. It is quite clear to my mind that had his first proposition prevailed, Congress might, in its discretion, have incorporated even trading companies, and it is equally clear that in the last Mr. Madison meant the Government of the United States. It was so regarded at the time in the convention, as the debate on it, to be found in the Madison Papers, show. It was suggested by some one that Congress already had the power, meaning, of course, the power to grant a charter of incorporation to a company which was exercising some function of the United States Government. Others denied this, and Mr. Madison himself, in the first constitutional debate had in the Congress after the Government was formed, took the position that it had not. No one ever suggested in convention, so far as the records show, that the Congress had any such power as would have been granted by Mr. Madison's first proposal.

But, Mr. Chairman, even his last proposal to grant the power to create a corporation for governmental purposes failed. The motion was so modified as to permit a vote upon the canal proposition alone, and the vote was 8 States against to 3 in favor, and the Madison amendment, of course, failed with the original. The matter was not again brought before the convention, and the Constitution, without this power to create corporations even for governmental purposes being expressly



granted, went to the States for the ratification or rejection of their people.

I have searched the records of the debates in the various state conventions held for the purpose of passing upon the ratification of the instrument with such diligence as I could to find if any discussion was there had of this specific matter, and strange to say, I find nothing bearing upon it or that tends to throw any light upon the question of how it was viewed in those assemblies.

It seems rather remarkable that this matter was not touched upon in some of those searching and luminous discussions, but we must bear in mind that at that time corporations, as we now understand them, scarcely existed.

According to an article appearing some seven or eight years ago as one of a series of "Yale Bicentennial Publications" there were during the days of colonial government but six corporations in all the colonies that were of strictly American origin. There were, of course, a number in existence as monopolies granted by the English Crown. The first corporation of a business character owing its franchise purely to American sovereignty was the bank established through the efforts of Robert Morris, to aid in financing the Revolutionary war. From 1775, when the Confederation was formed, to the time of the adoption of the Constitution there were just 20 business corporations organized by the several States, and 11 of these were navigation companies. A very great prejudice existed in all the States against the granting of charters of incorporation. Even in New York the powerful genius of Hamilton, reinforced by the sagacity of Livingston, could not overcome it.

It is interesting to note that the State of North Carolina took the first advanced step and "gave the modern world an object lesson in political science." In 1795 she offered incorporation for business purposes freely on equal terms to any who desired it. It was the first time that a sovereign power had done this since the beginning of the Roman Empire. Her offer was confined first to the construction of canals. Prior to this time the charters granted by sovereign powers had been almost exclusively in the nature of monopolies and had been granted by special acts of legislative bodies or by the crowns. The general laws had been restricted to the formation of charitable, religious, or literary corporations.

Is it conceivable, Mr. Chairman, that the people of the sovereign States ever intended to delegate to the new Government a power which they had scarcely exercised through their own state governments—the charter of trading companies?

At any rate, sir, the Constitution was ratified without this power being expressly given; without it having ever been proposed, save as proposed by Madison and Pinckney.

#### THE BANK A GOVERNMENTAL AGENCY.

Mr. HITCHCOCK. Will the gentleman permit an inquiry there?

Mr. GARRETT. Certainly.

Mr. HITCHCOCK. Do the debates of those days reveal whether Madison proposed to give the Congress the power to require corporations doing interstate-commerce business to take out charters of that sort or was there any consideration of the voluntary feature as proposed in the President's message?

Mr. GARRETT. None whatever.

I need not enter here upon a review of the debates in regard to the establishment of the national bank. Gentlemen are familiar with the outcome. The bank was established, ran its course, and was later rechartered. Under this second charter the question of constitutional power was brought before the Supreme Court of the United States, and the result was the great opinion in the case of *McCulloch v. Maryland*, in which the power was sustained. But I beg gentlemen to remember that it was upheld wholly because the bank was to exercise a governmental function, was to be an agent of the Government and do for it what the Government might have itself done directly. Certainly it will not be insisted that that great decision with all its wealth of learning goes further than this. Congress did not create the bank in order to regulate it, but in order that it might perform a governmental duty. In the power to create a bank, then, the advocates of a federal corporation law for private trading companies can find no support.

#### PUBLIC HIGHWAYS.

Coming to the incorporation of interstate highway companies, canal companies, and bridge companies, let us examine briefly the history of this and try to find the principle upon which the action rests.

I believe the first railway company to be created as a federal corporation—of course there were some created as corporations of the District of Columbia earlier—was the Union Pacific. Gentlemen who will take the trouble to investigate the original

act passed July 1, 1862, will find that it was not created as an interstate corporation but as an interterritorial one. So far as the Union Pacific Company was concerned, it was only given the right to build from a point in the then Territory of Nebraska, through other Territories, to the western line of the Territory of Nevada. The act then authorized the Leavenworth, Pawnee and Northern Railroad Company, a corporation of the State of Kansas, to build to the beginning end of the line, and authorized the Central Pacific Company, a corporation of the State of California, to join to the Union Pacific line at the western line of the Territory of Nevada and make the road continuous through to San Francisco.

As the bill originally was proposed, it was to authorize the construction through the States of Kansas and California, but even in that bitter hour, amid the awful throes of the war of secession, when the expression "states rights" was about the most unpleasant which could fall upon the ears of the statesmen then controlling the destinies of the Union, the Congress would not invade the States to build even an interstate highway, notwithstanding the military and postal necessities, and under the lead of Senator Trumbull, of Illinois, the bill was amended so as to confine the authority of the corporation being created to the territory of the United States out of which no States had been created. (Acts 37th Cong., pp. 493-494.)

In 1864, by act of July 2, the Northern Pacific Railroad Company was chartered as a federal incorporation. It authorized the construction of a railroad and telegraph line from some point on Lake Superior in Minnesota or Wisconsin to a point on Puget Sound. Gentlemen who will take the trouble to examine that act will find that section 18 of it provides expressly that the said company should obtain from the States through which it was to run permission before entering them to build. (Acts 38th Cong., p. 372.)

An examination of the act of July 27, 1866, chartering the Atlantic and Pacific Railroad Company, will disclose that the same condition as to securing the consent of those States through which it was run was imposed, and that the consent was had from California and Missouri through legislative acts. Texas was then under military government. The same is true as to the Texas and Pacific Railroad Company, chartered by act of Congress as a federal incorporation March 3, 1871.

So far as the interstate railways are concerned, the authority of the States has been always recognized.

It was not until 1875, in the case of *Kohl v. United States* (97 U. S., 367), that the right of the eminent domain was held to belong to the Federal Government. When the Pacific railroads were chartered by Congress this power had never been exercised. They were chartered as territorial corporations and sent to the States to obtain state permission under state terms to cross their bounds.

These so-called "Pacific railroads" are, I believe, the only ones that have been chartered as federal incorporations by the Congress.

It would seem, therefore, that the President, distinguished jurist though he has been and learned lawyer though he is, is not wholly fortunate in citing these as precedents to justify the federal incorporation of trading companies, even if there were not an intrinsic and inherent difference in the character of a corporation engaged in building public highways and one engaged in manufacturing soap or selling sewing machines.

#### BRIDGES AND CANALS.

This brings us to the interstate bridge companies and perhaps the canal companies, among others the Lake Erie and Ohio River Canal Company, fathered by the Fifty-ninth Congress at its first session, my distinguished friend, the gentleman from Pennsylvania [Mr. DALZELL], being chief sponsor at its birth.

It is true that since the power of eminent domain was held to belong to the Federal Government in the *Kohl* case, which I have cited, decided in 1875, the Congress has authorized the construction of bridges over navigable waters within state territory and across interstate streams, granting the power of eminent domain, and in at least one instance has granted a charter of incorporation for that purpose, and the Supreme Court of the United States, in the case of *Luxton v. North River Bridge Company* (155 U. S., 524), has upheld the right.

It is also true that at least one canal company, the one already referred to, has been chartered as a federal incorporation. I believe it has not yet gotten into the courts.

Assuming for the purposes of this argument that the grant of power to the canal company was constitutional and that, under the decision in the *Luxton* case, the Federal Government might go further than it ever went in the railroad-incorporation bills, and might charter them and give them authority to enter States without State permission, let us turn to the principle

upon which such can be upheld and see if there be any difference between these and trading companies engaged in private business and doing no public service.

Mr. Chairman, in every civilized country in history the construction and maintenance of highways for the use of citizens has been a governmental function, and it is true in our own. We have many kinds in this country, but they may be roughly divided into four classes: First and most common, the ordinary public roads of the country and streets of the towns and cities; second, the streams and bodies of water that are capable of being navigated; third, the artificial waterways which we call canals; and, fourth and most modern, the railways.

The ordinary public roads in the States belong to the States or counties or other political subdivisions, being held in trust by them for the use of the public. In establishing and maintaining these it has been of most frequent occurrence for them to be given in charge to corporations created by the State. I suppose all the older States and many of the new ones have had and may still have turnpike companies. These companies are corporations created by the State, charged with fixed duties of public service, and clothed with authority to charge certain tolls for the passage of persons and things.

States and counties, too, have leased ferriage rights across navigable waters.

The same is true as to canal companies.

Such corporations created for the performance of public service have been under direct and immediate governmental control—a control more searching and intimate than in any case of a corporation organized to conduct private business, because their duties and nature and relation to the public are essentially different. In the one case, the corporation is to exercise governmental functions for private gain. In the other, the corporation is to conduct private business, perform purely private functions for private gain.

As for the streams naturally navigable, they belong, so far as their navigable qualities are concerned, to the governments, State and Federal, as trustees for the public. It is not necessary to enter now into the refinements and intricacies of the respective jurisdiction of State and federation since a reminder of the general principle is sufficient to indicate the point I am seeking to make clear. The governments may improve these directly or they may authorize individuals to do so or they may create corporations to do so.

#### RAILWAYS AND BRIDGES PUBLIC HIGHWAYS.

Now, the railway and the bridge are public highways, technical in character, it is true; but simply highways as are the country roads, the city streets, the navigable waters, and the railway with its freight and passenger rates is precisely the same so far as its fundamental legal character is concerned as the turnpike company with its tollgates. The State, in the exercise of its sovereign power, may construct and maintain them unless something in its constitution prevents, or it may create a corporation to do so.

The State, however, can not go beyond its own borders.

The Federal Government was given the power to establish and maintain post-roads by express delegation, and it has the right to establish avenues for the transportation and movement of its military forces and stores. It may establish them directly or it may create corporations to do it since those corporations are to do governmental work.

The debates on the bills creating the railroad companies as federal incorporations, Mr. Chairman, were bottomed wholly on the post-roads clause, the military necessities, and the right of the Government to grant concessions through its own territory over which it held absolute sovereignty for all purposes. Gentlemen will find the commerce clause scarcely referred to there. The interstate bridges and canals may be sustained upon precisely the same basis.

Such corporations are public; they perform public work, exercise governmental functions.

#### THUS FAR, BUT NO FURTHER.

We are all agreed that thus far the Federal Government may go under the express powers given it together with the necessary implications arising, but further than this it has not gone, nor can it, in my opinion, constitutionally go.

The Federal Government has never created a federal corporation to do anything, to conduct any business, to perform any service, which the Government itself might not have done directly, nor may it do so.

The States have and the States may. Why? Because the creation of corporations is an act of sovereignty. Sovereignty rests not in the States, not in the United States, but in the people. The people created the federal entity as the agency for the execution of certain sovereign powers. To the States, the governmental forces already in existence, they retained all

powers and rights and duties not delegated. The States possessed the power to create corporations before the Constitution was even a dream. This power was not delegated. Certain specific powers were and for the execution of those powers the Federal Government may create a corporation, if that corporation is to perform functions which the Federal Government itself might perform directly. That is the limit of its authority, the terminus of its constitutional power.

Surely the doctrine in *McCulloch v. Maryland* extends no further than this. Surely all the subsequent decisions as to railways and bridges and canals do not carry the law beyond this point. Surely the most liberal constructionist of the Constitution must pause before going further.

If this principle is correct, if the Federal Government may not create a corporation to engage in any activity in which the Government itself may not engage, then let us apply it to the policy proposed by the President, and what is the conclusion?

I take it that no man here or elsewhere would insist for a moment that under our Constitution the Federal Government could enter into, say, the wholesale grocery business, buying and selling in the marts of the States and the world for commercial gain. A suggestion that it attempt to do so under the present Constitution would be set down as preposterous and make its author the laughing stock of the Republic.

Would anyone say that under the power to regulate commerce the Federal Government could engage in the manufacture and sale of farming implements, of engines, of clothing? To ask the question is to answer it. If it can not, then can it, being a government of delegated powers, create a corporation and clothe it with authority to do that which it may not do itself?

The States may, of course. But the States are not governments of delegated powers. They can create trading corporations; they can clothe them with power to engage in activities in which the State may not be able to engage; they can impose the conditions upon which the corporations of other States may do business in their borders. But they did not by express terms delegate this authority to the federal organism.

To my mind it is inconceivable that in granting the power to regulate interstate and foreign commerce it lay within the thought of the people of the States to delegate to the new entity being created by them the authority to organize corporations that might enter those States without state permission to do, not governmental business, but private business without reference to the State's regulation and control.

A power to regulate is not the power to produce, nor is it, by any fair construction, the power to create agencies of production.

Gentlemen must not forget that the courts have held that manufacture is not commerce. A long line of consistent decisions of the Supreme Court sustains this assertion again and again. The case of *Kidd v. Pierson* (128 U. S., 1), the *Knight* case (156 U. S., 1), the case of *Coe v. Errol* (116 U. S., 571), the *Addystone Pipe and Steel Company* case (211 U. S., 246), and others will prove of interest to gentlemen who care to go further into this question.

The President's proposition, then, is not to regulate commerce, but to regulate those engaged in commerce in so far as they happen to be corporations. It is at least one degree removed from the commerce clause of the Constitution. If the Supreme Court has been correct in its long unbroken line of decisions that manufacture is not commerce, how, then, can the Federal Government regulate manufacture or manufacturers? There is no delegation of authority to do that. It lies beyond the domain of constitutional action. The Federal Government is one not of excepted but of delegated powers. Some gentlemen seem to act upon the theory that it may do anything not denied; it can, in fact, do only those things that are allowed it in the chart.

Creating corporations as federal creatures that may enter sovereign States in disregard of state wish or regulation and do private business is not one of the delegated powers.

Mr. Chairman, for the Members of the Congress individually and collectively I entertain the greatest respect. Differing, as I do, radically from many of them upon governmental questions, great and small, I know their ability, their character, and concede them, in the main, proper conceptions of justice. I do not doubt that future Congresses will maintain the high order of those past and present, but, sir, as one Representative of my State, and speaking for those of its people who have honored me, I can not for them agree that the discretion of any Congress shall be substituted for their own as to the terms and conditions upon which corporations may enter her sovereign confines and do business with her citizens.

I do not ask to aid in fixing conditions for other States. I protest against them being fixed by outsiders for my own.

To the extent of such ability as I have, therefore, I shall oppose the proposed policy of the President.

Mr. SIMS. Mr. Chairman, will the gentleman allow me a question?

Mr. GARRETT. Certainly.

Mr. SIMS. If Congress has the power to charter railroad corporations doing interstate business, would not Congress have the power to tax the railroads doing similar business not having a national charter and thereby impose a coercive tax similar to that imposed upon the state banks?

Mr. GARRETT. That may be true. I am inclined to think it would, but my colleague sees the point I am trying to make. I concede the power of Congress to create interstate railroad corporations. I concede that power for the purposes of this argument, but would prefer not to go into collateral details such as the question of my colleague suggests, because of the time limit under which I am speaking.

Mr. COOPER of Wisconsin. I would like to ask the gentleman one question. I was exceedingly interested in the gentleman's argument, and here is one question which has occurred to me: In relating the case of McCulloch against Maryland and the United States Bank the gentleman stated that McCulloch against Maryland sustained the bank charter upon the ground they chartered the bank for governmental purposes and to perform a governmental function. Did not that bank have the power to discount notes?

Mr. GARRETT. It did.

Mr. COOPER of Wisconsin. That is not a government function.

Mr. GARRETT. But the main power of that bank was a governmental function.

Mr. COOPER of Wisconsin. But it did a private business, notwithstanding.

Mr. GARRETT. Yes; it did a private business to some extent, but that was not the main purpose of the bank, and I think what I have said will be borne out by a rereading of the opinion in that case.

Mr. COOPER of Wisconsin. The gentleman's argument, then, is that the charter having been granted for functions purely governmental, the merely incidental fact that bills were discounted by the bank did not invalidate the charter.

Mr. GARRETT. The court held not.

Mr. Chairman, I have devoted my efforts to-day almost exclusively to the constitutional question involved, deeming that, as I said in the beginning, of first importance. On some future day I may again ask the indulgence of the House to discuss some of the other phases of the policy. A wide field is opened here for our investigation—questions that loom so large as to challenge most solemn consideration before action is had. The opportunities that will be offered under the President's plan for consolidation—why, sir, it seems to be almost a proposition to undo all that the courts have done in monopoly repression; the jurisdiction of the courts over federal incorporations; the respective merits of state and federal control and of the joint system of control as against the single system which is proposed by the President—all these and other phases must be thoroughly thrashed out and scrutinized with exceeding great care ere we proceed.

But for the present I wish to emphasize but one other thought—that which was stated a few moments ago. This is not a proposition to regulate commerce; it is a proposition to regulate a specific class of the many classes of agencies engaged in commerce. It proposes to use the commerce clause as a means to reach an end which can not be reached directly. That, I take it, everyone will concede. It is a proposition to use the commerce clause to reach another business related to but not itself coming within the scope of that clause. It is a proposition to use a subterfuge, to evade, by a stretching of the commerce clause of the Constitution, the tenth amendment, which the people in their zeal for protecting state power demanded, the amendment which put into direct expression the principle:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

It is the age-old cry for power; the age-old spirit which has moved men and nations to cunning, to revolution, to blood-letting. It is the power lust which the fathers sought to curb.

Mr. Chairman, I know quite well that almost all men are inclined to be more liberal in their construction of the Constitution of these United States than most men were in the earlier days of the Republic. Many who then were deemed liberal would now be classed as strict constructionists. This spirit has in a large measure permeated the people. It is due, of course, mainly to the result of the war of secession. The moral effects of that result went far beyond the immediate question

which was at stake in the contest—that of the right of a State to secede—and ever since it was ended there has been a growing tendency to intensify and centralize federal power by ingenious and farfetched activities, by legislative manipulation, and judicial construction.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. GARRETT. I yield to the gentleman from Arkansas.

Mr. FLOYD of Arkansas. Right in that connection I want to ask you if it is not proposed to create this agency, in addition to regulation?

Mr. GARRETT. It is to authorize the creation in order to regulate them.

Sir, it will be said that if this policy prevails in Congress, notwithstanding that it is not a proposition in fact to regulate commerce but to regulate those engaged in commerce, yet being based upon the commerce clause the courts, under the well-settled rule that they can not inquire into the motives of the legislative body, may sustain it.

Even if that be true, sir, I submit to gentlemen that we legislators have a responsibility to the Constitution of our own, a responsibility sealed by our solemn oaths to support it and defend it, to "bear true faith and allegiance to the same." We must examine our motives, and if, in our judgment, a proposition violate the organic law in letter or in spirit we dare not yield it our support.

The war of secession modified the Constitution indeed, but it did not destroy it nor release its binding force and obligations. It stands to-day as potent, as forceful, and as binding as when it came fresh from the hands of the fathers, wrought by their lively genius, sanctified by their labors and their loves.

The Constitution, sir, is not a dead thing to be kicked with contempt from our pathway or trodden with ruthless roughness into the dust beneath our feet. It is a living thing, a vital organism, the shield of our past, with its passion and power; the shelter of our present, with its prayer and its praise; the sheet anchor of our future, with its dread and its dreams. Let us "the true faith and allegiance" keep unto its letter and its spirit, the great faith we owe to all that is and all that is to be. [Loud general applause.]

Mr. PERKINS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. GAINES having assumed the chair as Speaker pro tempore, Mr. TILSON, 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. 19255, the diplomatic and consular appropriation bill, and had come to no resolution thereon.

#### ADJOURNMENT.

Mr. PERKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 5 o'clock and 1 minute p. m.) the House adjourned.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of Commerce and Labor submitting an estimate of appropriation for the Bureau of Fisheries (H. Doc. No. 659)—to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Conneaut Harbor, Ohio (H. Doc. No. 653)—to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of deficiency appropriation for the army and its supplies (H. Doc. No. 600)—to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Ashtabula Harbor, Ohio (H. Doc. No. 654)—to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

5. A letter from the Commissioner of Patents, transmitting his annual report for the year 1909 (H. Doc. No. 123)—to the Committee on Patents and ordered to be printed.

6. A letter from the Secretary of the Treasury, transmitting petitions of gaugers, storekeepers, and storekeeper-gaugers for an increase of compensation and annual leave (H. Doc. No.

658)—to the Committee on Expenditures in the Treasury Department and letter only ordered to be printed.

7. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of W. M. Wilson, administrator of estate of William S. Wilson against The United States (H. Doc. No. 661)—to the Committee on War Claims and ordered to be printed.

8. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of J. R. Wright, administrator of estate of Nancy Wright against The United States (H. Doc. No. 662)—to the Committee on War Claims and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mobile Harbor, Alabama (H. Doc. No. 657)—to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for supplies furnished to sufferers from a storm in Louisiana (H. Doc. No. 656)—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 were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. WILEY, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4621) to provide for the extension of Kenyon street from Seventeenth street to Mount Pleasant street and for the extension of Seventeenth street from Kenyon street to Irving street, in the District of Columbia, and for other purposes, reported the same without amendment, accompanied by a report (No. 388), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. OLCOTT, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 4624) to authorize the Commissioners of the District of Columbia to accept donations of money and land for the establishment of a branch library in the District of Columbia, to establish a commission to supervise the erection of a branch library building in said District, and to provide for the suitable maintenance of said branch, reported the same without amendment, accompanied by a report (No. 389), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH of Michigan, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 13864) to extend Fourth street SE., reported the same without amendment, accompanied by a report (No. 391), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CAMPBELL, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 13893) to authorize the extension of Forty-first street NW., reported the same with amendment, accompanied by a report (No. 392), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH of Michigan, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 16330) to authorize the surveyor of the District of Columbia to adopt the system of designating land in the District of Columbia now in force in the office of the assessor of said District, reported the same without amendment, accompanied by a report (No. 393), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COX of Ohio, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 16331) to acquire land in the vicinity of the Connecticut Avenue Bridge for the extension of certain streets, reported the same without amendment, accompanied by a report (No. 394), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILEY, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 16334) for the widening of Sixteenth street NW. at Piney Branch, and for other purposes, reported the same without amendment, accompanied by a report (No. 395), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH of Michigan, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 19038) to authorize the opening of a road along the Anacostia River in the District of Columbia, reported the same without amendment, accompanied by a report (No. 398), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILEY, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 19039) authorizing the extension of Massachusetts avenue NW. from Wisconsin avenue to the District line, reported the same without amendment, accompanied by a report (No. 399), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FISH, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 19785) to authorize the extension of Columbia road NW., in the District of Columbia, reported the same without amendment, accompanied by a report (No. 400), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MILLER of Minnesota, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 16920) authorizing the Secretary of the Interior to appraise certain lands in the State of Minnesota for the purpose of granting the same to the Minnesota and Manitoba Railroad Company for a ballast pit, reported the same without amendment, accompanied by a report (No. 403), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOWELL of New Jersey, from the Committee on Immigration and Naturalization, to which was referred the House bills 1022, 17159, 18288, 19550, and 19861, reported in lieu thereof a bill (H. R. 20166) to amend section 21 of an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, relative to criminal aliens, accompanied by a report (No. 404), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18593) to authorize the transfer of the government highway, known as the "Alter road," to the city of Detroit, Mich., reported the same with amendment, accompanied by a report (No. 405), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LANGHAM, from the Committee on the Territories, to which was referred the bill of the House (H. R. 13401) to enable the city of Douglas, Cochise County, Ariz., to issue bonds for the purpose of acquiring and constructing a waterworks plant in and for said city, reported the same without amendment, accompanied by a report (No. 390), which said bill and report were referred to the House Calendar.

Mr. COX of Ohio, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 16916) to authorize certain changes in the permanent system of highways plan, District of Columbia, reported the same without amendment, accompanied by a report (No. 396), which said bill and report were referred to the House Calendar.

Mr. SMITH of Michigan, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 18156) directing the recorder of deeds of the District of Columbia to keep an index to recorded instruments by lots or tracts, reported the same without amendment, accompanied by a report (No. 397), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 19787) to change the name of the west side of Fifteenth street NW. between I and K streets to McPherson place, reported the same without amendment, accompanied by a report (No. 401), which said bill and report were referred to the House Calendar.

#### ADVERSE REPORT.

Under clause 2 of Rule XIII,

Mr. HAWLEY, from the Committee on Claims, to which was referred the bill of the House (H. R. 15593) to refund certain tonnage taxes and light dues levied on the steamship *Montara*, with register, reported the same adversely, accompanied by a report (No. 402), which said bill and report were laid on the table.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 4875) granting a pension to Charles M. Baughman—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18496) granting an increase of pension to Benton Lynn—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 19140) granting a pension to James Murray—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12158) authorizing and directing the Secretary of War to convey to Lewis E. Smoot all right and title of the United States in square south of square 1048, in the city of Washington—Committee on the District of Columbia discharged, and referred to the Committee on Public Buildings and Grounds.

## 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. PARKER: A bill (H. R. 20142) to provide for the formation of corporations to engage in interstate and international trade and commerce—to the Committee on the Judiciary.

By Mr. HEALD: A bill (H. R. 20143) to change and fix the terms of the circuit and district courts of the United States in the district of Delaware—to the Committee on the Judiciary.

By Mr. MOREHEAD: A bill (H. R. 20144) to provide for the erection of a public building at Oxford, N. C.—to the Committee on Public Buildings and Grounds.

By Mr. SCOTT: A bill (H. R. 20145) to prohibit selling intoxicating beverages in the Territory of Hawaii—to the Committee on the Judiciary.

By Mr. LIVINGSTON: A bill (H. R. 20146) to provide for the marking of the Peachtree Creek battlefield, Fulton County, Ga.—to the Committee on Military Affairs.

By Mr. HAMILTON: A bill (H. R. 20147) to provide for compulsory education of the native children of Alaska, and for other purposes—to the Committee on the Territories.

By Mr. CALDER: A bill (H. R. 20148) to provide for an additional judge of the district court for the eastern district of New York—to the Committee on the Judiciary.

By Mr. COX of Indiana: A bill (H. R. 20149) for the relief of the nonenlisted officers and members of the crews of the Mississippi Ram Fleet, Marine Brigade, or the Mississippi Squadron—to the Committee on Military Affairs.

Also, a bill (H. R. 20150) to pension army teamsters—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20151) to amend section 4004 of the Revised Statutes of the United States, being an act passed March 3, 1873, entitled "Additional pay for postal cars"—to the Committee on the Post-Office and Post-Roads.

By Mr. HANNA: A bill (H. R. 20152) to authorize the survey and allotment of lands embraced within the limits of the Fort Berthold Indian Reservation, in the State of North Dakota, and the sale and disposition of a portion of the surplus lands after allotment and making appropriation and provision to carry the same into effect—to the Committee on Indian Affairs.

By Mr. HUGHES of New Jersey: A bill (H. R. 20153) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies"—to the Committee on the Judiciary.

By Mr. SULZER: A bill (H. R. 20154) to create in the War and Navy departments, respectively, a roll to be known as the "Volunteer officers' retired list;" to authorize placing thereon with pay surviving officers who served in the Volunteer Army, Navy, or Marine Corps of the United States in the Mexican war, the civil war, or the Spanish-American war, and who are not now on the retired list, and for other purposes—to the Committee on Military Affairs.

By Mr. KENNEDY of Ohio: A bill (H. R. 20155) to regulate the sale of berths upon sleeping cars carried by common carriers—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 20156) to regulate the checking of baggage by common carriers—to the Committee on Interstate and Foreign Commerce.

By Mr. VOLSTEAD: A bill (H. R. 20157) to limit the time in which land warrants, certificates of location, and scrip may

be acquired and located—to the Committee on the Public Lands.

By Mr. BRANTLEY: A bill (H. R. 20158) to provide for an additional United States district judge for the State of Georgia—to the Committee on the Judiciary.

By Mr. JAMES: A bill (H. R. 20159) relating to the removal of civil cases from the state courts to United States courts—to the Committee on the Judiciary.

By Mr. SMALL: A bill (H. R. 20160) providing for the appointment of a chaplain for each of the life-saving districts in the United States—to the Committee on Interstate and Foreign Commerce.

By Mr. ALEXANDER of New York: A bill (H. R. 20161) to build and locate a light-ship and fog signal midway between Point Albino and Sturgeon Point, Lake Erie—to the Committee on Interstate and Foreign Commerce.

By Mr. SULZER: A bill (H. R. 20162) relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia—to the Committee on Labor.

By Mr. LEVER: A bill (H. R. 20163) to provide for increasing the limit of cost of the public building authorized to be erected at the city of Orangeburg, S. C.—to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Michigan: A bill (H. R. 20164) authorizing the extension of Military road NW., in the District of Columbia—to the Committee on the District of Columbia.

By Mr. KAHN: A bill (H. R. 20165) to provide for the purchase of a site and the erection thereon of a suitable building or buildings for Marine-Hospital purposes at San Francisco, Cal.—to the Committee on Public Buildings and Grounds.

By Mr. HOWELL of New Jersey, from the Committee on Immigration and Naturalization: A bill (H. R. 20166) to amend section 21 of an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, relative to criminal aliens—to the Union Calendar.

By Mr. NICHOLLS: A bill (H. R. 20355) to authorize the Secretary of War to donate two condemned brass or bronze cannon and cannon balls to Lieutenant Ezra S. Griffin Post, No. 139, Grand Army of the Republic, Scranton, Pa.—to the Committee on Military Affairs.

By Mr. CURRIER: A bill (H. R. 20356) for the establishment of an auxiliary fish-cultural station at Nashua, N. H.—to the Committee on the Merchant Marine and Fisheries.

By Mr. TAYLOR of Ohio: A bill (H. R. 20357) extending the provisions of the pension laws of the United States to persons engaged in the operation and construction of military telegraph lines during the war of the rebellion—to the Committee on Invalid Pensions.

By Mr. MORSE: Resolution (H. Res. 372) for amendment to Rule XXVI—to the Committee on Rules.

By Mr. LANGLEY: Resolution (H. Res. 373) authorizing the Doorkeeper of the House to employ 10 laborers for certain purposes—to the Committee on Accounts.

By Mr. SHERLEY: Resolution (H. Res. 374) providing for an additional House rule—to the Committee on Rules.

By Mr. FISH: Resolution (H. Res. 375) relative to the establishment of a parcels-post delivery to the Committee on Rules.

By Mr. OLDFIELD: Resolution (H. Res. 376) directing the Secretary of the Interior to transmit to the House certain information—to the Committee on the Public Lands.

## 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. ANSBERRY: A bill (H. R. 20167) granting an increase of pension to Aaron Lautzenheiser—to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 20168) granting an increase of pension to Samuel Peppard—to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 20169) for the relief of Henry Knisely—to the Committee on Military Affairs.

By Mr. BARCHFELD: A bill (H. R. 20170) granting an increase of pension to William Thomas—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20171) granting an increase of pension to William Huskins—to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 20172) to correct the military record of Nicholas Lochboeler—to the Committee on Military Affairs.

Also, a bill (H. R. 20173) to correct the military record of Peter Kloeppinger, alias Phillip Klein—to the Committee on Military Affairs.

By Mr. BENNETT of Kentucky: A bill (H. R. 20174) granting an increase of pension to William A. Stockdale—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20175) granting a pension to Josephine L. Whitt—to the Committee on Pensions.

By Mr. BENNETT of New York: A bill (H. R. 20176) granting a pension to Patrick Kennedy—to the Committee on Invalid Pensions.

By Mr. BINGHAM (by request): A bill (H. R. 20177) for the relief of the estate of Mary W. Cousinery—to the Committee on Claims.

Also (by request), a bill (H. R. 20178) for the relief of the estate of William H. Abbott and others—to the Committee on Claims.

By Mr. BRADLEY: A bill (H. R. 20179) granting an increase of pension to Mary E. Palmer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20180) for the relief of Patrick Shields—to the Committee on Military Affairs.

By Mr. BRANTLEY: A bill (H. R. 20181) granting an increase of pension to Andrew J. Anderson—to the Committee on Pensions.

Also, a bill (H. R. 20182) granting an increase of pension to Joseph Fass—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 20183) granting an increase of pension to James Evans—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20184) for the relief of the estate of Adam B. Fullen, deceased—to the Committee on War Claims.

By Mr. BURLEIGH: A bill (H. R. 20185) granting an increase of pension to Harriet Porter Lemly—to the Committee on Pensions.

By Mr. BYRNS: A bill (H. R. 20186) granting a pension to Nathan Hirshberg—to the Committee on Pensions.

Also, a bill (H. R. 20187) granting an increase of pension to John L. McMurtry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20188) for the relief of the heirs at law of James E. Wilson, deceased—to the Committee on War Claims.

By Mr. CAMPBELL: A bill (H. R. 20189) granting an increase of pension to John H. Scott—to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 20190) granting an increase of pension to Samuel W. Bacon—to the Committee on Invalid Pensions.

By Mr. CASSIDY: A bill (H. R. 20191) to remove the charge of desertion from the military record of Charles D. Tiff—to the Committee on Military Affairs.

By Mr. CHAPMAN: A bill (H. R. 20192) granting an increase of pension to Nathan G. Springs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20193) granting an increase of pension to John H. Paus—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20194) granting an increase of pension to William M. Robinson—to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri (by request): A bill (H. R. 20195) to correct the military record of Philip Sappington—to the Committee on Military Affairs.

Also, a bill (H. R. 20196) granting a pension to Elizabeth Farishon—to the Committee on Pensions.

Also, a bill (H. R. 20197) for the relief of the legal representatives of Alexander Andrae, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20198) for the relief of the treasurer of State Hospital No. 1, at Fulton, Mo.—to the Committee on War Claims.

Also, a bill (H. R. 20199) for the relief of the trustees of the Methodist Episcopal Church South, of Warrenton, Mo.—to the Committee on War Claims.

By Mr. COLLIER: A bill (H. R. 20200) for the relief of the heirs of Elizabeth Cessna, deceased—to the Committee on War Claims.

By Mr. COX of Indiana: A bill (H. R. 20201) granting an increase of pension to Benjamin A. Flock—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20202) granting an increase of pension to Henry F. Kroenke—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20203) granting an increase of pension to John W. Wood—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20204) granting an increase of pension to Charles Hooten—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20205) granting an increase of pension to H. H. Potter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20206) granting an increase of pension to John Betz—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20207) granting an increase of pension to William H. Taylor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20208) granting an increase of pension to Luther Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20209) granting a pension to Angia E. Leslie—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20210) for the relief of Henry L. Emmerke—to the Committee on War Claims.

By Mr. CRAVENS: A bill (H. R. 20211) correcting the military record of James M. Wright—to the Committee on Military Affairs.

By Mr. CROW: A bill (H. R. 20212) granting an increase of pension to Joseph Herndon—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20213) granting an increase of pension to Calvin D. Weatherman—to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 20214) granting an increase of pension to Milton D. Holmes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20215) granting an increase of pension to Enoch Cruea—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20216) granting an increase of pension to Nicholas A. Swadley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20217) granting a pension to Susannah Lindsey—to the Committee on Pensions.

Also, a bill (H. R. 20218) to correct the military record of Joseph H. Rogers—to the Committee on Military Affairs.

By Mr. CULLOP: A bill (H. R. 20219) granting an increase of pension to Hamilton Bond—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20220) granting an increase of pension to Nancy J. Steward—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20221) granting a pension to John Schafer—to the Committee on Pensions.

By Mr. DAVIDSON: A bill (H. R. 20222) granting a pension to Elizabeth G. Mills—to the Committee on Pensions.

Also, a bill (H. R. 20223) granting a pension to Alta Wilde—to the Committee on Pensions.

By Mr. DIEKEMA: A bill (H. R. 20224) granting an increase of pension to Octave Jarvis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20225) granting a pension to Peter Penning—to the Committee on Pensions.

By Mr. MICHAEL E. DRISCOLL: A bill (H. R. 20226) granting a pension to Emily E. Watson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20227) for the relief of Liston H. Pearce—to the Committee on Military Affairs.

By Mr. FLOOD of Virginia: A bill (H. R. 20228) for the relief of Bland Massie—to the Committee on War Claims.

By Mr. FORDNEY: A bill (H. R. 20229) granting an increase of pension to Frederick Niefenegger—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 20230) granting an increase of pension to Johannah Burk—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20231) granting an increase of pension to William Powers—to the Committee on Invalid Pensions.

By Mr. GRAHAM of Illinois: A bill (H. R. 20232) granting an increase of pension to Charles J. Stillwell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20233) granting an increase of pension to Isaac Bowers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20234) granting a pension to Maria I. Sparks—to the Committee on Invalid Pensions.

By Mr. HAMILTON: A bill (H. R. 20235) granting a pension to Emma Brown—to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 20236) granting an increase of pension to Herman Brumley—to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 20237) granting an increase of pension to Henry W. Sanford—to the Committee on Pensions.

Also, a bill (H. R. 20238) granting an increase of pension to Enoch C. Morse—to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 20239) granting an increase of pension to Isaac Vosburg—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 20240) granting an increase of pension to Joseph M. Piersol—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20241) granting an increase of pension to Henry Hammond—to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 20242) granting a pension to Emily Patterson—to the Committee on Pensions.

By Mr. HULL of Iowa: A bill (H. R. 20243) granting an increase of pension to Henry A. Siders—to the Committee on Invalid Pensions.

By Mr. JAMES: A bill (H. R. 20244) for the relief of Benjamin R. Waller—to the Committee on War Claims.

Also, a bill (H. R. 20245) for the relief of the Christian Church of Cadiz, Ky.—to the Committee on War Claims.

Also, a bill (H. R. 20246) for the relief of J. C. Peebles—to the Committee on War Claims.

Also, a bill (H. R. 20247) for the relief of S. Hodge—to the Committee on War Claims.

Also, a bill (H. R. 20248) for the relief of J. C. Glenn—to the Committee on War Claims.

Also, a bill (H. R. 20249) for the relief of John R. Martin—to the Committee on War Claims.

Also, a bill (H. R. 20250) for the relief of J. C. Shelby—to the Committee on War Claims.

Also, a bill (H. R. 20251) for the relief of J. M. Woolf—to the Committee on War Claims.

Also, a bill (H. R. 20252) for the relief of Mrs. Mary English—to the Committee on War Claims.

Also, a bill (H. R. 20253) for the relief of George W. Landram and H. M. Henson—to the Committee on War Claims.

Also, a bill (H. R. 20254) for the relief of William H. Calvert—to the Committee on War Claims.

Also, a bill (H. R. 20255) for the relief of the trustees of the Methodist Episcopal Church South, at Paducah, Ky.—to the Committee on War Claims.

Also, a bill (H. R. 20256) for the relief of the heirs of C. R. Young, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20257) for the relief of the heirs of Joseph Chandet—to the Committee on War Claims.

Also, a bill (H. R. 20258) for the relief of the estate of P. F. Warterfield—to the Committee on War Claims.

Also, a bill (H. R. 20259) for the relief of the estate of John M. Higgins, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20260) for the relief of the estate of S. F. Crider—to the Committee on Claims.

Also, a bill (H. R. 20261) for the relief of the estate of Seth Wright, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20262) for the relief of the estate of H. Cothis, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20263) for the relief of the estate of James A. Gregory, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20264) for the relief of the estate of John Allred—to the Committee on War Claims.

Also, a bill (H. R. 20265) for the relief of the estate of Joseph Wilson, deceased, late of Fulton County, Ky.—to the Committee on War Claims.

Also, a bill (H. R. 20266) for the relief of the estate of W. M. O'Hara, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20267) for the relief of the estate of Timothy Burgess, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20268) for the relief of the estate of T. J. Pritchett, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20269) for the relief of the estate of Richard Pemberton, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20270) for the relief of the estate of J. Milton Best, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20271) for the relief of the estates of M. F. de Graffenried and T. D. de Graffenried, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20272) for the relief of the estate of N. N. Rice, deceased—to the Committee on War Claims.

Also, a bill (H. R. 20273) to correct the military record of Lee Thompson—to the Committee on Military Affairs.

By Mr. JOHNSON of Kentucky: A bill (H. R. 20274) granting a pension to Claude J. Sprigg—to the Committee on Pensions.

By Mr. JOHNSON of South Carolina: A bill (H. R. 20275) granting a pension to William H. Franks—to the Committee on Pensions.

By Mr. JOYCE: A bill (H. R. 20276) granting an increase of pension to Ebenezer Gooden—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 20277) for the relief of pilot boat *Lady Mine*—to the Committee on Claims.

By Mr. KENNEDY of Ohio: A bill (H. R. 20278) granting an increase of pension to Jesse W. Shaw—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20279) granting an increase of pension to George H. Wirebaugh—to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 20280) granting an increase of pension to Ignacious Wauker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20281) granting an increase of pension to Charles H. Stowell—to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 20282) granting an increase of pension to Joseph B. Spence—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20283) granting an increase of pension to William Amos—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20284) granting an increase of pension to James Craig—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20285) granting an increase of pension to Robert Bayles—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20286) granting an increase of pension to Martin Brady—to the Committee on Pensions.

Also, a bill (H. R. 20287) granting an increase of pension to Daniel Dempsey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20288) granting an increase of pension to Benjamin F. Doremus—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20289) granting an increase of pension to Leonidas Folckemmer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20290) granting an increase of pension to Benjamin F. Carter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20291) granting an increase of pension to William B. Elliott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20292) granting a pension to William A. Carlisle—to the Committee on Pensions.

Also, a bill (H. R. 20293) granting a pension to Jacob W. Horner—to the Committee on Pensions.

Also, a bill (H. R. 20294) granting a pension to Timothy C. Faries—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20295) for the relief of William Allen—to the Committee on Military Affairs.

By Mr. LANGHAM: A bill (H. R. 20296) granting an increase of pension to Sarah Ann Milligan—to the Committee on Pensions.

By Mr. LOUD: A bill (H. R. 20297) granting an increase of pension to George W. Dickinson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20298) granting an increase of pension to Henry C. Green—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20299) granting an increase of pension to William Hay—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20300) granting an increase of pension to Thomas Rosa—to the Committee on Invalid Pensions.

By Mr. McLAUGHLIN of Michigan: A bill (H. R. 20301) granting an increase of pension to Charles J. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20302) granting an increase of pension to Almada Stafford—to the Committee on Invalid Pensions.

By Mr. McMORRAN: A bill (H. R. 20303) granting a pension to Dora Seaberry—to the Committee on Invalid Pensions.

By Mr. MAYS: A bill (H. R. 20304) granting an increase of pension to William S. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20305) for the relief of the heirs of John Dunn—to the Committee on War Claims.

Also, a bill (H. R. 20306) to perfect the title to certain land to the heirs of Henry Hyer and his wife, Julia Hyer, deceased, and other persons—to the Committee on Private Land Claims.

By Mr. MOREHEAD: A bill (H. R. 20307) for the relief of Hamilton Perryman and others—to the Committee on Claims.

By Mr. MORGAN of Missouri: A bill (H. R. 20308) for the relief of the heirs of Sarah West, deceased—to the Committee on War Claims.

By Mr. MORRISON: A bill (H. R. 20309) granting an increase of pension to Daniel H. Stewart—to the Committee on Invalid Pensions.

By Mr. MOXLEY: A bill (H. R. 20310) to reimburse G. W. Sheldon & Co., of New York—to the Committee on Claims.

By Mr. NORRIS: A bill (H. R. 20311) granting an increase of pension to Louis C. Olson—to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 20312) granting an increase of pension to Caleb Arnett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20313) granting an increase of pension to Alfred M. Wheeler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20314) granting a pension to Sarah J. Leister—to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 20315) granting an increase of pension to John J. Hiatt—to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 20316) granting a pension to Lissa Leatson Burge—to the Committee on Pensions.

Also, a bill (H. R. 20317) granting a pension to Margaret A. Hardin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20318) granting a pension to Claudia B. Jones—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20319) granting an increase of pension to William Dudnit—to the Committee on Invalid Pensions.

By Mr. REEDER: A bill (H. R. 20320) granting an increase of pension to W. L. Crumrine—to the Committee on Invalid Pensions.

By Mr. RHINOCK: A bill (H. R. 20321) granting a pension to D. B. Finnell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20322) for the relief of Caroline Holder Harrell—to the Committee on War Claims.

By Mr. ROBINSON: A bill (H. R. 20323) granting a pension to David Hubert—to the Committee on Pensions.

Also, a bill (H. R. 20324) for the relief of the heirs of H. S. Young—to the Committee on War Claims.

By Mr. SHEFFIELD: A bill (H. R. 20325) granting an increase of pension to Ruth Thomas—to the Committee on Pensions.

By Mr. SHERLEY: A bill (H. R. 20326) for the relief of the estate of John Hasselback, deceased—to the Committee on War Claims.

By Mr. SLAYDEN: A bill (H. R. 20327) for the relief of the heirs of David C. Riley—to the Committee on Claims.

By Mr. SLEMP: A bill (H. R. 20328) granting a pension to Boyd Suthers—to the Committee on Pensions.

By Mr. SMALL: A bill (H. R. 20329) granting a pension to Ransom Buck—to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: A bill (H. R. 20330) granting an increase of pension to Alvin H. Cleveland—to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 20331) granting a pension to Maria Rath—to the Committee on Invalid Pensions.

By Mr. TOU VELLE: A bill (H. R. 20332) granting an increase of pension to James H. Johnson—to the Committee on Invalid Pensions.

By Mr. VOLSTEAD: A bill (H. R. 20333) granting an increase of pension to Charles H. Hopkins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20334) granting an increase of pension to Grethi T. Iverson—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 20335) granting an increase of pension to James S. Sines—to the Committee on Invalid Pensions.

By Mr. WILEY: A bill (H. R. 20336) granting a pension to William Garfield—to the Committee on Pensions.

Also, a bill (H. R. 20337) granting a pension to Alice K. Richardson—to the Committee on Pensions.

Also, a bill (H. R. 20338) for the relief of the Stevens Institute of Technology, of Hoboken, N. J.—to the Committee on Claims.

By Mr. WILSON of Pennsylvania: A bill (H. R. 20339) granting an increase of pension to James Steen—to the Committee on Invalid Pensions.

By Mr. WOODYARD: A bill (H. R. 20340) granting an increase of pension to Peter Stewart—to the Committee on Invalid Pensions.

By Mr. YOUNG of New York: A bill (H. R. 20341) granting an increase of pension to William Mitchell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20342) granting an increase of pension to Augustus Hubbell—to the Committee on Invalid Pensions.

By Mr. DICKSON of Mississippi: A bill (H. R. 20343) granting a pension to Annie W. Thompson—to the Committee on Invalid Pensions.

By Mr. GILLETT: A bill (H. R. 20344) for the relief of William Keyes—to the Committee on Military Affairs.

Also, a bill (H. R. 20345) for the relief of Daniel J. Mahoney—to the Committee on Military Affairs.

Also, a bill (H. R. 20346) granting an increase of pension to Theron G. Clark—to the Committee on Invalid Pensions.

By Mr. HOLLINGSWORTH: A bill (H. R. 20347) granting an increase of pension to Hiram Mushrush—to the Committee on Invalid Pensions.

By Mr. HULL of Iowa: A bill (H. R. 20348) granting an increase of pension to David Sharp—to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 20349) to correct the military record of William A. Viles and grant him an honorable discharge—to the Committee on Military Affairs.

Also, a bill (H. R. 20350) granting an increase of pension to John L. Abbott—to the Committee on Invalid Pensions.

By Mr. SCOTT: A bill (H. R. 20351) granting an increase of pension to Isaac Paradise—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20352) granting an increase of pension to Calvin Waldron—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20353) granting an increase of pension to John Brady, sr.—to the Committee on Invalid Pensions.

Also, a bill (H. R. 20354) for the relief of the legal representative of Jesse Weatherlea—to the Committee on War Claims.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDERSON: Petition of Charles H. Bender and others, of Marion, Ohio, against increase of postage on second and third class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of George Tinson, president of American Insurance Union, of Bucyrus, Ohio, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of William Kiel and others, of Woodville, Ohio, and A. H. Laughbaum and others, of Galion, Ohio, against postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. ANSBERRY: Petition of citizens of Ohio, against sectarian legislation and a proposed bill relating to the observance of Sunday in the District of Columbia—to the Committee on the District of Columbia.

By Mr. ANTHONY: Petition of citizens of Huron, Kans., against postal savings-bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. ASHBROOK: Petition of Rev. W. E. Holloway and 47 others, of Holmesville, Ohio, against a postal savings-bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. BARCHFELD: Papers to accompany bills for relief of William Thomas and William Haskins—to the Committee on Invalid Pensions.

Also, petition of Local Union No. 66, International Union of Steam Engineers, of Pittsburg, Pa., against postage increase on second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of W. W. Lawrence & Co., paint manufacturers, against the Heyburn paint bill (S. 1130)—to the Committee on Interstate and Foreign Commerce.

Also, petition of Keystone Chapter, No. 94, American Insurance Union, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. BARTLETT of Georgia: Petition of E. W. Stetson, M. Felton Hatcher, W. P. Stevens, S. R. Jaynes, jr., Emory Winship, and others, of Macon, Ga., against a postal savings bank—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of John G. Patton (H. R. 1068)—to the Committee on Invalid Pensions.

By Mr. BATES: Petition of American Protective Tariff League, against any change at present in tariff law—to the Committee on Ways and Means.

Also, petition of Alton W. Matheson, for the conservation of natural resources—to the Committee on Agriculture.

Also, petition of Samuel B. Bale & Son, of Girard, Pa., against printing of stamped envelopes by the Government—to the Committee on the Post-Office and Post-Roads.

Also, petition of Erie Typographical Union, No. 7; Erie Chapter, No. 253, American Insurance Union; and Erie Allied Printing Trades, against increase of postage rate on second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of J. R. Head, of Saegerstown, Pa., against change in oleomargarine law—to the Committee on Agriculture.

By Mr. BELL of Georgia: Paper to accompany bill for relief of heirs of Parmelia F. Henry—to the Committee on War Claims.

By Mr. BENNET of New York: Paper to accompany bill for relief of Patrick Kennedy—to the Committee on Invalid Pensions.

By Mr. BINGHAM: Petition of Philadelphia branch of the American Pharmaceutical Association, against amendment of the food and drugs act—to the Committee on Agriculture.

Also, petition of National Board of Trade favoring a White Mountain and Southern Appalachian reserve—to the Committee on Agriculture.



Also, petition of Chicago Mill and Lumber Company, of Chicago, Ill., in favor of a repeal of the corporation-tax clause in the Payne tariff bill—to the Committee on Ways and Means.

Also, petition of National Board of Trade favoring 1-cent letter postage—to the Committee on the Post-Office and Post-Roads.

By Mr. BOOHER: Paper to accompany bill for relief of Marion I. Woods—to the Committee on Pensions.

By Mr. BROWNLOW: Paper to accompany bill for relief of Thomas J. Wear—to the Committee on War Claims.

By Mr. BUTLER: Petition of citizens of Chester, Pa., protesting against the establishment of postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. BYRNS: Paper to accompany bill for relief of Nathan Hursberg—to the Committee on Pensions.

By Mr. CAMPBELL: Petition of soldiers of the Third Kansas Congressional District, favoring amendment to pension acts of June 27, 1890, and February 6, 1907—to the Committee on Invalid Pensions.

By Mr. CASSIDY: Petition of Home Chapter, No. 336, American Insurance Union, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. CARY: Petition of Yahr & Lange Drug Company, Milwaukee, Wis., against House bill 17438—to the Committee on Interstate and Foreign Commerce.

Also, petition of Fuller & Johnson Manufacturing Company, Madison, Wis., against increase of postal rate on periodicals—to the Committee on the Post-Office and Post-Roads.

Also, petition of Milwaukee Pharmaceutical Society, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Richard J. Dawson Camp, No. 5, United States American War Veterans, of Milwaukee, for appropriation to raise the *Maine*—to the Committee on Naval Affairs.

By Mr. CLINE: Paper to accompany bill for relief of Charles T. Rodgers—to the Committee on Invalid Pensions.

By Mr. COLLIER: Paper to accompany bill for relief of Elizabeth Cessa—to the Committee on War Claims.

By Mr. CONRY: Petition of Chamber of Commerce of New York, for House bill 17270, relative to diplomatic service—to the Committee on Foreign Affairs.

Also, petition of New York Chamber of Commerce, against the publicity feature of the corporation-tax law—to the Committee on Ways and Means.

By Mr. COOK: Petition of Philadelphia Produce Exchange, favoring House bill 17267, relative to bills of lading defining rights of consignors and consignees—to the Committee on Interstate and Foreign Commerce.

Also, petition of fortieth annual meeting of the National Board of Trade, favoring adoption of a comprehensive system of improvement to our inland waterways and coast harbors, backed by a liberal appropriation—to the Committee on Rivers and Harbors.

Also, petition of Chicago Association of Commerce, favoring the act to regulate commerce by creating a court of commerce—to the Committee on Interstate and Foreign Commerce.

By Mr. CRAVENS: Paper to accompany bill for relief of James M. Wright—to the Committee on Invalid Pensions.

By Mr. CURRIER: Petition of Unity Club, of Lancaster, N. H., against the use of Hetch Hetchy Valley as a water tank for San Francisco—to the Committee on the Public Lands.

Also, petition of citizens of Hanover, N. H., against a postal savings-bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. DIEKEMA: Petition of George Markley and 35 other citizens of Boyne, Mich., against increase in second-class postage rates—to the Committee on the Post-Office and Post-Roads.

By Mr. DRAPER: Petition of Chamber of Commerce of New York, for repeal of paragraph 6 of corporation-tax law—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce of New York, favoring House bill 17270, relative to diplomatic service—to the Committee on Foreign Affairs.

By Mr. ELLIS: Petition of E. D. Kline and 40 others, of Baker City, Oreg., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of Howard A. Steadman and 30 others, of Eugene, Oreg., and O. E. Barrett and 27 others, of Portland, Oreg., against increase of postage on second and third class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of Shiloh Post, No. 77, Grand Army of the Republic, Newberg, Oreg., favoring the National Tribune pension bill—to the Committee on Invalid Pensions.

By Mr. FOCHT: Paper to accompany bill for relief of Charles H. Anderson—to the Committee on Invalid Pensions.

Also, petition of L. B. Woollett and 49 other citizens of McConnellsburg, Fulton County, Pa., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of Jacob F. Newman—to the Committee on Invalid Pensions.

By Mr. FORNES: Petition of Cluett Peabody & Co., of Troy, N. Y., in favor of repeal of corporation-tax clause of the Payne tariff bill—to the Committee on Appropriations.

Also, petition of Chicago Association of Commerce, opposing legislation on interstate commerce—to the Committee on Interstate and Foreign Commerce.

Also, petition of Allied Printing Trades Council, favoring House bill 15441—to the Committee on Labor.

Also, petition of National Liberal Immigration League, of New York City, favoring House bill 18399—to the Committee on Immigration and Naturalization.

Also, petition of Public Schools Athletic League of New York City, favoring House bill 15798—to the Committee on Military Affairs.

Also, petition of Maritime Association of New York, favoring consolidation of the pilot charts in the hands of the Hydrostatic Bureau, United States Navy—to the Committee on the Merchant Marine and Fisheries.

By Mr. FOSTER: Petition of W. T. Barr and other citizens of Trenton, Ill., against a postal savings bank—to the Committee on the Post-Office and Post-Roads.

Also, petition of Legion of Honor of Illinois, favoring a volunteer officers' retired list—to the Committee on Military Affairs.

Also, petition of George W. Luckey and others, of Lawrenceville, Ill., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of Joe Hill and others, of Birds, Ill., favoring a postal savings bank—to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Petition of the Military Order of the Loyal Legion of the United States, Department of Illinois, favoring the creation of volunteer officers' retired list—to the Committee on Military Affairs.

Also, petition of the Municipal Art League of Chicago, of Chicago, Ill., favoring participation by this Government in the Italian exposition of 1911—to the Committee on Industrial Arts and Expositions.

Also, petition of 50 merchants of Rockford, Ill., opposed to creation of proposed postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. GARNER: Petition of Farmers Union, of Medina County, Tex., for legislation to prevent gambling in farm produce—to the Committee on Agriculture.

Also, petition of J. M. Bowen and others, of Simmons, Tex., against increase of postage on second-class matter, etc.—to the Committee on the Post-Office and Post-Roads.

By Mr. GOULDEN: Petition of Anthony McCarthy and others, against House bill 12343, appropriating for the George Washington University—to the Committee on the District of Columbia.

Also, petition of Charles J. Fenner and 68 residents of New York City, against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of Chamber of Commerce of New York, for repeal of the corporation-tax clause of the Payne tariff bill—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce of New York, favoring House bill 17270—to the Committee on Foreign Affairs.

Also, petition of Municipal Art Society, of New York, for representative at the Rome and Milan exposition—to the Committee on Industrial Arts and Expositions.

Also, petition of Lint Butcher, of Ross, N. Y., against increase of postal rate on periodicals—to the Committee on the Post-Office and Post-Roads.

By Mr. GRAHAM of Illinois: Paper to accompany bill for relief of Charles J. Stillwell—to the Committee on Invalid Pensions.

Also, petition of Commandery of Illinois Loyal Legion, for a volunteer officers' retired list—to the Committee on Military Affairs.

Also, petition of citizens of Litchfield, Ill., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of Maria L. Sparks—to the Committee on Invalid Pensions.

By Mr. HAMILTON: Petition of citizens of St. Joseph, Mich., against the Johnston Sunday bill (S. 404) for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Burr Oak and Three Rivers, Mich., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. HANNA: Petition of North Dakota Grain Growers' Association, favoring government inspection of grain, all garden seeds, etc.—to the Committee on Agriculture.

Also, petition of citizens of Bowbells, N. Dak., against the passage of the proposed parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Dakota Grain Growers' Association, against any change in the oleomargarine law—to the Committee on Agriculture.

By Mr. HAYES: Petition of San Jose Chamber of Commerce, favoring ship subsidy—to the Committee on the Merchant Marine and Fisheries.

By Mr. HELM: Petition of citizens of Lancaster, Ky., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of Margaret A. Orr—to the Committee on War Claims.

Mr. HIGGINS: Petition of residents of Jewett City, Conn., against postal savings-bank system—to the Committee on the Post-Office and Post-Roads.

By Mr. HOLLINGSWORTH: Petition of James M. Hines and 9 other citizens of Harrison County, Ohio, against any change in the oleomargarine law—to the Committee on Agriculture.

Also, paper to accompany bill for relief of Hiram Mushrush—to the Committee on Invalid Pensions.

By Mr. HUFF: Petition of 43 citizens of Derry, Pa.; 31 citizens of Latrobe, Pa.; and Local Union No. 66, International Union of Steam Engineers, of Pittsburg, Pa., against increasing postage on second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. JOHNSON of South Carolina: Paper to accompany bill for relief of W. H. Franks—to the Committee on Pensions.

By Mr. JOYCE: Petition of R. P. Moore and others, of Guernsey County, Ohio, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Malta Chapter, No. 46, and Cambridge Chapter, No. 333, of American Insurance Union, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. KORBLY: Papers to accompany bills for relief of Timothy C. Faries, William B. Elliott, Daniel Dempsey, Leonidas, Folckemmor, Robert Boyles, and Joseph B. Spence—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Jacob W. Horner—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of Harry Lee Post, No. 21; Rankin Post, No. 10; and Clarence D. McKenzie Post, No. 389, all of Brooklyn, N. Y., against the statue of anyone in Statuary Hall who served the cause of disunion—to the Committee on the Library.

Also, petition of the Allied Printing Trades of New York, the Workingmen's Fraternity, and the International Union of Steam Engineers, of Brooklyn, N. Y., for the eight-hour working day bill (H. R. 15441)—to the Committee on Labor.

Also, petition of United Commercial Travelers, favoring House bill 1491 concerning sample baggage and excess baggage—to the Committee on Interstate and Foreign Commerce.

Also, petition of Merchants' Association of New York, favoring House bill 6862, for permanent consular improvements and commercial enlargement—to the Committee on Foreign Affairs.

Also, petition of Chamber of Commerce of New York State, favoring House bill 17270, relative to diplomatic service—to the Committee on Foreign Affairs.

Also, petition of National Liberal Immigrating League, for House bill 18399—to the Committee on Immigration and Naturalization.

Also, petition of Association of Army Nurses of Civil War, favoring Senate bill 2556—to the Committee on Invalid Pensions.

Also, petition of Roosevelt Camp, No. 9, Department of California, Spanish War Veterans, in favor of the Jones bill (S. 4033) concerning travel pay, etc., to officers and soldiers in the volunteer service in the Philippines, etc.—to the Committee on Military Affairs.

Also, petition of New York State Bankers' Association, for House bill 1438, exempting incorporated banking institutions organized under any state or national law—to the Committee on Ways and Means.

Also, petition of David A. Molitor, of Cornell University; Illinois State Teachers' Association; and William L. Felter, against an appropriation for the George Washington University—to the Committee on Appropriations.

Also, petition of National Society of Mural Painters and the American Art Annual, of New York, for government participation in the Italian exposition of 1911—to the Committee on Industrial Arts and Expositions.

Also, petition of Cluett, Peabody & Co., of Troy, N. Y.; Manufacturers' Association of New York; Chamber of Commerce of New York; Hay Budden Manufacturing Company, of New York; Kalbfleisch Company, of New York; Butler Kelly Company, of New York; and John S. Loomis Company, of New York, for House bill 14544, relative to corporation tax—to the Committee on Ways and Means.

Also, petition of Lewis R. Stegman, of Brooklyn, N. Y., for House bill 13383, for promotion of General Sickles—to the Committee on Military Affairs.

Also, petition of Public Schools Athletic League, of New York, for House bill 15798—to the Committee on Military Affairs.

By Mr. LOWDEN: Petition of George L. Baldwin, of Lena, Ill., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of W. J. Larabell and others, and Granite City Lodge, No. 11, Amalgamated Association of Iron, Steel, and Tin Works, against increasing postage on second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. McHENRY: Petition of citizens of Milton, Pa., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. McKINLEY of Illinois: Petition of citizens of Champaign, Ill., against postal savings-bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. McLAUGHLIN of Michigan: Papers to accompany bills for relief of Almeda Stafford and Charles J. Smith—to the Committee on Invalid Pensions.

By Mr. MORGAN: Petition of Franklin Haddock and other veterans of the civil war, for increase of civil-war soldiers' pensions, as per National Tribune bill—to the Committee on Invalid Pensions.

By Mr. NORRIS: Petition of citizens of Omaha, Nebr., against House bill 13862, relative to Code of Laws of the District of Columbia relating to insurance—to the Committee on the District of Columbia.

By Mr. HENRY W. PALMER: Petition of citizens of Hazleton, Pa., and citizens of West Pittston, Pa., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. PAYNE: Paper to accompany bill for relief of Harriet Hicks—to the Committee on Invalid Pensions.

By Mr. RAINEY: Petition of 122 citizens of White Hall, Ill., against increase of rates of postage on second-class matter—to the Committee on the Post-Office and Post-Roads.

By Mr. REEDER: Petition of citizens of Jewell, Lenora, and Palco, Kans., against postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. RHINOCK: Paper to accompany bill for relief of George G. Hughes—to the Committee on Invalid Pensions.

Also, petition of citizens of Newport, Ky., against a postal savings-bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. ROBINSON: Petition of W. W. McCulloch and others, of Hot Springs, Ark., against increasing postage on second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. SABATH: Petition of Commandery of Illinois, Military Order of the Loyal Legion of the United States, for a volunteer retired list—to the Committee on Military Affairs.

Also, petition of Chamber of Commerce of New York City, favoring House bill 17270, relative to diplomatic service—to the Committee on Foreign Affairs.

By Mr. SCOTT: Paper to accompany bill for relief of Calvin Waldron—to the Committee on Invalid Pensions.

By Mr. SHEFFIELD: Petition of Lawton Warren Post, No. 5, Department of Rhode Island, Grand Army of the Republic, favoring National Tribune pension bill—to the Committee on Invalid Pensions.

Also, petition of Local Council of Women of Rhode Island, favoring legislation to abolish the white-slave traffic—to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bills for relief of Ellen Murphy and James Moran—to the Committee on Invalid Pensions.

By Mr. STEENERSON: Petitions of O. Jacobson and Theo. Murk, of Thief River Falls; Sever Chabneau, John Christe, John C. Sanberg, Olaf Mortensen, B. F. Oliver, B. D. Bjork-

man, and David Sanders, of Crookston; and Hans M. Holm-  
vik and Theodore Iverson, of Beltrami, all in the State of Min-  
nesota, against increase of postal rate on periodicals—to the  
Committee on the Post-Office and Post-Roads.

By Mr. STEVENS of Minnesota: Petition of Sunday Union  
Club, of St. James African Methodist Episcopal Church, of St.  
Paul, Minn.—to the Committee on Industrial Arts and Exposi-  
tions.

Also, petition of Minnesota Federation of Women's Clubs,  
favoring prosecution of the white-slave traffic—to the Commit-  
tee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: Petition of certain citizens of  
Texas and Oklahoma, against increase of postal rate on period-  
icals—to the Committee on the Post-Office and Post-Roads.

By Mr. SULZER: Petition of William Tonk & Bros., for  
modification of the publicity clause of the corporation-tax  
law—to the Committee on Ways and Means.

Also, petition of National Irrigation Congress, for an appro-  
priation of \$10,000,000 annually for the reclamation fund—to  
the Committee on Irrigation of Arid Lands.

Also, petition of National Society of Mural Painters, favoring  
participation by the United States in the Italian exposition of  
1911—to the Committee on Industrial Arts and Expositions.

Also, petition of Chamber of Commerce of New York, for  
H. R. 17270, diplomatic service—to the Committee on Foreign  
Affairs.

Also, petition of Chamber of Commerce of New York, favor-  
ing certain amendments of the corporation-tax clause of the  
Payne tariff bill, etc.—to the Committee on Appropriations.

Also, petition of Postal Defense League, against increase of  
postal rate on periodicals—to the Committee on the Post-Office  
and Post-Roads.

Also, petition of American Association of Masters, Mates, and  
Pilots, for amending House bill 16926 so as to include employees  
on vessels, etc.—to the Committee on Labor.

Also, petition of electrical mechanics of the Brooklyn Navy-  
Yard, favoring appropriation for repairs on ships, etc.—to the  
Committee on Naval Affairs.

Also, petition of William J. Rudolph and other residents of  
New Orleans, favoring a pension status for all who rendered  
service in the civil war of thirty days and over—to the Com-  
mittee on Invalid Pensions.

Also, petition of Executive Board of Jewish Organizations  
of New York, for some kind of legislation to prevent rise in  
price of meats and breadstuff, etc.—to the Committee on Inter-  
state and Foreign Commerce.

Also, petition of Allied Printing Trades Council of New York,  
for eight-hour bill (H. R. 15441)—to the Committee on Labor.

Also, petition of Chicago Association of Commerce, for a  
court of commerce—to the Committee on Interstate and For-  
eign Commerce.

By Mr. VREELAND: Petition of residents of Chautauqua,  
N. Y., against postal savings banks—to the Committee on the  
Post-Office and Post-Roads.

By Mr. WANGER: Petition of the officers and directors of  
Tradesmen's National Bank of Conshohocken, Pa.; James H.  
Shelly and 49 other citizens of Richlandtown and Quakertown,  
Bucks County; and Gilbert L. Thompson and 41 others, of  
Perkasie, Bucks County, Pa., and vicinity, against postal sav-  
ings banks—to the Committee on the Post-Office and Post-Roads.

## SENATE.

TUESDAY, February 8, 1910.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The VICE-PRESIDENT resumed the chair.

The Secretary proceeded to read the Journal of yesterday's  
proceedings, when, on request of Mr. McCUMBER, and by unani-  
mous consent, the further reading was dispensed with, and the  
Journal was approved.

### CARE OF INSANE IN ALASKA.

The VICE-PRESIDENT. The Chair lays before the Senate  
the following courteous note from the Secretary of the Interior,  
relating to the matter under discussion the other morning. It  
will be read.

The Secretary read the communication, and it was ordered to  
lie on the table, as follows:

THE SECRETARY OF THE INTERIOR,  
Washington, February 4, 1910.

SIR: I have the honor to acknowledge the return from the Senate  
of draft of bill to provide for the care of the insane in the Territory  
of Alaska, which draft I submitted to you "by direction of the Pres-  
ident."

The proposed bill was submitted in the manner indicated with the  
view that it did not contravene the resolution of the Senate, Sixtieth  
Congress, first session, Senate Journal, page 122; but I thank you for  
directing my attention to the matter and assure you that in future the  
resolution as interpreted by the Senate will be carefully obeyed.

Very respectfully,

R. A. BALLINGER, Secretary.

The PRESIDENT OF THE SENATE.

### CLAIM OF CALVIN H. DYSON.

The VICE-PRESIDENT laid before the Senate a communica-  
tion from the assistant clerk of the Court of Claims, transmitting  
a certified copy of the findings of fact filed by the court in the  
cause of Calvin H. Dyson, administrator of George W. Dyson,  
deceased, v. United States (S. Doc. No. 354), which, with the  
accompanying paper, was referred to the Committee on Claims  
and ordered to be printed.

### URGENT DEFICIENCY APPROPRIATIONS.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the  
two Houses on the amendments of the Senate to the bill (H. R.  
18282) making appropriations to supply urgent deficiencies in  
appropriations for the fiscal year 1910, and for other purposes,  
having met, after full and free conference have agreed to recom-  
mend and do recommend to their respective Houses as fol-  
lows:

That the Senate recede from its amendments numbered 7, 22,  
26, 27, and 35.

That the House recede from its disagreement to the amend-  
ments of the Senate numbered 1, 2, 3, 5, 6, 8, 10, 11, 12, 13, 14,  
15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 29, 30, 31, 32, 33, 34, 37, 40,  
41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61,  
63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80,  
81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98,  
99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111,  
and agree to the same.

That the House recede from its disagreement to the amend-  
ment of the Senate numbered 28, and agree to the same with an  
amendment as follows: Strike out from said amendment all  
after the word "trees" to the end of the paragraph and insert  
in lieu thereof the following: "and excluding repair of state  
monuments, nineteen thousand five hundred dollars;" and the  
Senate agree to the same.

That the House recede from its disagreement to the amend-  
ment of the Senate numbered 60, and agree to the same with an  
amendment, as follows: On page 30 of the bill, in line 17, after  
the word "cents," insert the following: "Except that the award  
certified in favor of Pedro C. Casanova, Albert Wright, as ad-  
ministrator of the estate of Ricardo Casanova, deceased, and  
Maria Luisa Casanova Montalvan, for forty thousand four hun-  
dred dollars, included in House document numbered five hun-  
dred and one, of the present session, shall be paid to Pedro C.  
Casanova and Albert Wright, as administrator of Ricardo Casa-  
nova, deceased, as finally awarded by the commission;" and  
the Senate agree to the same.

That the House recede from its disagreement to the amend-  
ment of the Senate numbered 62, and agree to the same with an  
amendment, as follows: On page 37 of the bill strike out lines  
19, 20, and 21 and insert in lieu thereof the following: "For  
indemnity for lost property, naval service, act March second,  
eighteen hundred and ninety-five, except the claim numbered  
eighty-eight hundred and fifteen, two thousand six hundred and  
thirty dollars and thirty-seven cents;" and the Senate agree to  
the same.

On amendments numbered 4, 9, 36, 38, 39, 46, and 47 the com-  
mittee of conference have been unable to agree.

EUGENE HALE,  
J. H. GALLINGER,  
A. S. CLAY,

Managers on the part of the Senate.

JAMES A. TAWNEY,  
GEORGE R. MALBY,  
E. J. BOWERS,

Managers on the part of the House.

The report was agreed to.

Mr. HALE. I move that the Senate further insist on its  
amendments in disagreement and ask for a further conference,  
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. HALE, Mr. GALLINGER, and Mr. CLAY the conferees on the  
part of the Senate at the further conference.