By Mr. GOULDEN: Petition of Edw. Ruehl and other citizens of New York City, favoring repeal of the oleomargarine law—to the Committee on Agriculture.

Mr. GRAHAM of Pennsylvania: Petition of the Washington State Federation of Labor, against the use of injunctions by greedy corporations to crush and degrade labor—to the Committee on Labor.

Also, petition of the Hesse Envelope and Printing Company, of St. Louis, and the Record Publishing Company, of Coraopolis, Pa., favoring Senate bill 1614 and House bill 3075, prohibiting printing of advertisements and cards on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

Also, petition of Etna Borough Council, No. 961, Royal Arcanum, and State Council of Pennsylvania, Order of Independent Americans, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of National Council, Junior Order of United American Mechanics, against the fifth clause of section 344 of House bill 21321, prohibiting advertisements in publications of fraternal orders—to the Committee on the Post-Office and Post-Roads.

By Mr. HANNA: Petition of Washington State Federation of Labor, against the use of injunction by corporations to degrade labor—to the Committee on Labor.

By Mr. HAYES: Petitions of Frank Steffen and 33 other citizens, and of Daniel P. Regan and 47 other citizens, all of San Francisco, Cal., protesting against the immigration of Asiatics, except merchants, students, and travelers—to the Committee on Foreign Affairs.

Also, petition of San Francisco Labor Council, against House bill 22579, imposing additional taxes upon the fishing industry of Alaskan waters—to the Committee on the Territories.

By Mr. HOUSTON: Paper to accompany bill for relief of Moses A. Stark—to the Committee on Invalid Pensions.

By Mr. HUBBARD of Iowa: Petition of Martha Washington Chapter, Daughters of the American Revolution, against the abolition of the Division of Information of the Bureau of Immigration and Naturalization in the Department of Commerce and Labor—to the Committee on Immigration and Naturalization.

Also, petition of Rev. Samuel P. Wylie, for an amendment to the Constitution recognizing the Deity in that instrument—to the Committee on the Judiciary.

By Mr. HUFF: Petition of Forest Grange, No. 307, Patrons of Husbandry, of Euclid, Pa., for Senate bill 5842, strengthening the oleomargarine law—to the Committee on Agriculture.

Also, petition of Scottsdale Council, No. 807, Royal Arcanum, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of German-Austrian Beneficial Society, of Latrobe; German Benevolent Society, of Latrobe; Jeanette Turn Verein, of Jeannette; Germania Lodge, No. 686, of South Greensburg; members of the Westmoreland County Branch of the German-American Alliance of Pennsylvania, and the New Kensington and the Irwin societies of the same, all in the State of Pennsylvania, against any measure increasing tax on liquor or placing prohibitory restrictions on those engaged in manufacturing and sale of same—to the Committee on Alcoholic Liquor Traffic.

By Mr. KINKEAD of New Jersey: Petition of Local No. 303, Kearny, N. J., Painters, Decorators, and Paperhangers of America, against the action of the Secretary of the Interior in the matter of water rights for the city of San Francisco, Cal.—to the Committee on the Public Lands.

By Mr. KNOWLAND: Petition of citizens of Vallejo, Cal., protesting against the immigration of all Asiatics except merchants, students, and travelers—to the Committee on Foreign Affairs.

By Mr. LAW: Petition of Lafayette Post, No. 140, Department of New York, Grand Army of the Republic, against official recognition at any time of but one flag (the Stars and Stripes) and but one uniform in the United States—to the Committee on Military Affairs.

By Mr. LINDBERGH: Petition of Crow Wing River Lodge, No. 134, Brotherhood of Railway Carmen of America, against discrimination against government employees on the Canal Zone in the matter of vacations—to the Committee on Labor.

By Mr. McDERMOTT: Petition of Local Union, No. 199, Switchmen's Union of North America, favoring House bill 11193 and Senate bill 6155, relative to American seamen—to the Committee on the Merchant Marine and Fisheries.

By Mr. MANN: Petition of Chamber of Commerce of Cleveland, for advance of postage rate on second-class matter to equal cost of service—to the Committee on the Post-Office and Post-Roads.

Also, petition of Home Council, No. 400, Royal Arcanum, of Cleveland, Ohio, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of Journeymen Barbers' International Union, of Chicago, against reopening of the matter pertaining to the drainage basin of the Tuolumne River, California—to the Committee on the Public Lands.

Also, petition of Chicago citizens, for an amendment to the Constitution recognizing the Deity—to the Committee on the Judiciary.

By Mr. MILLINGTON: Petition of International Iron Molders' Union, No. 246, of Frankfort, N. Y., against federal interference in the water supply of San Francisco—to the Committee on the Public Lands.

By Mr. O'CONNELL: Petition of the legislature of Massachusetts, in furtherance of international peace and arbitration—to the Committee on Foreign Affairs.

By Mr. A. MITCHELL PALMER: Petition of business and professional men of Bethlehem, Pa., condemning actions of professional agitators in the Bethlehem Steel Works strike—to the Committee on Labor.

Also, petition of striking employees of Bethlehem Steel Works, favoring the passage of bill (H. R. 15441) for eight-hour day on government work—to the Committee on Labor.

By Mr. REEDER: Petition of citizens of Kansas, for legislation to prevent shipment of intoxicants into prohibition States—to the Committee on the Judiciary.

By Mr. ROBERTS: Petition of legislature of Massachusetts, in furtherance of international peace and arbitration—to the Committee on Foreign Affairs.

By Mr. SABATH: Petition of citizens of Chicago, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. SIMMONS: Petition of Varysburg (N. Y.) Grange, No. 1046, Patrons of Husbandry, for Senate bill 5842, governing traffic in oleomargarine—to the Committee on Interstate and Foreign Commerce.

Also, petition of Sir Launcelot Commandery, No. 24, Knights of St. John and Malta, of Lockport, N. Y., favoring House bill 17509—to the Committee on the Post-Office and Post-Roads.

By Mr. SPERRY: Resolutions of the Pattern Makers' Association, of Ansonia, Conn., in relation to federal control of the water supply of San Francisco—to the Committee on the Public Lands.

Also, resolutions of the Connecticut State Association of Letter Carriers, relative to the classification of substitute letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, petition of Alfred H. Hall Council, No. 1423, of Meriden, and of Wallingford Council, No. 1355, of Wallingford, Royal Arcanum, all in the State of Connecticut, in relation to postage on fraternal publications—to the Committee on the Post-Office and Post-Roads.

Also, resolutions adopted by the North Stonington Grange, Patrons of Husbandry, of North Stonington, Conn., in favor of the agricultural extension bill—to the Committee on Agriculture.

SENATE.

THURSDAY, *April 14, 1910.*

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

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

CLAIM OF JAMES M. WOOD.

The VICE-PRESIDENT 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 James M. Wood, administrator of the estate of Christopher Wood, deceased, *v.* United States (S. Doc. No. 489), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the following bills with amendments, in which it requested the concurrence of the Senate:

S. 621. An act to amend sections 2325 and 2326 of the Revised Statutes of the United States;

S. 1751. An act to amend an act entitled "An act creating the Mesa Verde National Park," approved June 29, 1906;

S. 2777. An act 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; and

S. 5167. An act to provide for an enlarged homestead.

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

H. R. 1448. An act transferring swamp lands to the State of Wisconsin;

H. R. 10584. An act providing for the adjustment of the claims of the States and Territories to lands within national forests;

H. R. 11131. An act providing for the acquisition of private holdings in Sequoia and General Grant national parks; and

H. R. 23422. An act to authorize the Secretary of the Interior to dispose of a fractional tract of land in the Lawton (Okla.) land district at appraised value.

ENROLLED BILLS SIGNED.

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

S. 4108. An act to refund certain tonnage taxes and light dues levied on the steamship *Montara*, without register;

H. R. 19636. An act authorizing the extension of Princeton place NW., in the District of Columbia;

H. R. 19787. An act to change the name of the west side of Fifteenth street NW., between I and K streets, to McPherson place;

H. R. 20579. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1911, and for other purposes; and

H. R. 21580. An act 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.

PETITIONS AND MEMORIALS.

Mr. DEPEW presented a memorial of Local Grange No. 64, Patrons of Husbandry, of Kendaia, N. Y., and a memorial of Local Grange No. 169, Patrons of Husbandry, of Clymer, N. Y., remonstrating against the repeal of the present oleomargarine law, and praying for the passage of the so-called "rural parcels-post and postal savings-bank bill," which was ordered to lie on the table.

He also presented a petition of the Flatbush Political Equality League, of Brooklyn, N. Y., praying for the adoption of an amendment to the Constitution granting the right of suffrage to women, which was referred to the Select Committee on Woman Suffrage.

He also presented a memorial of Central Labor Union, American Federation of Labor, of Ithaca, N. Y., and memorial of Local Union No. 105, United Association of Journeyman Plumbers, Gas and Steam Fitters, of Schenectady, N. Y., remonstrating against the enactment of legislation to revoke the right of the city of San Francisco to use the drainage basin of the Tuolumne River, California, for a water supply for its homes and industries, which were referred to the Committee on the Geological Survey.

He also presented a memorial of Lafayette Post, No. 140, Department of New York, Grand Army of the Republic, of New York City, N. Y., remonstrating against the placing of statues of persons who fought under the confederate flag, and clothed in full confederate uniform, in the United States Capitol, Washington, D. C., and on national reservations, which was referred to the Committee on the Library.

He also presented resolutions adopted by the Board of Trade of Schenectady, N. Y., expressing appreciation and approval of the work being done by Congress toward federal railway legislation, which were referred to the Committee on Interstate Commerce.

He also presented a memorial of the Albany County Veteran Association, of Albany, N. Y., remonstrating against the acceptance of the statue of Gen. R. E. Lee to be placed in Statuary Hall, United States Capitol, which was referred to the Committee on the Library.

He also presented a petition of the standing committee of the Temperance Society of the New York East Conference, praying for the enactment of legislation to prohibit the interstate transportation of intoxicating liquors into prohibition districts, which was referred to the Committee on the Judiciary.

He also presented a petition of the United Master Butchers' Association, of New York City, N. Y., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Grange No. 1046, Patrons of Husbandry, of Varysburg, N. Y., praying for the adoption of certain amendments to the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of sundry local councils, Royal Arcanum, of Westfield, Brooklyn, Buffalo, Mamaroneck, and Syracuse, all in the State of New York, praying for the enactment of legislation providing for the admission of the 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 a petition of Local Grange No. 64, Patrons of Husbandry, of Kendaia, N. Y., praying for the enactment of legislation to establish a national bureau of health, which was referred to the Committee on Public Health and National Quarantine.

Mr. BRISTOW presented a petition of sundry citizens of Kansas, praying for the enactment of legislation to prohibit the interstate transportation of intoxicating liquors into prohibition districts, which was referred to the Committee on the Judiciary.

He also presented a memorial of Local Union No. 1445, United Brotherhood of Carpenters and Joiners of America, of Topeka, Kans., and a memorial of Local Union No. 721, United Brotherhood of Carpenters and Joiners of America, of Newton, Kans., remonstrating against the enactment of legislation to revoke the rights of the city of San Francisco to the drainage basin of Tuolumne River, California, for a water supply for its homes and industries, which were referred to the Committee on the Geological Survey.

Mr. CULLOM presented a petition of the Dixon Chapter of the National Society, Daughters of the American Revolution, of Dixon, Ill., praying for the retention and strengthening of the Division of Information of the Bureau of Immigration and Naturalization in the Department of Commerce and Labor, which was referred to the Committee on Immigration.

He also presented petitions of sundry citizens of Bloomington, Peoria, Springfield, and Normal, all in the State of Illinois, praying for the passage of the so-called "boiler-inspection bill," which were referred to the Committee on Interstate Commerce.

He also presented a petition of Sinnissippi Council, No. 1158, Royal Arcanum, of Belvidere, Ill., praying for the enactment of legislation providing for the admission of the publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. OVERMAN presented a petition of Local Council No. 1681, Royal Arcanum, of Beaufort, N. C., praying for the enactment of legislation providing for the admission of the publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. DOLLIVER presented a petition of the Munson Federation of Women's Organizations, of Independence, Iowa, praying for the passage of the so-called "children's bureau bill," which was ordered to lie on the table.

He also presented petitions of sundry citizens of Missouri Valley and Boone, in the State of Iowa, praying for the passage of the so-called "boiler-inspection bill," which were referred to the Committee on Interstate Commerce.

He also presented a petition of the congregation of the Reformed Presbyterian Church of Wyman, Iowa, and a petition of the congregation of the Reformed Presbyterian Church of Morning Sun, Iowa, praying for the adoption of an amendment to the Constitution recognizing the Deity, which was referred to the Committee on the Judiciary.

He also presented a memorial of Henry C. Leighton Post, No. 199, Department of Iowa, Grand Army of the Republic, of New Sharon, Iowa, remonstrating against the acceptance of the statue of Gen. R. E. Lee to be placed in Statuary Hall, United States Capitol, which was referred to the Committee on the Library.

He also presented a petition of George Green Council, No. 556, Royal Arcanum, of Cedar Rapids, Iowa, and a petition of Golden Council, No. 380, Royal Arcanum, of Waterloo, Iowa, praying for the enactment of legislation providing for the admission of the publications of fraternal societies to the mails as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. DU PONT presented a petition of sundry citizens of Wilmington, Del., praying for the enactment of legislation to better regulate the traffic in intoxicating liquors in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. BRANDEGEE presented a petition of Sheridan Council, No. 1467, Royal Arcanum, of New Haven, Conn., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Tolland Grange, No. 51, Patrons of Husbandry, of Tolland, Conn., praying that an increased annual appropriation be made for the support of col-

leges for the benefit of agriculture, etc., which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Tolland Grange, No. 51, Patrons of Husbandry, of Tolland, Conn., praying for the enactment of legislation to establish a national bureau of health, which was referred to the Committee on Public Health and National Quarantine.

Mr. DICK presented a petition of Euclid Avenue Council, No. 890, Royal Arcanum, of Cleveland, Ohio, praying for the enactment of legislation providing for the admission of the publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry citizens of Portsmouth, Ohio, praying for the passage of the so-called "eight-hour bill," which was referred to the Committee on Education and Labor.

He also presented petitions of Buckley Post, No. 12, of Akron; of Wetzell Compton Post, No. 96, of Hamilton; and of Theodore G. Merchant Post, No. 683, of Paulding, all of the Department of Ohio, Grand Army of the Republic, in the State of Ohio, praying that an appropriation of $25,000 be made to erect a memorial monument commemorating the two battles fought at Fort Recovery, in that State, in 1791 and 1794, which were referred to the Committee on the Library.

Mr. PAGE presented a petition of Local Council No. 401, Knights of Columbus, of Barre, Vt., praying for the enactment of legislation providing for the admission of the publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BULKELEY presented a petition of Local Grange No. 49, Patrons of Husbandry, of Farmington, Conn., praying for the enactment of legislation to establish a national bureau of health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of the Connecticut State Association of Letter Carriers, praying for the enactment of legislation providing that substitute letter carriers be paid the pro rata pay of the regular carriers absent without pay and 30 cents per hour for all other work, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Alfred H. Hall Council, No. 1423, Royal Arcanum, of Meriden, Conn., and a petition of Local Council No. 1355, Royal Arcanum, of Wallingford, Conn., 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.

Mr. GALLINGER presented a petition of the Georgetown Citizens' Association, praying for the enactment of legislation providing for the payment of the debt of the District of Columbia and also for permanent improvements therein, which was referred to the Committee on the District of Columbia.

Mr. SCOTT presented a memorial of Carpenters and Joiners Local Union No. 428, American Federation of Labor, of Fairmont, W. Va., remonstrating against the enactment of legislation to revoke the rights of the city of San Francisco to the drainage basin of Tuolumne River, California, for a water supply for its homes and industries, which was referred to the Committee on the Geological Survey.

FORT WALLA WALLA MILITARY RESERVATION.

Mr. SCOTT. I send to the desk a letter which I ask may be read.

Mr. KEAN. I do not think the RECORD ought to be burdened with all these private letters. If they are in the nature of petitions, they can be noted by printing the caption in the RECORD.

Mr. SCOTT. I think the Senator from New Jersey will be very much interested in the letter if he will allow it to be read, and then he can object to its going into the RECORD if he cares to do so.

Mr. KEAN. If it is read it goes into the RECORD.

The VICE-PRESIDENT. Is there objection to the reading of the paper? The Chair hears none, and the Secretary will read it.

The Secretary read as follows:

THE BAKER-BOYER NATIONAL BANK,
Walla Walla, Wash., April 9, 1910.

Hon. NATHAN B. SCOTT,
United States Senate, Washington, D. C.

SIR: In reference to Senate bill 3196, introduced by Senator JONES, for your better information and at the request of a number of citizens here, permit me to suggest that the passage of such legislation is objectionable, for the following reasons:

First. Upon the broad ground that Congress should not discriminate in favor of any privately endowed institution, however worthy.

Second. Upon the ground that the naming of Whitman College as a beneficiary of the National Government raises a historical question involved in doubt and sectarian controversy.

Third. Upon the ground that the price named in the bill, $150 per acre, is far below the real value of the land alone regardless of the buildings recently erected at a cost of over $100,000, which are adapted to other uses if need be, and that a much larger sum should be secured by sale of the property in the open market.

I have resided in this city for about twenty-five years as an active business man, and am one of the directors of one of the leading banking institutions, and in my opinion the land of the Fort Walla Walla Military Reserve is worth at least $450 per acre, and many real-estate dealers have named to me a much higher valuation.

Very respectfully, yours, T. C. ELLIOTT.

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

REPORTS OF COMMITTEES.

Mr. JONES. I am directed by the Committee on Public Lands, to whom was referred the bill (S. 7138) granting to the town of Wilson Creek, Wash., certain lands for reservoir purposes, to report it favorably with amendments, and I submit a report (No. 540) thereon. I ask for its present consideration.

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

Mr. KEAN. Mr. President, let us have the regular order.

The VICE-PRESIDENT. Objection is made, and the bill will go to the calendar.

Mr. JOHNSTON, from the Committee on Military Affairs, to whom was referred the bill (H. R. 9197) for the relief of Reed B. Granger, reported it without amendment and submitted a report (No. 542) thereon.

Mr. PERKINS, from the Committee on Commerce, to whom was referred the bill (H. R. 20988) authorizing the Secretary of Commerce and Labor to construct a water main and electric cable across Galveston Channel to furnish water and light to the immigration station, reported it without amendment.

Mr. BANKHEAD, from the Committee on Commerce, to whom was referred the bill (S. 6330) to make Baton Rouge, in the State of Louisiana, a subport of entry, and for other purposes, reported it without amendment and submitted a report (No. 543) thereon.

Mr. STONE, from the Committee on Commerce, to whom was referred the bill (S. 7063) to give a legal status to a submarine cable crossing the Mississippi River between Cairo, Ill., and Bird Point, Mo., reported it with amendments and submitted a report (No. 544) thereon.

Mr. STONE (for Mr. MARTIN), from the Committee on Commerce, to whom was referred the bill (S. 7686) to provide additional aids to navigation in the Light-House Establishment, reported it with an amendment and submitted a report (No. 545) thereon.

Mr. HEYBURN, from the Committee on Manufactures, to whom was referred the bill (S. 1130) for preventing the manufacture, sale, or transportation of adulterated or mislabeled paint, turpentine, or linseed oil, reported it with amendments and submitted a report (No. 546) thereon.

Mr. FLINT, from the Committee on Public Lands, to whom was referred the bill (H. R. 9101) to grant title to certain public land to the city of Santa Cruz, in the State of California, to be used for street purposes, reported it with an amendment and submitted a report (No. 547) thereon.

Mr. DIXON, from the Committee on Military Affairs, to whom was referred the bill (S. 7539) to correct the military record of Aaron Cornish, reported it with amendments and submitted a report (No. 548) thereon.

He also, from the Committee on Public Lands, to whom was referred the bill (S. 5362) granting to the city of Bozeman, Mont., certain lands to enable the city to protect its source of water supply from pollution, reported it with an amendment and submitted a report (No. 549) thereon.

Mr. OWEN, from the Committee on Indian Affairs, to whom was referred the bill (S. 7088) for the relief of Frank J. Boudinot, reported it without amendment and submitted a report (No. 550) thereon.

Mr. BULKELEY, from the Committee on Military Affairs, to whom was referred the bill (S. 4633) for the relief of Horatio McIntire, submitted an adverse report (No. 551) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. CLAPP, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 8914) to open to settlement and entry under the general provisions of the homestead laws of the United States certain lands in the State of Oklahoma, and for other purposes, reported it without amendment and submitted a report (No. 552) thereon.

Mr. GALLINGER, from the Committee on Naval Affairs, to whom were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were postponed indefinitely:

A bill (S. 6208) to transfer Capt. John Clarke Wilson from the retired to the active list of the navy (Report No. 553);

A bill (S. 4140) retiring Thomas Harrison, a clerk in the Naval Observatory, and for other purposes (Report No. 555);

A bill (S. 7282) to authorize the appointment of James M. Alden a lieutenant in the navy and for his retirement (Report No. 556); and

A bill (S. 3669) to place Louis Weber, a first-class musician, late of the Marine Corps, on the retired list (Report No. 557).

Mr. GALLINGER, from the Committee on Naval Affairs, to whom was referred the joint resolution (S. J. Res. 18) for the relief of P. J. McMahon, submitted an adverse report (No. 554) thereon; which was agreed to, and the joint resolution was postponed indefinitely.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 4240) to establish the grades of acting assistant paymaster in the United States Navy and acting second lieutenant in the United States Marine Corps (Report No. 558);

A bill (S. 4745) to equalize the pay and allowances of assistant surgeons and acting assistant surgeons in the United States Navy (Report No. 559); and

A bill (S. 825) providing for the promotion of assistant paymasters in the navy (Report No. 560).

REVENUE CUTTER AT KEY WEST, FLA.

Mr. DEPEW. I am directed by the Committee on Commerce, to whom were referred the amendments of the House of Representatives to the bill (S. 1381) to provide for the construction of a revenue cutter of the first class for service in the waters of Key West, Fla., to report them back and request that the amendments made by the House be concurred in.

The VICE-PRESIDENT. The amendments of the House will be read.

The SECRETARY. Strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized to provide and equip two new revenue cutters at a cost not exceeding the sum of $250,000 in each case, and when either of said revenue cutters shall be placed in service, one of the revenue cutters now in the service shall thereupon be retired from service.

SEC. 2. That the Secretary of the Treasury is hereby authorized from time to time to make such transfer and change of stations of revenue cutters as he may deem desirable for the best interests of the service, and in his discretion to direct any revenue cutter to cruise in any waters to perform the duties of the Revenue-Cutter Service.

SEC. 3. The Secretary of the Treasury is directed to have the vessels provided for herein constructed in accordance with the provisions of the act entitled "An act 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," approved August 1, 1892.

Amend the title so as to read: "An act authorizing the Secretary of the Treasury to provide two new revenue cutters, and for other purposes."

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

The motion was agreed to.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. BURTON. According to the notice which I gave a few days ago, I submit a minority report (No. 527, pt. 3), to accompany the bill (H. R. 20686) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The VICE-PRESIDENT. The report will be received and printed.

CARRIE H. OTIS.

Mr. KEAN. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred Senate resolution 211, submitted by the Senator from California [Mr. FLINT] on the 11th instant, to report it favorably without amendment, and I ask for its present consideration.

Mr. JONES. I ask the Senator from New Jersey if he does not think the resolution ought to go to the calendar?

Mr. KEAN. The Senator from New Jersey does not think that it ought to go to the calendar. It has not been the practice of the Senate to send these routine resolutions of the Senate to the calendar.

Mr. JONES. I notice that it has not been the practice of the Senate to send a bill such as I reported a few minutes ago to the calendar, but it seems it had to go there. I will not object to the consideration of the resolution.

Mr. KEAN. This is merely a Senate resolution. The Senator from New Jersey did not object to the measure reported by the Senator from Washington; he merely asked for the regular order.

Mr. JONES. The suggestion amounted to an objection, as the Senator well knows.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution reported by the Senator from New Jersey?

There being no objection, the resolution was considered, by unanimous consent, and agreed to, as follows:

Senate resolution 211.

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to Carrie H. Otis, widow of Charles W. Otis, late a clerk in the office of the Secretary of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his demise, said sum to be considered as including funeral expenses and all other allowances.

EFFICIENCY OF THE MILITIA.

Mr. WARREN. From the Committee on Military Affairs, I report back, with an amendment, the bill (H. R. 22846) to further amend the act entitled "An act to promote the efficiency of the militia, and for other purposes," approved January 21, 1903, and I submit a report (No. 541) thereon. I ask for the present consideration of the bill.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was on page 3, line 3, to strike out the word "defense" and insert the word "defenses."

The amendment was agreed to.

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

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

The bill was read the third time and passed.

THE AMERICAN HISTORICAL ASSOCIATION.

Mr. ROOT. From the Committee on the Library, I report a resolution (S. Res. 203) authorizing the Secretary of the Senate to permit the secretary of the American Historical Association to examine the files of the Senate. I ask unanimous consent for the present consideration of the resolution.

Mr. GALLINGER. Let it be read for information.

There being no objection, the resolution was read, considered by unanimous consent, and agreed to, as follows:

Senate resolution 203.

Resolved, That the Secretary of the Senate be authorized to permit the secretary of the American Historical Association, incorporated by the act approved January 4, 1889, or any agent certified by the secretary of the said association, to examine the files of the Senate prior to the year 1873, and not including the confidential files, for historical material; and that the Secretary detail a clerk, at the expense of the association, to supervise such an examination and retain the custody and control of such files during the examination.

BILLS INTRODUCED.

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

By Mr. SMOOT:

A bill (S. 7726) to authorize the President of the United States to make withdrawals of public lands in certain cases; to the Committee on Public Lands.

A bill (S. 7727) granting an increase of pension to Albert Gay (with accompanying papers); and

A bill (S. 7728) granting an increase of pension to Theodore W. Moeller (with accompanying papers); to the Committee on Pensions.

By Mr. DEPEW:

A bill (S. 7729) granting an increase of pension to Frances Strain (with accompanying papers); to the Committee on Pensions.

By Mr. CULLOM:

A bill (S. 7730) for the relief of Hiram J. Osborn; to the Committee on Military Affairs.

By Mr. SCOTT:

A bill (S. 7731) to amend chapter 135 of the laws of 1875 and to repeal section 3734 of the Revised Statutes, relative to the purchase of sites, preparation of plans for public buildings, and for other purposes (with an accompanying paper); which was read twice by its title.

Mr. SCOTT. As the bill requires an appropriation, I move that it be referred to the Committee on Appropriations.

The motion was agreed to.

By Mr. SCOTT:

(By request.) A bill (S. 7732) to provide for the purchase of square south of No. 1015 and square north of No. 1017, in southeast Washington, D. C. (with an accompanying paper); to the Committee on the District of Columbia.

A bill (S. 7733) granting an increase of pension to Marshall Canfield (with accompanying papers); and

A bill (S. 7734) granting an increase of pension to Hugh A. Hawkins (with an accompanying paper); to the Committee on Pensions.

By Mr. BURROWS:

A bill (S. 7735) granting a pension to Dora A. Gray (with an accompanying paper); and

A bill (S. 7736) granting an increase of pension to Jesse Gray (with an accompanying paper); to the Committee on Pensions.

By Mr. OVERMAN:

A bill (S. 7737) granting an increase of pension to Stephen Rice (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN:

A bill (S. 7738) to appropriate the sum of $200 for Fenton T. Ross, of Loudoun County, Va., whose horse was permanently injured by employees of the Agricultural Department in making experiments authorized by law; to the Committee on Claims.

By Mr. BAILEY (by request):

A bill (S. 7739) for the relief of heirs or estate of William Rupley, deceased (with an accompanying paper); to the Committee on Claims.

By Mr. HUGHES:

A bill (S. 7740) granting a pension to James H. L. Potter (with an accompanying paper); and

A bill (S. 7741) granting a pension to Gilbert W. Potter (with an accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7742) for the relief of the legal representatives of George W. Soule; to the Committee on Claims.

By Mr. MARTIN:

A bill (S. 7743) to require the Commissioners of the District of Columbia to return all persons to the District of Columbia who are released from the workhouse or reformatory of the District of Columbia; to the Committee on the District of Columbia.

By Mr. BURKETT:

A bill (S. 7744) granting an increase of pension to John C. Paxton; to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7745) for the relief of the heirs of Adam and Noah Brown; to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. DEPEW submitted an amendment authorizing the Secretary of the Navy to build one of the proposed new battle ships in one of the government navy-yards and any or all of the other vessels in such navy-yards as he may designate, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. JOHNSTON submitted an amendment proposing to appropriate $445,000 for increase of the navy—destroyers, etc.—intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. OWEN submitted an amendment proposing to appropriate a sum sufficient to pay the interest due on the Eastern Cherokee claim, in pursuance of the judgment of the Court of Claims of May 28, 1906, etc., intended to be proposed by him to the urgent deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. PILES submitted an amendment proposing to appropriate $145,000 for the establishment of a torpedo station on the Pacific coast, intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

Mr. WARREN. I submit a Senate resolution and ask for its present consideration.

The Secretary read the resolution (S. Res. 216), as follows:

Senate resolution 216.

Resolved, That the Secretary of War be, and he is hereby, directed to transmit to the Senate a copy of the findings and final report of the court of inquiry appointed under authority given by the act of Congress approved March 3, 1909, entitled "An act to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D of the Twenty-fifth United States Infantry, who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof."

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

Mr. KEAN. I should like to ask the Senator from Wyoming if the joint resolution which Congress passed did not contain a direction that the report should be made to Congress?

Mr. WARREN. No; it did not; and that is the reason why I have introduced this resolution.

Mr. KEAN. I was under the impression that it did.

Mr. WARREN. The original measure, which I have in my hand, provides that they shall report to the Secretary of War, whereas it has to come to the Senate; and the Secretary of War is of the opinion that he has not the authority to send it to the Senate without a resolution.

Mr. KEAN. I have no objection to the resolution.

The resolution was considered by unanimous consent and agreed to.

USE OF COLD STORAGE.

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

Resolved, That the illustrations accompanying Senate Document 486, Sixty-first Congress, second session, being a letter from the Secretary of Agriculture transmitting certain data on cold storage and cold-storage products by Dr. H. W. Wiley, be printed.

PRICES OF NAVAL SUPPLIES.

Mr. LODGE. I present a report of the Secretary of the Navy in regard to prices paid by the vessels of the United States during the last decade for supplies for the navy abroad. I move that it be printed and referred to the Select Committee to Inquire into Wages and Prices. (S. Doc. No. 488.)

The motion was agreed to.

LANDS AT WILSON CREEK, WASH.

Mr. JONES. I desire to renew my request for unanimous consent that the bill (S. 7138) granting to the town of Wilson Creek, Wash., certain lands for reservoir purposes, which I reported from the Committee on Public Lands, may be considered.

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

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Public Lands with amendments, in line 13, after the word "only," to insert "and in case said land shall cease to be used for such purposes it shall at once revert to the United States," and in line 14, before the words "per acre," to strike out "$1.25" and insert "$2.50 an acre," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a patent to the authorities of the town of Wilson Creek, in the State of Washington, for reservoir purposes, in connection with the water supply for said town, for the following-described land, to wit: The northwest quarter of the northeast quarter of section 12, township 22 north, range 29 east of the Willamette meridian, Grant County, State of Washington, containing 40 acres, more or less, said patent to contain a provision that said land shall be used for reservoir purposes and in connection with the water supply for said town only; and in case said land shall cease to be used for such purposes it shall at once revert to the United States: *Provided*, That said town shall pay $2.50 per acre therefor.

Mr. BACON. I should like to inquire of the Senator from Washington what is the value of the land?

Mr. JONES. It is in the semiarid section. There is no timber on it at all, and I think that $2.50 an acre is a fair valuation.

Mr. BACON. I presume this legislation is necessary, because while settlers might take up the land under existing law the municipality could not do so.

Mr. JONES. It is.

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.

MESA VERDE NATIONAL PARK.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1751) entitled "An act to amend an act entitled 'An act creating the Mesa Verde National Park,' approved June 29, 1906," which were, on page 1, line 5, to strike out "or development of the resources thereof;" on page 1, line 6, after "Park," to insert "for the mining of coal for local consumption in Montezuma County, Colo.;" on page 1, to strike out line 8 down to and including "thereto," line 3, page 2; and on page 2, after line 5, to insert:

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. GUGGENHEIM. I move that the Senate concur in the House amendments.

The motion was agreed to.

HOUSE BILLS REFERRED.

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

H. R. 1448. An act transferring swamp lands to the State of Wisconsin;

H. R. 10584. An act providing for the adjustment of the claims of the States and Territories to lands within national forests;

H. R. 11131. An act providing for the acquisition of private holdings in Sequoia and General Grant National Parks; and

H. R. 23422. An act to authorize the Secretary of the Interior to dispose of a fractional tract of land in the Lawton (Okla.) land district at appraised value.

COURT OF COMMERCE, ETC.

The VICE-PRESIDENT. The calendar is in order under Rule VIII.

Mr. ELKINS. I move that the Senate proceed to the consideration of the unfinished business, Senate bill 6737.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

The VICE-PRESIDENT. The pending question is on the amendment proposed by the Senator from West Virginia [Mr. ELKINS], which will be read.

The SECRETARY. On page 19, after the word "line," in line 17, insert:

And when no reasonable or satisfactory through route by rail and water exists.

Mr. ELKINS. At the request of some Senators who are absent I will ask leave to pass this amendment by for the present for further investigation.

The VICE-PRESIDENT. Without objection, the amendment will be informally passed over.

Mr. ELKINS. I ask now that the next amendment——

Mr. BRISTOW. Do I understand that the pending amendment has been temporarily withdrawn?

Mr. ELKINS. Yes, sir.

Mr. KEAN. It has been laid aside.

Mr. ELKINS. It was passed over for further consideration until the return of certain Senators.

On page 19, line 22, after the word "character," I move to insert the words—

Nor shall the commission have the right to establish any through route, classification, rate, fare, or charge when the transportation is wholly by water.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from West Virginia.

Mr. CUMMINS. Mr. President, it seems to me that the amendment ought not to be adopted. The chairman of the committee has not explained it or shown the necessity for it. I would be very glad, before I make whatever objection I have to it, if the proposer of the amendment would explain why it is to be put into the bill.

Mr. ELKINS. Mr. President, I do not think that I can make it plainer. It provides that the Interstate Commerce Commission shall not exercise any jurisdiction or control over transportation wholly by water on port-to-port charges for freight on rivers, lakes, the ocean, anywhere within the jurisdiction of the United States. I believe it is healthier and better for the transportation interests of the country and for all concerned that the waterways should be free and unrestricted; that the transportation should be free on the water, lakes, rivers. It is in the interest of competition. It keeps down railroad rates and makes lower rates. I did not suppose that anybody would have any objection to it. It seems to me that everybody concurred in this amendment at the time that I presented it.

Mr. CUMMINS. I should like to ask the Senator from West Virginia in what respect in his opinion it changes the present law?

Mr. ELKINS. I do not think it changes the present law, at least materially; but the water interests of the country, with a unanimity I have hardly ever found before, demanded this provision, so that there could be no doubt about it whatever. I put it in at the request of the owners of transportation lines by water. All the independent owners of ships seemed to concur, and that is the reason why I put it in. I do not think for myself that it is material, but others think it is, and that is the reason why I have offered the amendment.

Mr. CUMMINS. I suggest to the Senator from West Virginia, inasmuch as he has withdrawn for present consideration the amendment with regard to through routes over waterways and railways, whether it would not be well to withhold this amendment pending the further investigation, because the two are somewhat related to each other.

Mr. ELKINS. I would do that if I thought they had any relation, but it seems to me there is no relation between the two amendments. One applies to through routes where water and rail are combined to make the route, and the other applies to a route wholly by water. Therefore I do not think there is any connection between them.

I believe that ever since 1887, when the legislation to regulate the transportation of interstate commerce was begun, everyone has maintained the position that the waterways should be free, so as to correct and reduce and check the railroad rates. I do not think the two propositions have the relation the Senator thinks they have. For my part, I believe that under a strict construction of the law probably this amendment does not change the law, but as I said, at the instance of nearly everyone concerned and of many Senators, I consented to introduce the amendment.

Mr. CUMMINS. Mr. President, it seems to me that we ought not to change the law unless a change is made necessary, and unless there is some evil to be corrected, and unless there is some demand for a modification. If this amendment has any effect at all, it is to change the first section of the interstate-commerce law, a section that has been in force for many years. I would be sorry to see it changed unless the effects of the change were very clearly pointed out.

I am not prepared to insist that there shall be any enlargement of the power of the Interstate Commerce Commission over water transportation, but I am prepared to resist any diminution of that power unless reason be shown for it that has not been shown by the proposer of the amendment.

Mr. PILES. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Washington?

Mr. CUMMINS. I do.

Mr. PILES. If the Senator will permit me, I think this proposed amendment is in the interests of the shipper. I have never thought myself that the existing law covers transportation wholly by water. There has been a doubt upon that question among well-informed lawyers, and this amendment is simply for the purpose of settling that doubt.

There can be to my mind no sound reason why a water carrier, free from the control of a railroad company, should be subject to the provisions of the interstate-commerce act. The act as it exists at the present time, and as it will exist, if this bill goes into effect, gives the Interstate Commerce Commission jurisdiction over the water carrier that is run in connection with a railroad company—that is to say, where the carriage is partly by water and partly by rail.

No one will contend that there is not ample competition on all profitable water routes in the United States. There is great demand for ships in all the coastwise trade routes that I know of.

I can remember when I first took up my residence in the State of Washington there was but one line of steamships plying between the ports of Puget Sound and Alaska, and then only a monthly service during the spring and summer seasons. Now there are about seven or eight lines between the ports of Puget Sound and British Columbia and Alaska competing sharply in the coastwise trade.

If a port-to-port water carrier is made subject to the provisions of the interstate-commerce act, then it must give thirty days' notice of every change in its rates the same as a railroad company. All along the coast line we have tramp steamships competing for business with the regularly established lines. Our steamship operators and chambers of commerce have made frequent complaint to the Government because it ships coal and other government supplies in tramp steamers from the Atlantic to the Pacific. When those tramp steamers reach the ports of the Pacific they are there without a return cargo, and they are anxious to take a cargo at any price, greatly to the detriment of the regularly established lines of water carriers.

Now, what would be our condition if carriers wholly by water were subject to the jurisdiction of the Interstate Commerce Commission?

A tramp steamer arrives at the port of Seattle. Her master is anxious to secure a cargo to any port, and he is willing to make a contract of carriage at a greatly reduced rate. We could not meet the rate because we would be required, under the provisions of the law, to give thirty day's notice before we could change the established rate.

Mr. CUMMINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Washington yield to the Senator from Iowa?

Mr. PILES. Certainly.

Mr. CUMMINS. The Senator from Washington is arguing a proposition that at least was not suggested by me. I am not asking, as I said a few moments ago, that the power of the commission be enlarged so that it may fix the rates for freight on water port-to-port business. I do not know of anybody who has insisted that the power shall be so enlarged. I made an inquiry, rather than an objection, as to what the amendment meant and what effect it would have upon the first section of

the old interstate-commerce law. The old interstate-commerce law expressly provides that common carriers who are to be subject to the jurisdiction of the commission and whose rates are to be fixed are not carriers who are engaged in transportation wholly by water.

Mr. PILES. That is exactly the point I was discussing. I am told that some of our best lawyers believe this law does apply to transportation wholly by water.

Mr. CUMMINS. If the contention was ever made, it has been decided that it does not apply. The Interstate Commerce Commission itself has decided that it does not have the jurisdiction to fix such rates. There, of course, can be no appeal from that decision, and, therefore, that construction must be accepted, and I think it ought to be accepted.

But may I call the attention of the Senator from Washington to the language of the amendment which is proposed by the Senator from West Virginia? First, let him remember that it is to be added to a paragraph in the bill which relates wholly to the establishment of through routes and making through classifications and through joint rates. Then, it is suggested that there be added to that paragraph the words:

> Nor shall the commission have the right to establish any through route, classification, rate, fare, or charge when the transportation is wholly by water.

What does that mean?

Mr. PILES. It means simply this, as I understand it: There would be a through route, we will say, from Puget Sound to Southern California.

Mr. CUMMINS. Mr. President, the commission can not establish a through route that does not involve the cooperation or the conjunction of more than one carrier.

Mr. PILES. It can not, in my judgment; but the amendment removes all doubt on the question.

If, as the Senator says, he does not care to add anything to the existing law, what objection can he have to making that plain which is now said to be doubtful? Why should there be any doubt on the subject? Why should a carrier wholly by water be denied the right to meet instantly the charges of any tramp steamship? It must be admitted that if the law shall be construed so as to give the Interstate Commerce Commission jurisdiction over transportation wholly by water, then we are powerless to meet competition of the character I have mentioned. I am simply contending that an amendment should be inserted which will remove all doubt on the subject.

Mr. CUMMINS. Then, Mr. President, the amendment is not in the right place, nor is it in the right terms to accomplish that end. I do not believe there is any doubt now with regard to the matter, but the subject is not one of through routes or through rates. The subject with which the Senator from Washington is dealing is one which involves the complete exclusion from the jurisdiction of the Interstate Commerce Commission of water rates; that is, where the carriage is wholly by water. I have no objection to that. The first act of the law as it is now so declares; the Interstate Commerce Commission has so decided; and why we should have an amendment with regard to the through route, the application of which no one can understand and which the Senator from West Virginia is utterly unable to point out, passes my comprehension.

Mr. PILES. It seems to be perfectly clear to me, if the Senator will permit me.

With the completion of the canal we hope to have through lines from all ports on the Pacific coast to all ports on the Atlantic coast via the canal.

The commission should not have the power to establish rates over this through water route, and all doubt on the subject should be removed. There ought to be free and unrestricted competition over the great waterways that are open to the world, so that all may compete and all may make a rate irrespective of the Interstate Commerce Commission. It is perfectly clear that there will always be lively competition all along the coastwise lines.

Mr. BEVERIDGE. The coastwise trade is not open to the world.

Mr. PILES. I am not saying that the coastwise trade is open to the world, for, of course, it is not.

Mr. CHAMBERLAIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Oregon?

Mr. CUMMINS. I do.

Mr. CHAMBERLAIN. I will ask if it is not a fact that one railroad system in the West that has a line from, say, Puget Sound to San Francisco has forced out of competition the coastwise steamers carrying freight between Seattle and San Francisco?

Mr. PILES. The one railroad that has also a water line?

Mr. CHAMBERLAIN. It has put on water carriers that have driven out competition.

Mr. PILES. The Senator refers to the Pacific Mail Line steamers, does he not?

Mr. CHAMBERLAIN. That may be an exceptional case, where a tramp steamer would come in and take freight at a reduced rate, but the regular line of steamers have been absolutely driven off the coastwise trade to prevent competition with the railroad lines.

Mr. PILES. That is, south of San Francisco.

Mr. FLINT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. FLINT. I want to state for the benefit of the Senator from Oregon [Mr. CHAMBERLAIN] that at the proper time I intend to offer an amendment prohibiting any railway company from owning any water carrier or engaging in that business. If that is done, I think this amendment would be entirely proper. It would establish real competition by water at Pacific coast points, which they have not at the present time.

Mr. PILES. I think that would be a wise amendment.

Mr. CHAMBERLAIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Oregon?

Mr. CUMMINS. I do.

Mr. CHAMBERLAIN. Mr. President, I was simply calling the attention of the Senator from Washington [Mr. PILES] to the fact that all competitive steamship lines between Portland and San Francisco have been kept steadily off the water by the railway company putting on steamers of its own and regulating the freight carried by water.

Mr. PILES. That is run in connection with the railroad. In that case the Interstate Commerce Commission does have jurisdiction and ought to have jurisdiction. I do not think anyone will question that.

Mr. PERKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the senior Senator from California?

Mr. CUMMINS. I do.

Mr. PERKINS. I want to state to the Senator from Oregon [Mr. CHAMBERLAIN] that he is mistaken. There are no independent lines of steamers plying on the Pacific coast between Portland and San Francisco and ports on Puget Sound and San Francisco, but there are a hundred steam schooners engaged in the transportation of lumber and merchandise between Puget Sound and San Francisco and intermediate ports. While there is, it is true, a line connected with it, they are independent lines that have no connection whatever, except to be operated by the owners of those vessels. Therefore it would be a great injustice to place those vessels in anywise under the control of the Interstate Commerce Commission or any other commission. They go more than a league outside of land.

Mr. CHAMBERLAIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Oregon?

Mr. CUMMINS. I do.

Mr. CHAMBERLAIN. Mr. President, I think the Senator from Washington [Mr. PILES] agrees with me that the statement I have made is correct as respects the independent steamship lines which have been operating between Seattle and San Francisco and points south. I know that it has been so.

Mr. PILES. No.

Mr. CHAMBERLAIN. I know that independent lines of steamships have been attempted to be established between Portland and San Francisco, and invariably the railroad companies have put on steamers and have so reduced the rate that the independent company could not possibly operate. Not only is that true in the West, but it is also true along the Mississippi River. Where railroad lines parallel the Mississippi River independent lines of steamers have been put out of business by the railroad companies paralleling the river and fixing a rate at which no independent line could exist. It seems to me that the contention of the Senator from Washington is not well taken with respect to this proposed amendment.

Mr. PILES. Mr. President, will the Senator from Iowa permit me to interrupt him for just a moment?

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from Washington?

Mr. CUMMINS. I do.

Mr. PILES. Mr. President, I do not agree with the Senator from Oregon [Mr. CHAMBERLAIN] that independent lines are run off the sea between the ports of Puget Sound and San Francisco, because just the reverse is the fact.

Mr. CHAMBERLAIN. I think that is true with reference to small steamers that have to go into the little ports; but I have been speaking of the large steamers that do the mass of the business between the larger ports of the Pacific coast.

Mr. PILES. Therein again the Senator from Oregon is mistaken. Our finest steamers that ply between Seattle and San Francisco have no connection with any railroad. There are several lines, two or three at any rate, running between the ports of Puget Sound and those of southern and northern California. The Pacific Coast Steamship Company runs a regular line of steamers between the ports of Puget Sound and San Francisco, and between San Francisco and southern California, having its main office in the city of Seattle. The Pacific Coast Company is an independent company; that is to say, it owns no transcontinental railroad; it owns no railroads except the local railroads that run between the city of Seattle and its coal mines. It brings its coal down over its local lines of railway to the city of Seattle, and there transships it to any point it may desire. Its lines of railway are confined wholly within the limits of King County, of which Seattle is the county seat. That company operates some of the best steamers on the Pacific coast, both passenger and freight, between the ports of Puget Sound and San Francisco and San Francisco and southern California. The Dollar Line operates between those ports, or used to.

I am not contending, and I shall not contend, that any steamship line that is operated as a part of a railway system ought not to be within the jurisdiction of the Interstate Commerce Commission, as it is to-day.

What I do contend, however, Mr. President, is that no steamship line running independently of railway companies ought to be handicapped in its business so that it will be prohibited from making and meeting a competitive rate made by what we call tramp steamers.

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

The VICE-PRESIDENT. Does the Senator from Iowa yield for that purpose?

Mr. CUMMINS. I do.

Mr. BEVERIDGE. Are there many of those tramp steamers, or are they only occasional?

Mr. PILES. Yes; there are quite a number of them.

Mr. CUMMINS. Mr. President, we are discussing a proposition that I at least did not bring before the Senate by my suggestion. The question of whether the Interstate Commerce Commission should be given power to control, power to fix the rates for business on water is determined, so far as the present law is concerned, by the first section of the statute, which defines the common carriers that are to be brought within the operation of the law. The point I make is that the amendment which is proposed by the Senator from West Virginia [Mr. ELKINS] is an amendment that refers to through routes, through classifications, and through rates, and has neither meaning nor application in the present connection. Allow me to read, if you please, the section as it would be if this amendment were adopted:

> The commission may also, after hearing, on a complaint or upon its own initiative without complaint, establish through routes and joint classifications, and may establish joint rates as the maximum to be charged and may prescribe the division of such rates as hereinbefore provided and the terms and conditions under which such through routes shall be operated, whenever the carriers themselves shall have refused or neglected to establish voluntarily such through routes or joint classifications or joint rates; and this provision shall apply when one of the connecting carriers is a water line. The commission shall not, however, establish any through route, classification, or rate between street, suburban, or interurban electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business and railroads of a different character; nor shall the commission have the right to establish any through route, classification, rate, fare, or charge when the transportation is wholly by water.

That does not relate to the power of the Interstate Commerce Commission to establish rates for water carriers. It relates entirely to the power to establish through routes, through rates, and through classifications. If the Senator from West Virginia wants to make what I think is already adsolutely clear still clearer, and to remove water carriers entirely from the jurisdiction of the commission in making rates, then it ought to be an amendment to section 1 of the bill. We could then meet the question with absolute certainty, at any rate, and whatever objections there may be can be expressed.

I am not prepared to say that I favor—in fact, my present impression is against the proposition—giving the Interstate Commerce Commission the power to fix rates for water business; but I want the law to be amended so that people will understand it and so that the commission can use the power it has with some intelligence.

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I do.

Mr. ELKINS. The Senator is right. In all acts of Congress since this class of legislation was inaugurated, in 1887, water has been excepted. No control has ever been given over the water, just as the Senator before stated. The act of 1906, to make it clear, says "except water." That is one of the exceptions, but that is rather an indefinite expression. Those engaged in shipping wholly by water claim that this ought to be put beyond the realm of doubt, and read "nor shall the commission have the right." No matter where it comes in, it is coming in under joint routes and through routes.

Mr. CUMMINS. It matters a good deal, I think, where it comes in.

Mr. ELKINS. It only says the commission has a right to establish what?

> Any through route—

That is one thing—

> any classification—

That is another—

> rate, fare, or charge.

I think the Senator was mistaken.

Mr. CUMMINS. That is not the meaning of your amendment.

Mr. ELKINS. I think it is, and I will leave it to the Senate. We are denying this power to the commission in order to make the matter clear, and in the interest of water carriers to keep the rates down. If a schooner or a tramp steamer on the Pacific coast or on the Atlantic coast was required to give notice of thirty days, as the railroads are or as the railroads operating a water line are, how could you regulate the rates? They would be at the mercy of the other lines and at the mercy of the railroads. As it is to-day, and as we want to keep it, a water carrier can sail the next day with a cargo that he has loaded on the night before. He does not have to give notice. The water carriers insisted on this language to put the matter beyond any doubt. My amendment provides:

> Nor shall the commission have the right to establish any through route, classification,—

Now, we come to the proposition—

> rate, fare, or charge when the transportation is wholly by water.

We are trying to deny to the commission any power whatever to do these things when the transportation is wholly by water. It seems to me that is as plain as language can make it.

Mr. BACON. Mr. President——

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

Mr. ELKINS. Yes.

Mr. BACON. I should like to inquire of the Senator whether the same end could not be accomplished by leaving out the word "through," the use of which might lead to some misconstruction?

Mr. ELKINS. The water carriers thought that that was right, but I have no objection to the word "through" being eliminated.

Mr. BACON. What is the significance of "through" in connection with a water carriage where there is no joining with any other line of transportation?

Mr. ELKINS. I will tell the Senator. I suppose that if a ship touched at four or five points before it got to New Orleans it would be a through route; but I have no objection to striking out the word "through." I do not know but that it might clear the situation. As I have said, this was put in at the instance of the water carriers to remove the question beyond any doubt. I agree to the striking out of the word "through."

Mr. BRISTOW. Mr. President, I should like to call the attention of the Senators from the Pacific coast to this situation for the purpose of having an expression of opinion upon it: The Pacific Mail Steamship Company does not run any farther north than San Francisco. Any freight from Seattle or Portland, or any other port north of San Francisco that is bound for New York by way of Panama, must be carried by local steamer down the coast to San Francisco, and there transshipped to a Pacific Mail steamship. The local rate is charged from whatever port the cargo is shipped to San Francisco, and then the through rate from San Francisco to New York is charged, which makes the rate so high that the Panama route never has been worth anything to any of the cities north of San Francisco. Now, would it not be a desirable thing if the commission should have the power to fix a through route from Seattle to New York by way of Panama and San Francisco, so as to give the ports north of San Francisco the advantage of a through route to New York by way of Panama, which they

never have had, because the Pacific Mail Steamship Company does not go north, being interested in San Francisco and not in the northern cities?

Mr. PILES. Mr. President, there is no question now but that the Interstate Commerce Commission has jurisdiction over the Pacific Mail route that is run in connection, as I understand, with a railroad company.

Mr. BRISTOW. No.

Mr. PILES. I confess that I am not very familiar with that route.

Mr. BRISTOW. No; the commission has no jurisdiction over that.

Mr. PILES. Is the Pacific Mail route independent of the railroads?

Mr. BRISTOW. It is independent of the commission. It is owned by the Southern Pacific Railroad, but the commission has nothing to do with the San Francisco and New York rate, because it is an all-sea rate.

Mr. PILES. Is not the Pacific Mail run in connection with the railroad?

Mr. BRISTOW. Yes; the Panama Railroad; but that is not under the control of the Interstate Commerce Commission.

Mr. PILES. But is it not run in connection with the Southern Pacific Railroad from San Francisco?

Mr. BRISTOW. Certainly; just like the Morgan Line is from Galveston.

Mr. PILES. I think that where a steamship line is operated as a link in a railroad system the commission has jurisdiction over it, because a shipment over it can not be said then to be a shipment wholly by water.

Mr. BRISTOW. If the shipment is made from New York to San Francisco it is a water shipment, and not a part-rail and part-water shipment.

Mr. PILES. Yes; but the law is as follows:

> The provisions of this act shall apply to * * * and to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad [or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment].

As I understand, the Pacific Mail Steamship Company is owned by a common carrier engaged in the transportation of persons or property partly by rail and partly by water, and that the ships are used as a link in the railway line. But I am not sufficiently familiar with the Pacific Mail Line to say just what its relations to the railway company are.

Mr. BRISTOW. The shipment, if it is partly by rail and partly by water, would be under the commission's control, but the shipment is not partly by rail and partly by water because it is from port to port, from New York to San Francisco.

Mr. PILES. Yes; but answering the Senator's question, that does not affect, as I understand, the people of Puget Sound ports. So far as we are concerned, our ships run in direct competition with railroads from the north to the south and from the south to the north, carrying both passengers and freight in direct competition with the railroads.

Mr. BRISTOW. Yes; that is a coast-to-coast trade.

Mr. PILES. Yes.

Mr. BRISTOW. But if a merchant or shipper in Seattle desires to take advantage of the Panama route to ship to New York, he has to pay the local rate to San Francisco and then transship to the Pacific Mail and go across the Isthmus.

Mr. PILES. Yes; but, Mr. President——

Mr. BRISTOW. And it makes the rate very high.

Mr. PILES. But that is an altogether out-of-date shipment.

Mr. BRISTOW. It is an out-of-date shipment because the railroads owning the steamship lines have made it out of date. They want to transport the traffic across the continent by rail, instead of by way of Panama, where they only get half the transcontinental rate.

Mr. PILES. We have five or six transcontinental railroads terminating in the city of Seattle, running directly across the country, and we do not ship via the Panama route to any considerable extent.

Mr. BRISTOW. If the Senator will consult the chambers of commerce in those coast cities, he will find that they are exceedingly anxious for an opportunity to ship by way of Panama, which has always been denied them.

Mr. PILES. They are anxious if the Government establishes a steamship line on the coast to have it run as far north as Puget Sound, that we may have a through route across the Isthmus.

Mr. BRISTOW. Mr. President, I should like to ask the Senator from Washington another question. There seems to be a contest between the regular lines and the tramp steamers. I should like to inquire of the Senator if the tramp steamer is not the best friend the shippers of the Pacific coast have?

Mr. PILES. We think it to be about the worst enemy we have.

Mr. BRISTOW. The worst enemy of the railroads and the railroad steamship lines, but the shippers that want to ship and get out from under the combination of steamships and railroads welcome the tramp steamer when it comes into port.

Mr. PILES. Mr. President, I have put in nearly twenty-seven years on the Pacific coast, and I know that in order to protect our commerce, in order to give us competition against the railroads, we must maintain regular steamship lines. If the tramp steamships could succeed in destroying the regular lines, we would be at the mercy of the railroads, for the tramp steamers ply on no regular route. They go wherever they can find business. I have no fear, however, that the tramp steamers will have such a serious effect upon our commerce, but we ought to have the fullest latitude in meeting their competition.

Mr. LODGE. Mr. President, the Senator from Kansas [Mr. BRISTOW] referred to chambers of commerce. The Boston Chamber of Commerce, I know, is extremely opposed to putting the coastwise traffic wholly by water under the control of the Interstate Commerce Commission. That, I think, is the general feeling in all the coast cities. They do not want the coastwise traffic of the United States placed under the Interstate Commerce Commission when that transportation is wholly by water. If there is any doubt on that subject in this bill, there ought to be some such amendment as the Senator from West Virginia proposes, so as to put it beyond the possibility of doubt. There is no reason in the world for putting transportation wholly by water—all our coastwise traffic—under the Interstate Commerce Commission, which is dealing with a totally different class of subjects.

Mr. BACON. Mr. President, of course I think it very proper, whenever there is any shipment partly by rail and partly by water, that the entire shipment should be under the control and regulation of the Interstate Commerce Commission, and I should be very sorry to see any words put into this bill which would put that matter in the least doubt; but where the shipment is exclusively by water, it is a very different proposition. There is one suggestion which has not yet been made, while I have been listening to the argument, which, to my mind, shows the impracticability of putting shipments which are wholly by water under the control of the Interstate Commerce Commission.

Of course the interstate-commerce law prohibits discriminations and requires that there shall be the same rate charged to everybody. That is entirely practicable in the case of a railroad, because a railroad uses the same kind of conveyances for all of its shipments. It has certain freight cars for the shipment of freight; it has passenger cars for the transportation of passengers; and it charges the same for a slow train that it does for a fast train, and so on. The water shipment is necessarily given, not to one particular line of steamers—I say "necessarily"—I mean practically it necessarily so results, for there are various kinds of water craft. We have fine, fast steamers; we have slow tramp steamers; we have sailing vessels; and if the Interstate Commerce Commission could, for instance, fix a rate between Savannah and Boston, it would apply to all classes of ships alike, and it would be utterly impracticable. It would necessarily drive out from the trade between those two ports all such things as sailing vessels, because no man would pay as much to send freight by a slow sailing schooner as he would pay by a fast moving passenger steamship. There are lines of steamers between the two cities I have mentioned, and there are sailing vessels between the two ports I have mentioned, but the conditions are so entirely different from what they are in rail shipments that I think the policy which has been heretofore recognized as the correct one, which is that the interstate-commerce law which is passed for the regulation of railroads, shall not be made to apply to water transportation.

There are a great many other reasons. There is more possibility and feasibility of competition between those companies engaged in water transportation than there is on the land.

I do not know, Mr. President, that there will be anything in this bill that I would particularly favor. At the same time, I should certainly object to leaving it in doubt as to whether or not the Interstate Commerce Commission could be able to make rates between the ports where the transportation was to be exclusively by water.

Mr. CHAMBERLAIN. Mr. President——

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

Mr. BACON. With pleasure.

Mr. CHAMBERLAIN. To put a concrete case, suppose a shipment is made from St. Louis to New Orleans by water. A railroad company parallels the Mississippi from St. Louis to New Orleans; competing lines come in and undertake to carry freight by water; but the railroad company reduces its rate by rail to such a point that no competing water transportation can exist; or the railroad company may put on a transportation system by water and carry freight at such low rates that competing lines are driven off the water. Immediately after that has happened the railroad company raises the freight rate again and ties its boats to the docks. Does not the Senator think that in a case of that kind, where the rail and the water transportation are operated by the same railroad company the Interstate Commerce Commission ought to have a right to regulate the rate and say to the company, "You can not reduce your rate below a certain level, so as to drive out competition, and after you have driven out competition, you can raise it to a high rate again."

Mr. BACON. The case suggested by the Senator is certainly one in which much wrong is done, and it is very much to be regretted that such is the case. But no law can be perfect, and the great question is whether the evil of which he complains, and which he suggests is possible, is one so great as to justify the destruction of the opportunity which is now given for water transportation to compete with rail transportation. I think it is of the utmost importance that wherever there is an opportunity for water transportation the water carriers should be left free to compete and to carry freight as cheaply as possible. I think it is possible, outside of the interstate commerce act, one of the strongest safeguards the people can have in support of continued competition.

I am particularly impressed with this conclusion from the fact, as we are all influenced more or less by personal considerations and by the interests of the people we represent, that my own people are so deeply interested in the question of water transportation. The city of Savannah, which is situated in my State, has more commerce by water than all the cities on the Atlantic coast between Baltimore and Key West put together. All the cities along the Atlantic coast between Cape Henry and the Florida Keys put together do not have so much water commerce as the city of Savannah. That is shown by the statistics. Therefore, I am most deeply interested in the question whether or not that commerce shall be in any manner interfered with.

I will remark in passing that a very large proportion of that—I am not prepared to say it is the larger proportion, but I believe it is—is water transportation between Savannah and other ports of the United States, Atlantic ports.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. LODGE in the chair). Does the Senator from Georgia yield to the Senator from Iowa?

Mr. BACON. I yield to the Senator.

Mr. CUMMINS. I agree with the Senator from Georgia about the general subject. It seems impossible to keep the discussion on the part of some Senators on the real point. What I want to ask the Senator from Georgia is this: We have in the first section of the law a recital of the companies or persons that shall be termed common carriers, and which come within the jurisdiction of the Interstate Commerce Commission. That section, as it seems to me, expressly excludes the carriers that do business wholly by water.

Mr. BACON. I think so.

Mr. CUMMINS. The Interstate Commerce Commission has so decided.

Mr. BACON. But still by a divided commission, as I understand.

Mr. CUMMINS. But it is said by my friend from Washington that it is nevertheless a doubtful matter yet.

The Senator from Georgia will remember that there are a great many other powers over common carriers conferred by the act upon the Interstate Commerce Commission, powers that are quite as important—possibly not as important, but still important. The fixing of rates is simply one of the powers given by the law to the Interstate Commerce Commission over such carriers as fall within the act.

After the Senator from West Virginia has eliminated the word "through," the original objection I made would not apply. But when you segregate by this act this one power of fixing a rate you impliedly construe the first act so that the other powers of the commission may be exercised over the water carriers, and therefore I simply reiterate that if it is desired to make the question clear, the amendment ought to be to the first section of the law and not be thrown into this section with regard to through rates.

Mr. BACON. I think the Senator is correct in that suggestion, and I would the more readily support an amendment, which should be of a general character, to the effect that the Interstate Commerce Commission should have no power or control over shipments made exclusively by water. I do not know whether the Senator from West Virginia [Mr. ELKINS] has caught the suggestion which the Senator from Iowa has just made. I myself would prefer an amendment such as he suggests the propriety of——

Mr. CUMMINS. I do not think the Senator from West Virginia caught it, but I believe upon reflection he will think it is best to postpone consideration of this amendment until he can give it further investigation.

Mr. ELKINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. Yes.

Mr. ELKINS. I think we had better adopt this amendment, as so many Senators are pressing for us to go. As I said before I did not put it in. I consulted a good deal with the Senator from Iowa. I agree with him in part, but inasmuch as the Senate wants to vote on this, I ask that a vote be taken. I have no choice as to where it is put.

Mr. BACON. I do not know that the Senator from West Virginia caught the suggestion of the Senator from Iowa, which, it seems to me, is one of some importance.

Mr. ELKINS. That is, to postpone it. If it is a question of locating it——

Mr. BACON. No; it is not. The Senator did not hear me. The suggestion of the Senator from Iowa was that there are other powers conferred upon the Interstate Commerce Commission than the simple power to fix rates, and that the specification at this place—that it shall not have the power to fix rates in this matter of water transportation—might imply the right——

Mr. ELKINS. I see the point.

Mr. BACON. To exercise other powers by the Interstate Commerce Commission over the transportation of freight exclusively by water. It struck me that there was something in that suggestion which possibly might commend itself to the Senator from West Virginia, because the suggestion is in the interest of the very thing which he has sought to accomplish by this amendment. It is in the interest of excluding from the Interstate Commerce Commission the exercise of any power over transportation which is exclusively water transportation and not connected in any manner with rail transportation.

Mr. ELKINS. Will the Senator from Iowa indicate at what point or place in the bill it could be better located than here? The first section pertains to the court——

Mr. CUMMINS. In speaking of the first section, I think I said the first section of the act. I referred to the interstate-commerce law as it is now; the act of 1887. The first section of that act specifies or defines common carriers and declares what common carriers shall come within the provisions of the law.

Mr. ELKINS. I should like to adopt this language and put it where the Senator from Iowa and the Senator from Georgia may agree it should go.

Mr. CUMMINS. I am wholly opposed to the language, although——

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from West Virginia, as modified. The Chair understands that the Senator from West Virginia accepted the modification striking out the word "through."

Mr. ELKINS. Yes.

Mr. CUMMINS. I understand the Senator declines to withhold the amendment.

Mr. ELKINS. I am willing to locate it anywhere, but I should like to have a vote on it now.

Mr. CUMMINS. I call for the yeas and nays.

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

Mr. FLINT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON]. As he is absent from the Chamber I withhold my vote.

Mr. SCOTT (when his name was called). I have a general pair with the senior Senator from Florida [Mr. TALIAFERRO]. I transfer the pair to the junior Senator from Wisconsin [Mr. STEPHENSON] and will vote. This announcement will stand for the day on any roll calls that may be had. I vote "yea."

The roll call was concluded.

Mr. PAGE. I desire to announce that my colleague [Mr. DILLINGHAM] is unavoidably absent from the city.

Mr. KEAN. My colleague [Mr. BRIGGS] is necessarily absent, and is paired with the junior Senator from North Dakota [Mr. PURCELL]. If my colleague were present he would vote "yea."

Mr. ALDRICH. The senior Senator from Maine [Mr. HALE] is detained from the Senate and is paired with the senior Senator from Arkansas [Mr. CLARKE]. The junior Senator from Maine [Mr. FRYE] is necessarily absent on account of illness, and I understand is paired with the senior Senator from Virginia [Mr. DANIEL].

Mr. PURCELL. I am paired with the junior Senator from New Jersey [Mr. BRIGGS].

The result was announced—yeas 51, nays 9, as follows:

YEAS—51.

Aldrich	Curtis	Jones	Rayner
Bacon	Depew	Kean	Richardson
Borah	Dick	Lodge	Root
Bourne	Dixon	Lorimer	Scott
Brandegee	du Pont	Martin	Simmons
Brown	Elkins	Money	Smith, Mich.
Bulkeley	Fletcher	Nixon	Smoot
Burnham	Foster	Oliver	Sutherland
Burrows	Frazier	Overman	Taylor
Burton	Guggenheim	Page	Warner
Crane	Heyburn	Paynter	Warren
Crawford	Hughes	Perkins	Wetmore
Cullom	Johnston	Piles	

NAYS—9.

Bristow	Clay	Dolliver	La Follette
Chamberlain	Cummins	Gore	Owen
Clapp			

NOT VOTING—32.

Bailey	Clarke, Ark.	Gamble	Purcell
Bankhead	Culberson	Hale	Shively
Beveridge	Daniel	McCumber	Smith, Md.
Bradley	Davis	McEnery	Smith, S. C.
Briggs	Dillingham	Nelson	Stephenson
Burkett	Flint	Newlands	Stone
Carter	Frye	Penrose	Taliaferro
Clark, Wyo.	Gallinger	Percy	Tillman

So the amendment proposed by Mr. ELKINS, as modified, was agreed to.

Mr. GALLINGER subsequently said: Mr. President, I have been engaged for two hours and more conducting a hearing on the part of the Committee on the District of Columbia, and hence I was unable to be in the Chamber until a few moments ago. Had I been here when a record vote was taken, I would have voted "yea," and I would have stated that the Senator from Maine [Mr. FRYE] had requested me to announce that he was absent because of illness and is paired with the Senator from Virginia [Mr. DANIEL].

Mr. ELKINS. I offer the following amendment: On page 13, line 22, after the word "commission," insert the words "which agreement shall be subject to the approval of the Interstate Commerce Commission." The committee found that a majority of the members were in favor of the approval of making the agreements subject to the approval of the Interstate Commerce Commission, and the committee moves the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 13, line 22, after the word "commission," it is proposed to insert "which agreement shall be subject to the approval of the Interstate Commerce Commission."

Mr. CRAWFORD. Mr. President, I wish to propose an amendment to this section. Would it be proper for me to offer it as an amendment to this amendment?

Mr. ELKINS. Will not the Senator speak louder?

The PRESIDING OFFICER. Undoubtedly it would be in order.

Mr. CRAWFORD. I say I have an amendment to section 7 which I wish to offer, and the inquiry is whether I can offer it as an amendment to the amendment.

Mr. ELKINS. Is it an amendment to my amendment?

Mr. CRAWFORD. It is an amendment which I wish to offer to section 7.

The PRESIDING OFFICER. The Chair will ask the Senator to state the amendment or have the Secretary state it.

Mr. CRAWFORD. I will send it up.

Mr. ALDRICH. I would suggest that the Senator from South Dakota offer his amendment as a substitute for the amendment of the Senator from West Virginia, and that the amendments be considered together—that is, one be classed as an amendment offered by the Senator from West Virginia and the other a substitute offered by the Senator from South Dakota.

Mr. ELKINS. I should like to have the proposed substitute read.

Mr. CRAWFORD. I could not hear over here what the amendment proposed by the Senator from West Virginia is, although I noticed it was to the section to which I desire to propose an amendment.

The PRESIDING OFFICER. The Secretary will again state the amendment.

The SECRETARY. On page 13, line 22, after the word "commission," insert the words "which agreement shall be subject to the approval of the Interstate Commerce Commission."

Mr. CRAWFORD. It is upon that proposition I desire to offer an amendment; and if it is proper, I will offer it as a substitute.

Mr. ELKINS. I should like to have it read, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota offers an amendment as a substitute for the amendment moved by the Senator from West Virginia. The Secretary will state the substitute.

The SECRETARY. On page 13, line 10, after the word "agreements," insert "made subject to the approval of the Interstate Commerce Commission;" in line 11 strike out the word "specifying" and insert in lieu thereof the words "relating to;" in line 13 strike out the words "which they agree to establish;" strike out the comma after the word "otherwise," in line 17, and insert a period; strike out the words "if a" in line 17 and insert the word "A;" strike out the word "is" in line 18 and insert the words "shall be;" after the word "Commission," in lines 21 and 22, strike out the semicolon and insert a period and the words "The approval of said agreement shall not, however, be held to prevent the commission at any time thereafter in the manner provided by law, upon complaint or upon its own initiative, from suspending, modifying, or changing any schedule of any rate, fare, or charge, or any classification made pursuant to said agreement;" in line 3, page 14, the same section, before the word "agreed," insert the word "such;" in line 5, page 14, after the word "classification," insert the words "as hereinafter provided."

Mr. ELKINS. I ask to have the text read as it will appear if the substitute is adopted.

Mr. CUMMINS. I rise to a parliamentary inquiry. We had some discussion yesterday as to what could be offered as a substitute for an amendment. I wish to ask the Chair whether this proposed amendment is subject to the objection that was made to the one I offered yesterday.

The PRESIDING OFFICER. The Chair is of the opinion that it is a totally different class of amendment, and that it is perfectly legitimate to offer a substitute for the amendment of the Senator from West Virginia. There is no proposition here to strike out and insert that the Chair is aware of.

Mr. ELKINS. Let the substitute be read.

Mr. CUMMINS. The amendment of the Senator from South Dakota inserts a great deal and strikes out a great deal.

Mr. CRAWFORD. If I may be permitted a word here——

Mr. CUMMINS. I am not raising a point of order. I simply want to inquire whether it is of the same general character as the amendment which yesterday was ruled out of order.

The PRESIDING OFFICER. The Senator from South Dakota offers an amendment in the nature of a substitute. A portion of the amendment he offers takes the place of the amendment offered by the Senator from West Virginia at the same point. The other amendments offered by the Senator from South Dakota technically would have to be considered separately, but it all depends, in the opinion of the Chair, upon the substitution of the clause which he asks be substituted for the clause offered by the Senator from West Virginia.

Mr. CUMMINS. I should like to hear the section as it would read if the changes suggested by the Senator from South Dakota were agreed to.

The PRESIDING OFFICER. The Chair will have the section read as proposed to be amended by the Senator from South Dakota.

The Secretary read as follows:

SEC. 7. That section 5 of the act to regulate commerce, approved February 4, 1887, as amended, is hereby amended by adding at the end thereof a new paragraph, as follows:

"Agreements made subject to the approval of the Interstate Commerce Commission between common carriers subject to this act relating to the classifications of freight and the rates, fares, and charges for transportation of passengers and freight shall not be unlawful under the act to regulate commerce as amended, or under the act approved July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' or otherwise. A copy of such agreement shall be filed with the Interstate Commerce Commission within twenty days after it is made, and before or when any schedule of any rate, fare, or charge, or any classification made pursuant to the agreement is filed with the commission. The approval of said agreement shall not, however, be held to prevent the commission at any time thereafter in the manner provided by law upon complaint or upon its own initiative from suspending, modifying, or changing any schedule of any rate, fare, or charge, or any classification made pursuant to said agreement, but all provisions of the act to regulate commerce, approved February 4, 1887, as amended, and all provisions of this act and any future amendments thereof shall apply to such agreed rates, fares, and charges, and such agreed classifications, and the Interstate Commerce Commission shall have like control over

and power of action concerning any such agreed rate, fare, charge, or classification, including suspension of the rate or classification, as hereinafter provided, before it becomes effective, and pending investigation of its propriety, as if the rate, fare, charge, or classification had been made without agreement, and any party to such agreement may cancel it as to all or any of the agreed rates, fares, charges, or classifications by thirty days' notice in writing to the other parties and to the Interstate Commerce Commission, and such agreement of carriers, though filed with the commission, shall not be deemed a tariff or schedule of rates, fares, or charges collectible from the public, or operate itself to alter any such tariff or schedule whensoever filed and published, but nothing in this section contained shall be deemed to authorize the making of agreements for the pooling of freights in violation of the provisions of section 5 of the said act of February 4, 1887."

Mr. ELKINS. Mr. President——

The PRESIDING OFFICER. Will the Senator allow the Chair to state the question?

Mr. ELKINS. Certainly.

The PRESIDING OFFICER. The Senator from West Virginia offers an amendment to come in in line 22, after the word "commission." The Senator from South Dakota offers a substitute for that amendment at that point, and in conjunction he offers a number of other amendments to the section. The Chair is of opinion that strictly, if a point of order is made, only the amendment in line 22, at the point where the Senator from West Virginia offers his amendment, can be considered as a substitute, and that the other amendments to the section offered by the Senator from South Dakota must strictly be considered separately.

Mr. ALDRICH. I would ask, if there is no objection, that the amendments of the Senator from South Dakota be taken as a whole, to be considered as one proposition pending before the Senate.

The PRESIDING OFFICER. The Senator from Rhode Island asks unanimous consent that the amendments offered by the Senator from South Dakota shall be considered as a whole.

Mr. CUMMINS. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Iowa objects. The question, then, is on the substitution.

Mr. CUMMINS. In connection with the objection, I may say that it is made solely for the purpose of being able to understand this amendment. It is utterly impossible for Senators, upon hearing the amendment read, to catch the full import of it and to be sure of the changes that it makes in the section.

I hope it will be printed, as proposed by the Senator from South Dakota, and that we will be given a chance to examine it; and if it can be considered properly in connection with the amendment of the Senator from West Virginia, I shall not persist in my objection. But I do want, before voting on it or before debating it, to see it in print. This is one of the most important parts of the bill and one upon which probably more differences of opinion will arise than upon any other. I think it is only fair that with respect to an amendment of such far-reaching consequences we shall have it before us and have a chance to look into it before we are called upon either to vote upon it or to discuss it.

Mr. CRAWFORD. It was not my purpose to unduly crowd this amendment. I should like to state what my amendment proposes to do.

The PRESIDING OFFICER. Before the Senator makes that statement he will permit the Chair, who was interrupted in his statement, to state the proposition as it stands.

The Senator from West Virginia moves an amendment, on line 22, after the word "commission." The Senator from South Dakota moves certain other language as an amendment in the nature of a substitute to the language offered by the Senator from West Virginia at the same point, and in connection therewith he offers certain other amendments to the paragraph, which will be considered separately, as objection has been made to considering them as one amendment.

Mr. CUMMINS. I understand the ruling of the Chair perfectly, and I know further that it would be possibly idle to consider a part of the amendment offered by the Senator from South Dakota without being able to take into account the whole of it. The minority of the committee has an amendment upon this point which has been carefully considered, and I am sure I am speaking for the minority when I say that all we desire to accomplish is the amendment of the section, so that the public interest will be protected. I can not tell, from the reading at the desk, what the effect of this amendment will be. I do not make the suggestion with any desire to delay, but there are a great many other amendments here that might be taken up. We can occupy the time until 6 o'clock, but I do feel that this particular amendment should go over.

Mr. ELKINS. I should like to have the Senator from South Dakota explain his amendment.

Mr. CUMMINS. I have no objection to that.

Mr. CRAWFORD. All I desire is to say that, as I understood the Senator from Iowa [Mr. CUMMINS], to whom I listened closely and with great interest, in his address, and also the Senator from Minnesota [Mr. CLAPP], I agreed with them that the proposed change in this amendment, by putting in the words "subject to the approval of the Interstate Commerce Commission" lower down in the section, in connection rather with rates and investigations instead of in connection with agreements, left the bill still uncertain and unsatisfactory in regard to the agreements.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER (Mr. SMITH of Michigan in the chair). Does the Senator from South Dakota yield to the Senator from Minnesota?

Mr. CRAWFORD. I do, but I simply started to state what I am trying to do in this amendment.

Mr. CLAPP. Of course the amendment, not having been written out in detail, it is a little difficult for us to judge of it.

Mr. CRAWFORD. I will simply call attention to the proposed change that I am presenting here.

Mr. CLAPP. I want to ask——

Mr. CRAWFORD. I am proposing after the word "agreement," the very first word in the second paragraph of section 7 in the tenth line, to put in the words "made subject to the approval of the Interstate Commerce Commission," so that this agreement would be no more nor less than a proposed agreement, subject to the approval of the Interstate Commerce Commission. Then I have added after the word "otherwise"——

Mr. CLAPP. If the Senator will pardon me a question——

Mr. CRAWFORD. If the Senator will permit me to finish my sentence, I have added after the word "otherwise," in the twenty-second line, that the approval of this agreement should not prevent the Interstate Commerce Commission thereafter at any time from reviewing and modifying or changing in the manner provided in the bill the rates and classifications in the bill.

That is the purpose of the amendment which I have offered. The other changes are mere minor changes to harmonize the language of the section with these two.

Mr. CLAPP. Now, if the Senator will pardon a question, I should like to ask him whether it is his purpose in this amendment to provide that an agreement shall not be lawful until it is approved?

Mr. CRAWFORD. Certainly; it is a mere proposition for approval.

Mr. CLAPP. Then the question is of furnishing language that is sufficient by which that can be done.

Mr. CRAWFORD. By which the commission shall approve. That is the entire purpose of the words inserted as to an agreement.

Mr. SUTHERLAND. Mr. President, does the Senator from South Dakota mean to say that by his amendment he intends to provide that these proposed agreements shall be unlawful under the terms of the antitrust act if not approved, or does he mean——

Mr. CRAWFORD. I did not say that.

Mr. SUTHERLAND. Or does the Senator mean to say that they shall not be effective unless approved?

Mr. CRAWFORD. I did not say either. I say they are not effective agreements until they are approved; they are mere proposals, subject to the approval of the Interstate Commerce Commission.

Mr. ELKINS. Mr. President, the majority of the committee finds itself in this situation: It was fully expected that the discussion on the seventh section would consume this afternoon, and now to the reasonable request of the Senator from Iowa, it being such an important section in the bill and will give rise to a great deal of debate, and as the amendment offered as a substitute is important, that it should be printed, I have no objection. This would carry over the further consideration of the bill to-day and the majority of the committee would still be in the position of perfecting its amendments.

I ask unanimous consent that the bill be laid aside temporarily. I will state further that, in view of the fact that the river and harbor bill comes in to-morrow and it looks to me like it will consume probably to-morrow and the next day, it is fair to Senators to say that I shall not press the consideration of this bill until Monday. I have had notice from the acting chairman of the committee, and he is here in his place now, that he would call up the river and harbor bill; and I think it due to Senators to say that the majority of the committee does not propose to press the further consideration of the pending bill until Monday.

The PRESIDING OFFICER. The Senator from West Virginia asks unanimous consent that the further consideration of the bill be temporarily laid aside. Is there objection?

Mr. ALDRICH. I would suggest that the amendments of the Senator from South Dakota be printed and that the section be printed as it would be if amended.

Mr. CRAWFORD. I have no objection to that.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. I wish the Senator would modify his request and ask that the bill be temporarily laid aside for the purpose of considering the river and harbor bill.

Mr. GALLINGER. That is not necessary.

Mr. ALDRICH. In answer to the suggestion of the Senator from Minnesota, I will say that Senators are interested in some bills on the calendar that they would like to dispose of to-day.

Mr. NELSON. I do not intend to bring forward the river and harbor bill to-day, but to-morrow I intend to call it up at the close of the routine morning business.

The PRESIDING OFFICER. The Senator from West Virginia asks unanimous consent that the pending bill be temporarily laid aside. Is there objection? The Chair hears none.

WALLA WALLA MILITARY RESERVATION LANDS.

Mr. BULKELEY. Mr. President, in view of the criticism that was made yesterday on account of the expenditures for military purposes at Fort Walla Walla, bill S. 3196, I ask leave to have printed in the RECORD section 1136 of the Revised Statutes, relating to appropriations of the character that was criticised yesterday. I wish to state that the Committee on Military Affairs, having matters of the character referred to in charge, have endeavored to act and always, within my knowledge, have acted under the provisions of this section of the statutes. I ask to have it printed in the RECORD.

The PRESIDING OFFICER. The Senator from Connecticut asks to have printed in the RECORD the section of the Revised Statutes which he sends to the desk. Without objection, it is so ordered.

The section referred to is as follows:

[Revised Statutes, 1878, section 1136.]

SEC. 1136. Permanent barracks or quarters and buildings and structures of a permanent nature shall not be constructed unless detailed estimates shall have been previously submitted to Congress and approved by a special appropriation for the same, except when constructed by the troops; and no such structures, the cost of which shall exceed $20,000, shall be erected unless by special authority of Congress.

LAND PATENTS IN ALASKA.

Mr. NELSON. I ask the Chair to lay before the Senate the action of the House of Representatives on Senate bill 621.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 621) to amend sections 2325 and 2326 of the Revised Statutes of the United States, which were to strike out all after the enacting clause and insert:

That in the District of Alaska adverse claims authorized and provided for in sections 2325 and 2326, United States Revised Statutes, may be filed at any time during the sixty days' period of publication or within six months thereafter, and the adverse suits authorized and provided for in section 2326, United States Revised Statutes, may be instituted at any time within sixty days after the filing of said claims in the local land office.

And to amend the title so as to read: "An act extending the time in which to file adverse claims and institute adverse suits against mineral entries in the District of Alaska."

Mr. NELSON. I move that the Senate disagree to the amendments of the House and ask for a conference on the disagreeing votes of the two Houses, the Chair to appoint the conferees on the part of the Senate.

Mr. KEAN. I should like to ask the Senator what is the change proposed here?

Mr. NELSON. Under the mining laws miners are required to give notice by publication in Alaska within a certain time and if there is any adverse claim to institute suit within a certain time. Under the general statute the time is too short. The bill gives them extra time. It is a bill originally prepared by the department. The House has amended the bill, and I ask the Senate to disagree to the amendments and request a conference.

The PRESIDING OFFICER. The Senator from Minnesota moves that the Senate disagree to the House amendments and ask a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the presiding officer appointed Mr. HEYBURN, Mr. CLARK of Wyoming, and Mr. CHAMBERLAIN the conferees on the part of the Senate.

THE CALENDAR.

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

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent that the Senate proceed to the consideration of the calendar under Rule VIII. Is there objection? The Chair hears none.

FIRST NATIONAL BANK OF MINDEN, NEBR.

Mr. BROWN. Before proceeding with the calendar in its order, I ask leave to call up the bill (S. 7409) for the relief of the First National Bank of Minden, Nebr.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to redeem, in favor of the First National Bank of Minden, Nebr., United States gold certificate issued under the act of July 12, 1882, series of 1888, No. D, 4,032, for $5,000, issued by the assistant treasurer of the United States at Chicago, Ill., on January 18, 1900, payable to the order of the Bankers' National Bank of Chicago, Ill., and by that bank assigned and made payable to the order of the said First National Bank of Minden, Nebr., and alleged to have been destroyed by burning. But the First National Bank of Minden, Nebr., shall first file in the Treasury a bond in the penal sum of double the amount of the principal of the certificate, with good and sufficient sureties, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any loss on account of the certificate.

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

MORRIS AND CUMMING CHANNEL BRIDGE.

Mr. BAILEY. I ask unanimous consent for the present consideration of the bill (H. R. 19633) to authorize Aransas Pass Channel and Dock Company to construct a bridge across Morris and Cumming Channel.

The Secretary read the bill, and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. BAILEY. I move, on page 1, line 3, to strike out the words "Pass Channel and Dock Company" and to insert "Terminal Railroad," so as to read "the Aransas Terminal Railroad."

The amendment was agreed to.

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

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

The bill was read the third time and passed.

Mr. BAILEY. The title will have to be amended.

The SECRETARY. Amend the title so as to read: "A bill to authorize Aransas Terminal Railroad Company to construct a bridge across Morris and Cumming Channel."

Mr. BAILEY. The word "Company" was there, and it was very natural for the clerks at the desk to leave it in, but I am told by the Representative from that district that it is incorporated as the "Aransas Terminal Railroad," and not "Company."

The PRESIDING OFFICER. The correction will be made, unless there is objection. The Chair hears none, and the title is amended so as to read: "A bill to authorize Aransas Terminal Railroad to construct a bridge across Morris and Cumming Channel."

THE CALENDAR—BILLS PASSED OVER.

Mr. SMOOT. The regular order, Mr. President.

The PRESIDING OFFICER. The first bill on the calendar will be announced.

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

Mr. SMOOT. I ask that this bill and the bills following—Senate bill 1630, House bill 12316, and Senate bill 5715—be passed over.

The PRESIDING OFFICER. This course will be taken.

Mr. GALLINGER. I ask that all the remaining orders on the page be passed over.

Mr. SMOOT. And the first on the next page.

The PRESIDING OFFICER. House joint resolution 116, Senate bill 6737, House bill 18166, House bill 20370, Senate bill 3528, and Senate bill 7132 will be passed over.

The bill (S. 6931) to provide for an experiment in the improvement of certain highways by the Secretary of Agriculture, in cooperation with the Postmaster-General, and for other purposes, was announced as next in order.

Mr. SMOOT. If the Senator from Alabama [Mr. BANKHEAD] were here, I would ask that this bill be transferred to the calendar under Rule IX, but I do not desire to do it in his absence. I give notice that when he is present and the bill is again reached, I shall make that request. I ask that the bill go over for to-day.

The PRESIDING OFFICER. Senate bill 6931 will go over.

DELIVERY OF WATER TO IRRIGATION SYSTEMS.

The bill (S. 6953) to provide for the disposition of surplus waters of projects under the reclamation act was considered as in Committee of the Whole.

The PRESIDING OFFICER. The pending question is on the amendment offered by the Senator from Nebraska [Mr. BURKETT] to strike out section 2 of the bill.

The amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

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

Mr. CLAY. Mr. President, from what committee does this bill come?

Mr. WARREN. It comes from the Committee on Irrigation and Reclamation of Arid Lands.

Mr. CLAY. Is that the bill which was under discussion the other day?

Mr. WARREN. It has been discussed several times.

The PRESIDING OFFICER. The bill was reported from the Committee on Irrigation and Reclamation of Arid Lands. The bill is in the Senate and open to amendment. If there are no further amendments, the question is, Shall the bill be ordered to be engrossed and read the third time?

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

Mr. BORAH. Mr. President, I am very heartily in favor of the passage of this bill and very anxious that it shall pass, but I know that my colleague [Mr. HEYBURN] is very earnestly opposed to it, and I feel that I ought to suggest that the bill ought not to pass until we have an opportunity to send for him.

Mr. WARREN. Mr. President, we have had this bill under discussion several days. One day last week the senior Senator from Idaho [Mr. HEYBURN] objected to laying aside the current business unless I and others would agree that this bill should not be brought up, and he stated that it might be brought up on Monday or at any time thereafter. That was last week. I said to him after the closing of the day's business that I should expect to bring the bill up at the first opportunity, whether he was here or not. He did not demur, and, in my opinion, he is expecting just that procedure.

Mr. HEYBURN entered the Chamber.

Mr. WARREN. The Senator from Idaho is now present.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. HEYBURN. Mr. President, may I ask what is under consideration?

The PRESIDING OFFICER. The Senate has under consideration the bill (S. 6953) to provide for the disposition of surplus waters of projects under the reclamation act.

Mr. HEYBURN. Is the bill under consideration on motion or under Rule VIII?

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. HEYBURN. I object. I ask that it may go over.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. HEYBURN. I ask that it go over.

Mr. WARREN. Mr. President, under the procedure on this measure and the understanding which was had a few days ago I feel compelled to move to take the bill up for consideration, and I make that motion.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WARREN] moves that the Senate proceed to the consideration of the bill indicated by him, notwithstanding the objection of the Senator from Idaho [Mr. HEYBURN].

The motion was agreed to.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. HEYBURN. Mr. President, when this measure was under consideration it was represented—I think I am correct in stating it—that it was a necessary measure, in order that certain Carey Act propositions might be supplied with water through the Reclamation Service. It was further represented that the Carey Act propositions desired the enactment of this legislation. I desire to read a telegram which I received yesterday, which is addressed to me, and which is as follows:

CALDWELL, IDAHO, *April 13.*

Payette-Boise Water Users' Association resolved that Warren bill should be amended to authorize the Secretary of the Interior to contract with irrigation districts or nonprofit-bearing organizations only. Unanimously and unalterably opposed to giving authority to contract with Carey Act companies or with any profit-bearing organization.

That means simply that the users of water are not favorable to this legislation, and I think the telegram throws considerable light upon this situation.

The Carey Act is a very beneficial law. People are entitled under existing law to the use of the water of public streams without charge. If they are placed in a position where they must pay for the water, the water users will have to pay more for the use of the water, at least to the extent that the Government charges the Carey Act proposition; in other words, if the Carey Act proposition must pay for the water it must charge somebody to the extent that it pays, thus making the water more expensive to the user than it would otherwise be. The only argument that was advanced in support of this measure that seemed to have merit was that it would be beneficial to the Carey Act proposition. Now that has fallen to the ground.

I may say further that, after the discussion here of this measure on former occasions, the representatives of the largest Carey Act proposition in Idaho came to Washington to see me in regard to this matter, and stated, after having read in the RECORD what had transpired in the discussion of this measure, that they were not favorable to it and that they did not desire the legislation. I refer to the Pittsburg parties, who are constructing or have constructed the largest Carey Act proposition in the United States.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Certainly.

Mr. BORAH. I did not favor this legislation originally, and do not favor it now because the parties to whom my colleague [Mr. HEYBURN] refers were in favor of it, although I understand that they were in favor of it; but I want to say to my colleague, in order that the RECORD may state the facts, that these people, I understand, are still very earnestly in favor of this bill. The bill could not, and should not, be passed or rejected upon the individual opinion of anyone, but I say to my colleague that if he is laboring under that impression I am satisfied that if he were in communication with those parties he would find that there is a misunderstanding between those parties and himself. But the bill should stand on its merits.

Mr. HEYBURN. Mr. President, they took the trouble to come from Pittsburg to see me in regard to the matter, and were very candid in their statements. I do not, of course, care to enter into a controversy that would necessarily be of a personal character.

Mr. BORAH. I do not say that they did not state to my colleague what he says. I am not challenging any statement which he makes. But there was evidently a misunderstanding between them and my colleague.

Mr. HEYBURN. Mr. President, I did not oppose this bill because of the desire of any parties for or against it. I opposed it on principle. I oppose substituting water that had to be paid for for the right to the free use of water. In the absence of this legislation, the right to the use of the water in the stream is free. The only expense connected with it is such expense as may be incurred in the construction of the works. This bill proposes to add to that expense the payment for the use of the water to a party who has no right to sell it, either under existing law or any other law except this proposition.

Mr. WARREN. Mr. President——

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

Mr. HEYBURN. I do.

Mr. WARREN. Mr. President, the Senator from Idaho should not mislead us. Water under the Carey Act is obtained the same way, in a certain sense, as it is by individuals, and without cost. Under the Carey Act the State makes a selection of land upon the showing made by some party or parties where they will put their ditches, what water they will need for irrigation, and what they will do. The State has its engineers ascertain as nearly as may be what it will cost to take that water out and put it on the land. The contractor is compelled to contract, under the State's guidance, and furnish water to the actual settler. In all cases where the use of the Carey Act becomes necessary, the water is furnished for less than the individual could furnish it, because of the cooperation. There is no payment for water connected with this bill, except in the same way that a man must expend money for a ditch to get water through to his land, even though the water be free.

Mr. HEYBURN. Mr. President, this bill in express terms provides that the Government may sell and that the purchaser must pay such price as may be fixed, and submit to such terms as may be imposed by the Secretary of the Interior. The Secretary of the Interior, of course, must be treated as the Gov-

ernment in this case. This is a proposition that the United States Government, through its executive officer, shall take possession of the waters of a State and substitute a system of charge for the existing system that carries no charge. In the first place, the question of power on the part of the United States to do this is involved. No one has as yet undertaken to explain why the Government of the United States should take possession of the waters in the streams of a State and charge the citizens of a State for its use, when the admission act of the State, the constitution of the State, and the laws of the State provide that it shall be subject to the use of the citizens of the State without any charge. I think that when the citizens of the State realize that it is proposed to charge them for that which they now have free of charge, they will probably express themselves in vigorous terms upon this measure.

It is a very serious thing for Congress to undertake now to repeal not only the charter that it gave to a State, but to repeal the provisions of the constitution of a State. That is what it amounts to. Under the constitution and admission act the right to the use of water can be had only by appropriation under the laws of the State. Nothing is said about appropriation under the laws of the United States. It is expressly provided that the right to use the water may be acquired only by appropriation.

Mr. WARREN. Mr. President, the Senator knows—he must know——

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

Mr. HEYBURN. Yes.

Mr. WARREN. The Senator must know that under this bill it could be acquired in no other way. The Senator says that the bill specifically says the Secretary of the Interior shall sell the water. I should like to have the Senator find the word "sell" in the bill if he can.

Mr. HEYBURN. I will find the equivalent of it. I have it. This is the language in section 2:

That in carrying out the provisions of said reclamation act and acts amendatory thereof or supplementary thereto, the Secretary of the Interior is authorized, upon such terms as may be agreed upon, to cooperate with irrigation districts, associations, or corporations for the construction of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, associations, or corporations for impounding, delivering, and carrying water for irrigation purposes.

Then it provides in the next section:

SEC. 3. That the moneys received in pursuance of such contracts shall be covered into the reclamation fund and be available for use under the terms of the reclamation act and the acts amendatory thereof or supplementary thereto.

Now, if there is no price to be paid, what is there to turn into the reclamation fund?

Mr. WARREN. Mr. President, there is the money that would be paid for the construction of ditches to convey the water onto the land. The water as a commodity; that is, the use of it, belongs to the settler. Every drop of the water that the Government is able to get must come under the laws of the State, the same as it now comes, and it can be disposed of to the settler only upon the terms of homestead settlement, and the amounts charged are only such as the State approves of in the Carey Act cases as the amount necessary to cover the cost of building the irrigation works.

Mr. HEYBURN. Mr. President, if this were confined to operations under the Carey Act, that argument might have some, though very little, merit; but by far the greater part of the land that is irrigated is irrigated not under the Carey Act, but by individual enterprise under the laws of the State. If the Government is to take up and corral all of the waters of a stream, what is there left for the individual to take?

Mr. WARREN. Mr. President——

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

Mr. HEYBURN. Certainly.

Mr. WARREN. The Government can not corral a single thimble full of water for itself, except for the purpose of providing it to settlers under the law. The Government, in some of the present projects, is in imminent danger of a cancellation on the part of the States of that water, which has been set aside for it under the contracts that would cause the building of ditches and the delivery of water because of default. The Government can not hold the water unless it puts it to a beneficial use under the laws, which provide that it must go to those bona fide settlers taking 100 acres or less.

Mr. HEYBURN. It is proposed by this bill that the Government may dispose, not only of the water necessary to supply the reclamation works, but that it may sell the surplus water. Now, it is a well-settled principle of law that no one can have title in the water. If they have no title in the water, what have they to sell?

Mr. WARREN. Mr. President, I wish——

Mr. HEYBURN. Just a moment. The title is for the use of the water. If they have no use for it, what have they to sell?

Mr. WARREN. Mr. President——

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

Mr. HEYBURN. Yes.

Mr. WARREN. I hope the Senator will not convince himself, by repeating the word "sell" several times, that there is such a provision or such a word in the bill. The Secretary of the Interior can dispose "upon such terms," and so forth, and those terms refer to the settlement, development, and maintenance of the project. The selling of water as such will not be done under this bill, and is not done now.

Mr. HEYBURN. Mr. President, that is a fallacious argument, and I say it with no disrespect.

Mr. WARREN. Almost any argument is fallacious in the eyes of the Senator, except his own. I admit that.

Mr. HEYBURN. Now, Mr. President, that is not argument at all.

Mr. WARREN. No; that is an assertion——

Mr. HEYBURN. Yes.

Mr. WARREN. A truth, an axiom.

Mr. HEYBURN. Well, we will leave that for the future to settle. I will now call attention to the provision in section 1:

That whenever in his judgment—

That is, in the judgment of the Secretary of the Interior—

That whenever in his judgment any part of the water supply of any reclamation project can be disposed of so as to promote the rapid and desired development of such project the Secretary of the Interior is hereby authorized, upon such terms, including rates and charges, as he may determine just and reasonable, to contract for the delivery of any such water to irrigation systems operating under the act of August 18, 1894, known as the Carey Act and to corporations, associations, and irrigation districts organized for or engaged in furnishing or distributing water for irrigation.

That provides, if it provides anything, that he may sell; that he may fix the terms and rates and charges for that which the Government does not own under the law——

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. LODGE in the chair). Does the senior Senator from Idaho yield to his colleague?

Mr. HEYBURN. In a moment I will yield to my colleague—because, under the law, the water is subject to appropriation immediately after the use of the first appropriator is concluded, and the appropriator never has any title to the use of the water in excess of that which he locates and uses. Now, I yield to my colleague.

Mr. BORAH. Mr. President, my colleague will observe that the bill says:

That whenever in his judgment any part of the water supply of any reclamation project can be disposed of—

My colleague will agree with me, will he not, that that confines the water concerning which he may deal to the water of a reclamation project?

Mr. HEYBURN. It says so.

Mr. BORAH. It does not say anything else.

Mr. HEYBURN. It does not tell the whole story, though.

Mr. BORAH. The only story we have before us is what is told here. What I should like to know from my colleague is whether or not he thinks that this bill provides for the disposition of water other than water of that reclamation project and for such projects?

Mr. HEYBURN. That is what it does in terms.

Mr. BORAH. Now, Mr. President, just a word. If the bill provides that the Secretary of the Interior can only dispose of the water of any reclamation project for such project, then we are confined to this limited proposition that whatever water has been appropriated for a particular project may be disposed of for the development of that project. He can not dispose of it for the development of another project or for other land or to other corporations.

That being true, I ask my colleague how is the Secretary of the Interior going to dispose of any water except the water which he is now authorized, under the reclamation act, to acquire for the purpose of the reclamation project? If this bill extends any further than that, if it gives any greater latitude, I should be glad to join with my colleague in any language which he may suggest to limit the bill.

I do not want in this bill the Secretary of the Interior given the power to acquire any additional water. I do not wish him to have the power to dispose of it to anyone other than the settlers upon that project. Now, we are in this situation, Mr. President: The settlers upon the project are entitled to the

water which the Government is appropriating. No one else is entitled to it; no one else can get it. Then, if the Secretary of the Interior can only dispose of it to them, how does it change the present law other than to permit the settlers to organize themselves into irrigation districts or corporations to take it?

Mr. HEYBURN. Mr. President, the answer to that is obvious. The Government is not authorized to locate or take possession of any particular water in excess of that which is necessary for its own projects, and a Carey Act project is not a government project.

Mr. BORAH. Mr. President, nevertheless this bill says that he can dispose of it only for such projects as those for which it is appropriated.

Mr. HEYBURN. Now, Mr. President, I think that I can bring my colleague's attention to a point that is not easily answered. The right to locate water for the irrigation of land is the third in right under the constitution of Idaho. It will not be contended, I think, that the Government can disregard that priority of right that is established under the constitution by taking up all of the water of the streams, even though it may be needed for agricultural purposes.

Mr. BORAH. I agree to that.

Mr. HEYBURN. I desire right here, that there may be no question about that, to call attention to the limitation in the constitution that has been ratified in express terms by the admission act. It is so stated.

Mr. BORAH. Well, Mr. President——

Mr. HEYBURN. I should like to have this connected. Then I will yield.

Mr. BORAH. Very well.

Mr. HEYBURN. Article 15 of the constitution of Idaho—and I am only using Idaho as a text, because it would be applicable, doubtless, elsewhere—provides:

SECTION 1. The use of all waters now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution; also of all water originally appropriated for private use, but which after such appropriation has heretofore been, or may hereafter be, sold, rented, or distributed, is hereby declared to be a public use, and subject to the regulation and control of the State in the manner prescribed by law.

There is no divided right between the State and the United States.

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city, or town, or water district, or the inhabitants thereof, is a franchise, and can not be exercised except by authority of and in the manner prescribed by law.

That means the laws of Idaho, not the law of any other government.

Mr. BORAH. That is covered by a proviso in the bill.

Mr. HEYBURN. I thought my colleague would not differ with me about that. That means the laws of Idaho.

Mr. BORAH. I say it does, and it is covered by the proviso of the bill.

Mr. HEYBURN. The proviso in the bill does not meet the objection.

SEC. 3. The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall (subject to such limitations as may be prescribed by law)—

That is, the laws of Idaho—

have the preference over those claiming for any other purpose.

There are five cities located along the Snake River below the point where it is taken possession of by the Government and the point where it is proposed to turn it back into the river. They are entitled, under the provisions of section 3, to the use of that water for domestic purposes, which means, among other things, for the purpose of supplying cities and communities with water. That is considered under the constitution of Idaho to be the highest use of water——

Mr. BORAH. I agree with my colleague.

Mr. HEYBURN. And to entitle them to the first use of it, subject to the control or consent of no one, the Government of the United States included. That right is entirely disregarded in this proposed law, because without reservation or limitation it authorizes the Secretary of the Interior to contract for the delivery of that water, which is located, we will say for the purposes of argument, for a different purpose. It allows the Government to sell it to somebody to the exclusion of domestic uses.

This right is not even second—that is, the right for which this water is to be sold—

And those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes. And in any organized mining district those using the water for mining purposes, or milling purposes connected with mining, shall have preference over those using the same for manufacturing or agricultural purposes.

The second in point of right is the mining interest. Of course, whether there exists to-day any mining interest below or connected with this particular reservoir for which this legislation is sought to be enacted is immaterial, because the Government will, and I may say, so far as we are advised, the Government contemplates building other reservoirs under like circumstances.

Suppose, for instance, the Government should carry out its plan to build a reservoir at the head of the Salmon River, with those great mining fields lying below where the reservoir would of necessity be located; how could they possibly be secure in their rights under the Constitution if the Government may impound that water and sell it to a Carey Act project or any other proposition?

Mr. BORAH. May I answer my colleague right here?

Mr. HEYBURN. Yes.

Mr. BORAH. The parties would be perfectly safe in this respect, that when the Government undertook to appropriate this water it would have to go upon the stream and appropriate it in accordance with the laws of the State. It can not acquire title to that water in any other way. The Secretary of the Interior or the Government, through its agent, must file its application with the state engineer and must receive his approval. When it gets that right it gets it subject to all the priorities which are incorporated in the constitution of the State of Idaho, and this right which it has under this bill is acquired, subject to all the priorities which are established by that constitution.

If there is any language in this bill which changes that proposition, I again invite my colleague to the proposition of joining with me in an amendment to take it out. But there is no such language. It simply provides for the disposition of water which has been acquired under the state law, and it is acquired subject to every provision in the Constitution and the admission act.

I do not contend for a moment that we could change those laws. The waters of the State belong to the State. It is for the State to determine how they shall be appropriated, how they shall be used, and how they shall be disposed of. Congress can not change it. We have not undertaken to change it; and therefore when they go to appropriate water for this particular purpose they appropriate with all those conditions attached to it.

Mr. HEYBURN. I agree with my colleague that Congress can not change the law, but they can embarrass those who have the right under the Constitution by granting a right the very operation of which would exclude the parties having the preference from the use of the water.

The Senator probably knows, as a matter of fact, that the line of the canal, proposed in the one instance that has been the basis around which the discussion has centered, carries the water back so far away from these intervening cities and these intervening settlements that it would, if enforced, preclude them from the use of that water.

Mr. BORAH. Let me say to my colleague that if they could do it under this bill they could do it without this bill. If the people who desire to appropriate that water and take it through a canal other than the natural channel desire to do it, they can do so now just as effectively as they can after this bill is passed. But they can not do so at all. It is not within their power to do so, because the moment they go upon the stream to appropriate they appropriate subject to the rights of the cities which are located on that stream; they appropriate subject to the rights of every miner upon that stream. They must do so now, and they must do so under this bill.

Mr. HEYBURN. This bill does not propose that the second party shall appropriate the water at all. It proposes that the first party shall appropriate more than it needs, which is in violation of every rule and every decision that has ever been rendered by the courts. The law is, and it always has been, that a man can only have title to so much water as he can use within the limits of his appropriation.

Mr. BORAH. I agree with that perfectly.

Mr. HEYBURN. That is the law.

Mr. BORAH. That is the law.

Mr. HEYBURN. This bill is based upon the proposition that the Government may locate more water than it has use for, when under the laws of the State no other person can do that.

Mr. BORAH. No; Mr. President, this bill is not based upon that proposition, because it limits the water to the project for which it is appropriated.

Mr. HEYBURN. Oh, I beg pardon.

Mr. BORAH. Well, I beg pardon.

Mr. HEYBURN. In express terms it does not. The reclamation act is specific. The water appropriated by the Government is for application upon the reclamation area.

Mr. BORAH. And so is this.

Mr. HEYBURN. This bill, in terms, proposes in section 1 that the Government may not only appropriate and use the water necessary to irrigate the land within the reclamation project, but it may appropriate more and sell it to a party to which the Government is not privy.

Mr. BORAH. How can my colleague say that when the bill says that such water "can be disposed of so as to promote the rapid and desired development of such project"—that is, the project for which the water has been appropriated, as expressed in line 4 of the bill?

Mr. HEYBURN. That is not what they sell. What they sell is over and beyond that. That is not the language of it.

Mr. BORAH. Let us change the language.

Mr. HEYBURN. If you change the language you change the bill.

Mr. BORAH. If my colleague will supply the language, I will accept it.

Mr. HEYBURN. Let us see about this language. Let us analyze it:

That whenever in his judgment—

That is, the Secretary of the Interior, the State not participating in it, no individual participating in it——

Mr. BORAH. The State has participated in it by the action by which the Secretary of the Interior gets his rights. He can get no right except under and subject to all the provisions of the state laws.

Mr. HEYBURN. Under the law he may not impound more water than he uses or more than he is entitled to use under the law. This says that he may dispose of the surplus. That is what it amounts to.

Mr. BORAH. No.

Mr. HEYBURN. They took out the word "surplus" in order to disarm those who are opposed to the bill.

Mr. BORAH. Exactly. We cut it out, because there were those who opposed the proposition. Therefore it is not in there.

Mr. HEYBURN. Still the water described is surplus water. They would have nothing to sell to a Carey Act project if it was not surplus water.

Mr. BORAH. Let me ask my colleague this question: Suppose we have a reclamation project which covers 150,000 acres; suppose there are 50,000 acres of that land which the Government will not be able to reach and put water upon for the next five or six years; is there any reason why this bill should not permit the Secretary of the Interior to dispose of the water which would otherwise cover the 50,000 acres, so that settlers may have it and readily put it upon the land?

Mr. HEYBURN. Where does the Secretary get the right to dispose of it?

Mr. BORAH. He gets his right to dispose of it in the fact that it has been appropriated to be applied upon the 50,000 acres of land.

Mr. HEYBURN. No appropriation in excess of the water used by the appropriator has ever been held valid by the courts.

Mr. BORAH. I agree with my colleague; but the courts all hold that the parties are entitled to a reasonable time in which to apply the water to a beneficial use.

Mr. HEYBURN. It is limited in express terms by the law of the State.

Mr. BORAH. Within a certain number of years.

Mr. HEYBURN. He must apply it to the land within the time prescribed by the state statute.

Mr. BORAH. Undoubtedly.

Mr. HEYBURN. But in the meantime he has no control of or property right in its use. He can not sell it to anyone else in the meantime during those five years. The property right that he has is the use of the water and not the right to sell it. Under our state law, a party desiring to appropriate water files his statement under the statute with the state engineer. He specifies the use, the quantity, the manner and place of use, and he has five years in which to convey the water to that land and apply it to the purpose for which it is taken.

It would not be contended by anyone that he could, during those five years, exercise any property right in that water. No one would contend that, and yet you propose to give the United States Government the right that a man can not obtain under the state laws.

I should like to know where the jurisdiction comes from that enables the Government to do that which a citizen of the State can not do under the laws of the State.

Mr. BORAH. I would be interested myself to know where such authority came from if we were undertaking to do it.

Mr. HEYBURN. I was proceeding to say that that is what this bill does undertake to do, or else it will perform no useful purpose at all. The Senator gave the proposition away when he presented the illustration that the Government, having appropriated more water than it has use for, may, in the interval between the time of appropriation and the time it has use for it, sell it.

Mr. BORAH. I do not want my colleague to put into my mouth things I did not say. I supposed an instance where the Government had appropriated water, to be applied to a beneficial use on 150,000 acres. It has five years in which to do that. If it can not apply the water to a beneficial use within three or four years of that five-year period, is there any reason why it should not arrange with a settler to apply it to a beneficial use within those years?

Mr. HEYBURN. Yes; there is every reason, because it is proposed to charge the settler for the use.

Mr. BORAH. It is not proposed to charge the settler for any use at all. The bill enables the Secretary to dispose of the water on "such terms," but it takes two to make a contract.

Mr. HEYBURN. No.

Mr. BORAH. The Secretary of the Interior can not impose it upon a settler. He can not compel settlers to organize or to buy the water; and the citizens of Idaho are intelligent enough to buy what they want and to leave alone what they want to leave alone.

Mr. HEYBURN. The language of the bill is that the Secretary may dispose of the water "upon such terms, including rates and charges, as he may determine."

No other person can do that. Are we proposing to give the Secretary of the Interior a right under the laws of the State that no other person could exercise under the laws of the State? That is what this bill amounts to.

If a man under the law, and in strict compliance with the law, has built a reservoir and corralled the water, any man may go in upon his possession and use that water when the appropriator is not using it, because the appropriator has no title to the water; only to the use of it; and if he is not using it for an hour, a citizen may go in and use it during that hour.

This bill in effect, if enacted, would deprive a party of the right to do that, because it provides that during that time, when in the absence of this law anyone might use it, the collector of the water may sell it to somebody else and may select the party to whom he will sell it. That is utterly antagonistic to the proposition that under the state laws any man might go in and that it requires the consent of no one to use this water in the interval when the appropriator is not using it. But then this goes far beyond that, and it provides that the United States may sell that which belongs to the State; that is, the right to use the water. It seems to me that ought to find lodgment in the minds and consciences of men. Why should the United States be given a right to use the resources of the State that no settler within the State can have?

The confession and avoidance plea of my colleague, that even though we thought we were doing this we could not do it because the constitutoin had given preferential rights to somebody else, does not seem to me to be the proper basis of legislation.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. I again call the attention of my colleague to the fact which I have stated several times, that not only could we not do it, but we are not undertaking to do it. That covers both ends of the proposition.

Mr. HEYBURN. I remember that my colleague made that statement before, and I have it in mind. I agree with him that we can not do it, but I do not agree with him that we are not undertaking to do it. We are laying a trap here for litigation that will compel parties who ought to have the untrammeled right to exercise the rights and privileges under the constitution to go into court to obtain them. We are confusing the rights that they have by legislating upon the subject without any jurisdiction to legislate or any authority; and I am perfectly confident that the courts would hold that this legislation was absolutely ineffective and void. I have no doubt of it. Yet I protest against the people being placed in a position where they must go into court to secure to themselves the rights which they have under the constitution of the State.

It might be said in behalf of an attempt here to legislate out of existence a provision of the Constitution that it could not be done. We admit it can not be done in the end, but it can result in the greatest confusion and expense in the meantime, and it is largely in that behalf that I have appealed to the Senate to protect the people of the State of Idaho against this invasion of their rights. The invasion is as clear as the sunlight. The

necessity for such legislation does not exist. It is one of those attempts—and I do not say this in a personal sense—to enact a measure to please certain interests in utter disregard of the right so to legislate. It is worth a little serious thought. The people with a full knowledge of what has transpired in regard to this matter have condemned it. The people in the State have condemned it individually and collectively. A newspaper in the State that never voluntarily said a word in support of any measure that I advocated came out in an editorial a few days ago and said, in effect, that, notwithstanding its prejudice against me, I am right in this matter.

Mr. BORAH. Mr. President, I would be very glad to join with my colleague in doing precisely what the paper which he suggests recommends we should do. The paper said, without any hesitancy, that the measure was a good and desirable one. It stated that if there inhered in it the legal objections which my colleague now confesses do not, we should get together and remedy it by proper language, and that is what I stand anxious to do. I am very willing to follow the superior legal acumen of my colleague in any language which he will put into this bill which will take away from it the possibility of interfering with the individual rights upon a stream, and if he has any doubt about it and wants to suggest an amendment I will join with him very readily in remedying this bill.

But I say without any hesitancy, that there are a thousand settlers upon the arid lands of Idaho who will pay the penalty within the next two years, if some law is not passed to take the cloud off the title to their water as they claim it to-day. I know from having actually visited those people last summer and discussed this question with them, that the injury which will result from the failure to pass this bill will be visited upon the individual who is financially unable to help himself; and if, as a matter of fact, this bill will interfere with the water rights upon a stream, I ask my colleague to use his legal ability to put such language in the bill as will prevent that and still save to those men who are struggling to make homes upon the public domain the ability to protect their homes without litigation.

I do not speak unadvisedly. After having discussed it with them and the attorney-general of the State, the land board of the State, the ex-attorney-general of the State, and the ex-governor, who are familiar with these matters, I may say they believe it to be vital to their interest, and that is the reason why I insist upon it. It is not right to kill the measure; it is our duty to remedy it if it is defective; and I ask my colleague to join in an effort to make the measure an effective one instead of destroying it entirely.

Mr. HEYBURN. Mr. President, a Carey Act project has the absolute right to-day under the law, without enacting this measure, to use the water that this bill seeks to give them the right to use—it has the absolute right to use it subject to the preferential rights under the Constitution. No one will deny—my colleague will not deny—that any Carey Act project or any individual may go to the point where this water is impounded and use it. Every inch of it that flows over the breast of the dam can be appropriated now under the law, and it can be used without interference, subject always to the rights that Congress can not take away—that is the right to use it for domestic purposes and for mining purposes. They have that right now. Why enact a statute giving some one the right to dole it out to them when they have the right to go and take it without charge?

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Montana?

Mr. HEYBURN. Yes.

Mr. DIXON. I interrupt the Senator from Idaho hesitatingly, but I want to suggest that this bill has probably been illuminated and elucidated and discussed more than any other bill during the present session, and there are many other bills on the calendar. Will not the Senator from Idaho permit the vote of the Senate to be taken on it?

Mr. HEYBURN. No; I will answer very promptly, not until I am through discussing it.

Mr. DIXON. I have no earthly desire to disturb the Senator, but——

Mr. HEYBURN. I say that in all courtesy to the Senator. I presume I have given some thought to the question as to whether I should discuss the bill, and I am acting upon my judgment and conscience in the matter.

Mr. DIXON. I have one further inquiry. It is now a quarter past 3. Is it probable that the Senator from Idaho will discuss the bill until the adjournment of the Senate to-day? There are some other matters——

Mr. HEYBURN. I do not know when the Senate will adjourn to-day. I know very well, Mr. President, that I am making a righteous protest against legislation that is destructive of the interests of the people, and my conscience is not troubled in any degree whatever in regard to it. I am not talking for the sake of talking, but I am determined, if I can, to illuminate this subject so that those who want to see can see the right; and I intend that hereafter it may appear in the records of this body that the rights of the people were neither overlooked nor misunderstood. When the Constitution was made questions that are to-day presented had no foundation whatever; no one dreamed of them as possible controversies. If conditions have changed since the making of that instrument, let us take it up in the councils of the people in the State and consider whether we will change it, but let us not change it here on the plea of necessity. Constitutions are not to be dealt with in that way. The constitution of Idaho is as sacred as the Constitution of the United States, and Congress has no right to enact any legislation inconsistent with the provisions of that great charter any more than it has to enact legislation inconsistent with the Constitution of the United States.

I never engaged in a controversy where my conscience was clearer or my judgment clearer than it is in this case, and I do know what I am talking about. I participated in the discussion in the constitutional convention involving this question. I know what arguments were advanced on either side; I know whereon the conclusion of that body was based; and I do not propose to stand here or sit here in silence and see those provisions, which were deemed wise then, repealed by indirection or so obscured that the people, in order to maintain their rights under that instrument, must go into the courts and appeal to the cooordinate branch of the Government to maintain their rights.

My colleague will not deny that any of the beneficiaries of the water rights of the State could go in the absence of this bill and appropriate the surplus water or the water that flows out of or rests in these reservoirs for their use under the law.

Mr. BORAH. Mr. President——

Mr. HEYBURN. They could go to the reservoir itself and take the water out under the law when it is not being used.

The PRESIDING OFFICER. Does the Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes.

Mr. BORAH. I ask my colleague if he thinks the individual settler upon his 40 acres of land could go 75 or 100 miles away to a reservoir and build himself a ditch and carry the water to his land successfully? If he could not, this bill is for the purpose of enabling him to join with his neighbors and incorporate themselves into an irrigation district and join in their efforts to go there and appropriate it.

Mr. HEYBURN. Mr. President, this bill is to provide him with a master who shall say, notwithstanding his free right under the law, how he may exercise that right. This bill is to provide the water user with a master and make him pay the master's salary. That is what it is for, and the people will understand that very readily. If the Carey project people may use this water, as they may without this legislation, if they may go to that reservoir and locate it either in the reservoir or after it leaves it without paying for it, there is no reason why we should create a power that would make them pay for it. When the Carey Act user pays for it they will add it to the price of the land that the settler takes up under the Carey Act.

Mr. BORAH. I ask my colleague who fixes the price of the land?

Mr. HEYBURN. It matters not who fixes it, it will be taken into consideration. I know something about the history of the Carey Act.

Mr. BORAH. Will my colleague answer my question?

Mr. HEYBURN. Certainly; but not while the Senator is talking.

Mr. President, when the state land board enters upon the fixing of the price which shall be paid for the use of the water under the Carey Act, it is bound to take into consideration every item of expense connected with the development of the Carey Act, and among those items will be so much paid to the Secretary of the Interior of the United States.

Mr. BORAH. The land board is only bound to take into consideration, and only does take into consideration, those charges which are reasonable and just to be made. If anybody undertakes to impose an unreasonable or unjust charge that board is there for the purpose of preventing it.

Mr. HEYBURN. Of course that is admitted. That is a general statement of a moral principle which no one would deny. But when you come to make up reasonable items you will find this item among them. If the law says that they shall pay for the water, it would not be an unreasonable item, but it would be an item created by legislation of Congress, and

of course they would take it into consideration. Otherwise the promoters of the Carey Act projects would be losers to the extent that they paid for the water.

Then, again, I come back to the question, Where do we get the power to transfer the right to sell to the Secretary of the Interior that which the citizen is entitled under the Constitution to have without purchase or price? Where do we get the power? Of course the court will say we have none, and we will have had all this labor and discussion, plus the annoyance, the delay, and the expense connected with the litigation that will grow out of it. It costs something to get the courts to define the powers of Congress. It costs something, and who pays it? Why, the settler pays it; the citizen of the State pays it.

Our Constitution contains a provision that justice shall be free to all men, or words to that effect. This measure proposes to make it rather an expensive purchase. First you purchase it of somebody who does not own it, the Secretary of the Interior, and then you add to that purchase price the cost of maintaining the necessary litigation to establish your rights against this wrongful power, whatever you may term it.

Mr. President, I had hoped in view of the expression of opinion which has come to us from those who are very directly interested in this question that it would not again be pressed. I expressed myself in rather positive terms on a former occasion when I said that legislation of this kind was almost criminal. I make no personal animadversion upon the patriotism or the intention of any party, but I am determined, if I can prevent it, to see that the constitution of Idaho is not amended or repealed in this body so long as I am here, that the free right to the use of water is not converted into a charge for the use of water. When you once get a statute like that in the books it will plague you and plague the people of the State. It will confuse their rights, and it is not fair, merely because you can do that kind of a thing, to attempt it.

We are being treated every day or two to learned essays and declamations on the conservation of the natural resources of the country, to conserve them for the use of the people. You are going to take the money that you collect for the use of the water under this measure and put it in a fund in which the State has but scant interest. You are going to put it into a reclamation fund that is to be apportioned out among a number of States. You are going to divert the proceeds collected by the Secretary of the Interior for the use of the waters of Idaho into a fund that is not Idaho's fund, nor subject to her control, a fund over which the legislature of Idaho has no jurisdiction and never will have any jurisdiction. You are laying the foundation for a perpetual ownership and control by the Government of the United States over private enterprises in the State of Idaho. It is proposed that the Government shall make a contract to furnish—and I do not care whether you use the word "sell" or not—to furnish for a price this water in aid of private enterprises when under the very law under which the Government collects this water its whole operations will expire at a period not to exceed ten years from now.

Suppose the Government, having built a great reservoir and collected this water, makes a contract to sell it and to cooperate, as the language of the bill provides, with these private enterprises and the functions of the Government as applied to the Reclamation Service ceased at the end of ten years, is the Government to stay in the business of collecting water to sell?

The purpose of the reclamation act was not to collect water for sale. It was to collect the water for the purpose of irrigating the lands to be paid for out of a special fund, the Government to be reimbursed by the settlers upon those lands and then go out of business. Under the terms of this act the Government is presumed to remain in business after that time for the purpose of supplying water under a contract of sale to private enterprises, and when would it end?

I wonder if the Senate of the United States understands the proposition that this measure would result in perpetuating indefinitely the Reclamation Service when it takes upon itself under the contract authorized to be made by the terms of the bill the duty of cooperating indefinitely with irrigation districts, because irrigation districts last forever. There is no period fixed by the proposed law when they shall terminate. The language is:

> To cooperate with irrigation districts, associations, or corporations for the construction of such reservoirs, canals, etc.

What is meant by "such reservoirs, canals, and so forth?" Not the government canals and reservoirs, but those of the private associations that it is provided by the terms of the bill shall be the beneficiaries of its provisions by purchasing water; not to irrigate government land, but to irrigate private holdings the fee simple of which has passed to the individual. That is what this bill proposes to do. That would be the effect of it.

Deny it as they will, in express terms it authorizes the Secretary of the Interior, without limitation as to time, to make contracts to furnish water to individuals, corporations, and associations, for use where? In the ditches and canals of the Government? No; for use in the private ditches and canals of the individual. That is what it proposes to do.

Mr. President, while some Senators may find later on that their States will be affected as seriously as the State of Idaho, yet it seems not to have attracted their attention. Some day they will wake up and find that they have conjured up a master that will impose burdens upon them they never dreamed of.

It is no argument to say that if the law is wrongfully enacted the courts can say so. That is not an argument in favor of enacting legislation. We might enact every bill that comes into Congress without consideration under such a rule as that. It is astonishing that one proposition should so get control of the minds of men as to master them and blindfold them as to the rights of the people.

Mr. President, if the bill is to pass this body as it is now presented, I can only say that that which we think is a sovereign part of this country is being shorn of its sovereignty in utter disregard of its rights in an hour of idleness, because when men are not participating in the consideration of great questions it is only fair to say that it is the hour of idleness in this great legislative body. That a great measure is to be considered by so small a number of a responsible body is appalling. Weary? Yes, Senators are weary of it, but they are not half as weary as the people of the States will be when they find what the Senate has done. What would the Senators who are not here think if Congress should propose to disregard the constitution of their States and to repeal it? What would they think?

Mr. President, if it is to be a question of physical endurance, if nothing else will save the State but physical exhaustion, I would feel justified in standing here until I sank with fatigue to the floor to plead for the rights of the people. It seems that the State is to be offered up as a sacrifice on the altar of a stubborn determination to ravish its constitution behind smiles. Thank God, you can not ultimately destroy it. You can only hamper and badger the people, and the people can hamper and badger back again. That is all.

Mr. President, I do not know why the pending business of the Senate was laid aside in order that this outrage might be perpetrated, but I will keep on inquiring. That a measure which affects this generation and those to come should be forced through this body against the protest of anyone representing any part of the people of the State is an intolerable thought. The vote that records its passage will be a vote for which men will blush in the future, and I know what I am talking about.

I do not feel embarrassed at all to stand here and claim the attention of those Senators who are present, because they have evidently made up their minds to do no other business to-day; they have evidently made up their minds that there is no other legislation so important as this measure that shall steal away the rights of a State and the people of a State.

Mr. President, if it is to pass, it will go forth with these words that I have spoken that will be a part of its history. It will be read and considered by the people after this Senate has passed into history. We met together in those pioneer days and made a charter that received the especial indorsement of Congress, in terms the approval of Congress, and now we see in this body a disposition to treat as though it were a joke that constitution and to take away from the people the rights that they thought they had or put them to the test and the expense of time and money to undo this day's mistake. I will reach the minds of the people, even though I may not reach the minds of the members of this body. I care for the opinion of this body, but I care more for the opinion of the people. Let us have the Senate present, Mr. President.

The PRESIDING OFFICER. The Senator from Idaho suggests the absence of a quorum. The Secretary will call the roll.

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

Bacon	Crane	Gamble	Page
Bailey	Crawford	Heyburn	Perkins
Bankhead	Cullom	Hughes	Piles
Borah	Cummins	Johnston	Purcell
Bourne	Curtis	Jones	Root
Bristow	Depew	Kean	Scott
Brown	Dixon	La Follette	Shively
Bulkeley	du Pont	Lodge	Smith, Mich.
Burkett	Elkins	Martin	Smoot
Carter	Fletcher	Money	Stone
Chamberlain	Flint	Nelson	Warner
Clapp	Foster	Nixon	Warren
Clark, Wyo.	Frazier	Oliver	Wetmore
Clay	Gallinger	Overman	

Mr. GALLINGER. I have been requested to state that the Senator from Maine [Mr. FRYE] is absent on account of illness, but that he stands paired with the Senator from Virginia [Mr. DANIEL].

The PRESIDING OFFICER. Fifty-five Senators have responded to their names. A quorum is present.

Mr. HEYBURN. Mr. President, I want to say to those Senators who are present that there is a proposition pending before this body that carries with it some responsibility. It is proposed here that because we have the power for the time being that we shall disregard the constitution of the State of Idaho and legislate away the rights of the people under it. I want the responsible action of the Senate, if we are going to act upon it.

It is not a small question because it does not affect the entire country. It affects part of this country more seriously than any question that has been decided at this Congress affects it. It was proposed to take away the right to the free use of the water of the State from appropriation under the laws of the State, to give some one outside of the State the power to sell it, to charge for it, and to put the proceeds in a fund in which the State is not interested. If that question is not serious enough to attract the attention of the Senate, then God help the country.

Mr. President, I will repeat, for the benefit of Senators who have come upon the floor, that under the laws of the State and under the constitution by specific provision the right to use the water is obtained only through appropriation. This bill proposes that it shall be obtained by purchase from an outsider—a payment for that to which he has no title and no right to sell. That ought to be a question of such importance as to attract the most careful thought and attention of Senators. I have felt impelled and justified to stand here day after day between the people of the State and this great threat. It matters not what we would do to-day, if we were making a constitution.

The constitution is made, and it is in force. You propose now to allow the Government—not the Government, but one executive officer of the Government—to take possession of the waters of the streams of the State, and to sell them, not to all the people, but to a selected customer to the exclusion of the people. That is the question you are going to vote on if you vote upon this bill; and I feel more than justified in claiming the attention and the thoughtful consideration of the Senate to this question. It ought not to be a question of physical endurance, but it ought to be one of careful attention.

I have read the provisions of the bill in the absence of some Senators now present, but I can state them in brief. This bill proposes to allow the Reclamation Service to take possession of more water than it needs for its purposes, and then to sell its surplus to these selected customers, notwithstanding the right of the people under the constitution to appropriate it. I am answered by the statement that the people, if they have the right to appropriate it, may do it, notwithstanding this bill. It is no answer, and it is no reason for such legislation that the people may upset it in the courts. Under the existing law any one in the State of Idaho has the right to obtain the use of this water by appropriation. You are going to take away that right from them. Under the provisions of this bill water is to be lifted out of its natural stream and bed and taken away where, even though you had the right under the constitution to appropriate it, it is a physical impossibility to do so, and they are not going to pay Idaho or the citizens of Idaho for it. They are going to pay it into a fund over which the State has no control whatever.

Can you blame a representative from a State for standing here and defending it against such legislation, which is urged merely because some coterie wants it? When that provision was written into the Constitution, the reclamation project had not been dreamed of, nor had the Carey Act. They came long years afterwards. It was adapted then, and is adapted now, to the wise purpose of effectuating the distribution of the waters of a stream.

To those of you who were not present, I say again that under the constitution of Idaho there are two rights to the use of water—appropriation, without a preference against its use for irrigation purposes; and they are being disregarded. It is said they can enforce their rights, if they have them. Is that a proper reply to improper legislation?

Mr. President, I am unfortunate in that I am occupying the floor and I can not go around and make private speeches on the subject to every Senator. [Laughter.] I remember once, when John T. Raymond was on the stage, seeing him indulge in that practice with the jury in the case of the "State versus Hawkins," and I remember that it required a very great deal of exertion to dissociate him from the conversation. But, Mr. President, what I have said and what I am saying is in order, and I believe that it will reach the ears and the consciences of Senators, even though I am compelled to speak it publicly.

Mr. GALLINGER. Does not the Senator think we understand the question by this time?

Mr. HEYBURN. The Senator from New Hampshire asks if I do not think that he understands the question. I have no doubt at all that the Senator understands the question. It would be interesting and enlightening to have him discuss it. It would be most interesting to me to know what constitutes an understanding of the question. I suppose the Senator is going to vote in support of the position I have taken. He certainly can not vote against it. He has neither made an argument nor listened to one. [Laughter.]

Mr. GALLINGER. Mr. President, will the Senator allow me?

Mr. HEYBURN. Certainly.

Mr. GALLINGER. I have listened to the Senator on three different occasions traversing the same ground. I was unfortunately compelled to attend a committee meeting this afternoon, or I should have been right at the Senator's left listening to him to-day.

Mr. HEYBURN. The Senator is very kind, and I will say that he is most constant in his attendance and in his attention, and when he asks me if I do not think that he understands the question, I am perfectly willing to concede that he does.

Mr. GALLINGER. The Senate.

Mr. HEYBURN. Well, I do not think one man can say whether or not another understands a question. I think that must be settled by each man for himself. I hope Senators understand it. I hope that some at least will express their understanding by voting against this bill. I would not stand here and plead for a cause, as I have in this Chamber, for any fee that men could pay me. I have nothing to gain, but a sense of duty impels me to do it.

I ought to understand this subject. I have helped to build up the laws upon which it is based from the very foundation. I have submitted these questions to the judgment of courts throughout long years, and I think I may fairly claim to know something about the laws regulating the use of water.

Men forget too often the difference between the right to use water and the title in the water, and too often do we hear men talk as though it were possible to acquire title to water. No court anywhere ever held that a man had title or could obtain title to water in a public stream.

Mr. DIXON. Mr. President, will the Senator yield to me for a suggestion?

Mr. HEYBURN. Yes; I yield.

Mr. DIXON. I have no doubt that after the Senator's long elucidation and enlightenment of this question, the whole Senate probably agrees with him in this matter.

Mr. HEYBURN. How is the Senator going to vote?

Mr. DIXON. As I look around the Senate and hear the conversation, I have no doubt the Senator has convinced the entire Senate of the righteousness of his position, and therefore I suggest that we record that opinion by a vote. [Laughter.]

Mr. HEYBURN. Mr. President, I would suggest now, in all good temper, that the Senator read the rules governing this body before he again makes that kind of an attempt at interruption. [Laughter.] I am yet within the rules of this body.

Mr. DIXON. Mr. President——

Mr. HEYBURN. And I have a responsibility, and I assume it, and the Senator is at perfect liberty to absent himself from the Chamber until there is a call for his presence from the body.

Mr. DIXON. I want to assure the Senator that I was not even suggesting he was not within the rules, but merely suggesting that after his argument the Senate was probably universally convinced, and therefore he let us take the vote.

Mr. HEYBURN. Mr. President, in the first place, the Senator has not the right under the rules of this body to rise when another Senator is addressing himself to a question before the Senate and call for a vote. He has not that right. That is a disorderly proceeding. [Laughter.]

The PRESIDING OFFICER. The Chair will call the Senator's attention to the fact that he specifically yielded the floor on the request of the Senator from Montana.

Mr. HEYBURN. Mr. President, I was referring——

The PRESIDING OFFICER. And the Senator from Montana, the Chair will say, was absolutely in order.

Mr. HEYBURN. Mr. President, I will say I was not objecting to the Senator's addressing the Senate, but I was objecting to what he said in addressing the Senate, and I was within

my rights, I believe. Because Senators may differ with me on this or any other matter is no reason why I should yield to a suggestion that I had said enough upon a question. It is impertinent, and it is without the rules of the Senate. That men grow weary while a Senator is talking is not material, except to those who grow weary. [Laughter.]

I intend that when the Senate acts upon this measure it shall have had an opportunity of acting right. That is my intention. If I could prevent this outrage upon a sovereign State by standing here until doomsday, I would do so and I would feel justified in doing so. That the rights of the people of a State should be made the subject of a jest is intolerable, and especially so in this body, where the States are assembled on an equal footing and in duty bound to give consideration to the questions that involve any or all of the States. We gather here in solemn assemblage to consider some sensational piece of legislation and sit with waiting ears to catch every sound that falls, because the newspapers are going to discuss it and to discuss the men and their attitude toward it; but when a State, even though far distant from this Capitol, stands here begging and pleading for its existence—because if you can violate or repeal the least clause in its organic law you can take away every right that it has under it—but scant consideration is given. There is a principle involved in this matter, and it will be a sad day for other States when you establish here the doctrine that because this is a right that does not affect others than those in our own particular section of the country it may be either ignored or treated lightly.

Does any Senator think that I am speaking for my own amusement or gratification? If he does, he is mistaken. I would make a great sacrifice to avoid this controversy, but I am not willing to sacrifice the rights of the people of my State; I am not willing to discredit the organic law of any State to save any man fatigue.

Why was the great measure to regulate interstate commerce laid aside this afternoon? Was it to make a Roman holiday? Was the Senate too weary to pursue the consideration of that question, or did it become tired of it? Did Senators lose their interest in it? Were they so anxious to work that they must select this measure out of every other before the Senate and press it? I should like to know why that great question that is the order of the hour is laid aside in order to consummate the sacrifice of the rights of the people of one State.

Mr. President, I do not know how Senators will vote. I hope and pray that they will give consideration to this question as they would did it affect their own State; that unless they do undersand it they will help to make it understood.

Mr. President, is this pillar to be shaken down? Are the rights of the people to be sacrificed? How would it seem to a Senator should the right to the management and control of the affairs of his own State be turned over by an act of Congress to the Secretary of the Interior without restrictions or restraints? That is the question involved here.

Mr. President, I count my commission in this body as nothing against my duty in this matter. Were they in the balance and could be determined by the surrender of that commission I would surrender it and I would do it knowing that I was saving to my State its constitutional rights; and I do not speak those words without consideration.

What is on the other side of this question? Playing into the hands of a monopoly and giving them the exclusive benefits of the resources of the State? That is what it is. It is to play the rights of the people against the right to create and build up a monopoly. I know there has grown up a disposition here to turn everything over to the Government and let it be run by rules and regulations. There are men—outside of this Chamber, of course—who would surrender up the Government to a commission; who would surrender up to some executive officer the right to participate in the Government under a fundamental law. I did not say they were in the Senate, but there are men who have grown so tired of the performance of their duty that they would surrender it and forget principle in order that they might win a stubborn point. They would turn over the Government to be run at the whim and fancy, in the language contained in this bill (wherever such words are made the basis of legislation), of the Secretary of the Interior "upon such terms, including rates and charges, as he may determine just and reasonable."

"As he." That refers to the Secretary of the Interior. We do not even undertake to limit his power. We give him the absolute power to substitute himself for the sovereignty of a State. Now, let the question rest on the altar. Whether it be an altar of sacrifice or an altar of praise rests with the Senate.

The PRESIDING OFFICER. The question is, Shall the bill pass? (Putting the question.) In the opinion of the Chair, the ayes have it.

Mr. HEYBURN. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Idaho asks for the yeas and nays. Is there a second? In the opinion of the Chair there is not a sufficient number.

Mr. HEYBURN. May I ask how many are necessary?

The PRESIDING OFFICER. The Chair counted 5, whereas the last roll call disclosed 53 present.

Mr. HEYBURN. I should like to have it put again. I want to see what the element of fairness is.

The PRESIDING OFFICER. The Chair will again submit the demand for the yeas and nays. There is not a sufficient number, only seven asking for the yeas and nays.

Mr. HEYBURN. All right. History will be silent.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

The title was amended so as to read: "A bill authorizing contracts for the disposition of waters of projects under reclamation acts, and for other purposes."

THE GLACIER NATIONAL PARK.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to 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.

Mr. DIXON. I move that the Senate nonconcur in the amendment of the House of Representatives and request a conference with that body on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the presiding officer.

Mr. BAILEY. Mr. President, I am perhaps a little late in hearing about this bill, for it has evidently passed the Senate; but it passed in my absence or when my attention was diverted. I am not familiar with its provisions, and therefore I desire to ask the Senator from Montana if it is simply a proposition to convert some land now owned by the Government into a public park, or if it involves the purchase of lands owned by private or corporate interests?

Mr. DIXON. There is not a foot of it which the Government does not already own. It is the portion of the main range of the Rockies where it intersects the Canadian boundary. There are about 60 or 70 glaciers left up there. It is where the mountains are piled on top of each other. I do not think there is a ranch within its confines. All of it is now in a forest reserve. So there will not be a great deal of difference in its future status from its present. There are no settlements.

Mr. BAILEY. It will involve a considerable expenditure of public money to make much of a park out of mountains piled on top of each other, but probably that is as good a use as can be made of that land, and it will be time to object to the appropriation when it is asked for. But I record it that will be asked for in due time.

Mr. DIXON. If the Senator from Texas would visit that region, I think he would find the greatest natural scenery within the confines of the Republic.

Mr. BAILEY. I know I would find so many delightful people in Montana that I would not busy myself about the scenery.

Mr. DIXON. I will say to the Senator we would give him both kinds of entertainment, scenery and people.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to, and the presiding officer appointed as the conferees on the part of the Senate Mr. DIXON, Mr. FLINT, and Mr. HUGHES.

ANNUAL REPORT OF THE SECRETARY OF THE NAVY.

The bill (H. R. 18403) to repeal a portion of section 429 of the Revised Statutes of the United States was announced as the next business on the calendar.

Mr. SMOOT. I ask that the bill go over.

The PRESIDING OFFICER. The bill goes over, at the request of the Senator from Utah.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 17 minutes p. m.) the Senate adjourned until to-morrow, Friday, April 15, 1910, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April 14, 1910.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

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

CERTAIN UNITED STATES ARMY OFFICERS SERVING IN CUBAN ARMY.

Mr. SLAYDEN. Mr. Speaker, I call up House resolution 573, being a privileged resolution.

The SPEAKER. The gentleman from Texas calls up the following privileged resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 573.

Resolved, That the Secretary of War be, and he is hereby, directed to inform the House of Representatives—

First. Whether Capt. Frank Parker, Eleventh Cavalry; Capt. G. G. Gatley, Third Field Artillery; and Capt. Philip S. Golderman, Coast Artillery Corps, all of whom are officers in the United States Army, are attached in any way to the army of the Republic of Cuba.

Second. Whether the officers herein referred to are receiving compensation from the Government of Cuba.

Third. Under what circumstances the officers of the United States Army were detailed to service with the Cuban army, and under what authority of law they have received pay for such service.

Fourth. Whether any other officers besides those above named are detailed to duty in Cuba; and if so, to what particular service, and whether they receive compensation for such service in addition to that they receive from the Treasury of the United States.

Mr. SLAYDEN. This is simply a resolution asking for information from the War Department, and I move its adoption.

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

SALE OF CERTAIN LANDS IN PHILIPPINE ISLANDS.

Mr. OLMSTED. Mr. Speaker, I present a privileged report (No. 1015) from the Committee on Insular Affairs.

The SPEAKER. The gentleman from Pennsylvania presents a privileged report which the Clerk will read.

The Clerk read as follows:

House resolution 575.

Resolved, That the Secretary of War be, and he is hereby, directed to submit to the House, as early as practicable, the following information:

Copies of all correspondence, whether by letter, cable, or otherwise, between the Secretary of War, the Bureau of Insular Affairs, or other bureaus or officials of the War Department, and the governor-general or other officials of the Philippine government, relative to the sale of the 55,000-acre San Jose estate in the Island of Mindoro.

A list of all sales or leases, or proposed sales or leases, of friar lands, other than the San Jose estate, in excess of 16 hectares to an individual, or 1,024 hectares to a corporation or association, including the alleged rental, with privilege of purchase, of the 50,000-acre Isabela estate and the 16,000-acre Tola estate.

A transcript of all railway franchises granted in the Philippine Islands since the passage and approval of the Philippine government act of July 1, 1902, the names of the friar estates contiguous to or to be traversed by each of said railways, mileage of said railways completed under each of said franchises, and amount of bonds on each, interest on which has been guaranteed by the Philippine government.

The names and locations of all contracting individuals, firms, or companies which have been awarded contracts through the War Department, or the insular government of the Philippine Islands, for the construction of insular or municipal improvements in the Philippine Islands since the passage of the Philippine government act of July 1, 1902, together with copies of all such contracts.

The number of occupants, settlers, tenants, and lessees upon the friar lands April 26, 1904, the date of the passage of the Philippine friar-land act by the Philippine Commission, and the number thereon at the end of the fiscal years 1905, 1906, 1907, 1908, and 1909.

The name of the attorney of the investor mentioned in the letter of the Chief of the Bureau of Insular Affairs to the chairman of the Committee on Insular Affairs, House of Representatives, of date March 24, 1910; whether the opinion of said attorney that the sale of the San Jose estate is valid is in writing, and if so, a copy of the same.

The name of the attorney of the purchaser mentioned in the letter of the Chief of the Bureau of Insular Affairs to the chairman of the Committee on Insular Affairs, House of Representatives, of date January 28, 1910; whether said attorney submitted in writing his question as to the right of the Philippine government to sell the San Jose friar estate, and if so, a copy of the same.

Copies of all acts of the Philippine Commission since July 1, 1902, and of the Philippine Assembly granting insular or municipal public-utility privileges.

Together with all other information concerning the foregoing matters and not herein specifically called for, including the full report of the Philippine Commission for the fiscal year 1909, as published in the Philippine Islands.

Mr. OLMSTED. Mr. Speaker, this resolution inquires of the Secretary of War for certain correspondence, documents, and information touching the friar lands and other matters therein set forth. It was referred to the Committee on Insular Affairs. As chairman of that committee I addressed a communication to the Secretary of War, asking if there was any objection to making the matters therein called for public. He replied by letter, which accompanies the report, that there was no objection whatever, and that he had directed that everything asked for should be sent to the committee. A couple of days later it was sent to the Committee on Insular Affairs, accompanied by a very full letter from the Chief of the Bureau of Insular Affairs, with numerous exhibits, embracing correspondence, cablegrams, opinions, and so forth. These documents are quite voluminous and seem to constitute an entire compliance with the request contained in the resolution. All this data accompanies and is made part of the committee report which I have just presented to the House. It would be a vain and idle thing to pass a resolution calling for information already before the House, and, therefore, in pursuance of the direction of the committee, as expressed in the report, I move that the resolution lie upon the table.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. CLARK of Missouri. No quorum, Mr. Speaker.

The SPEAKER. The Chair will count. [After counting.] One hundred and forty-three Members are present; not a quorum.

Mr. OLMSTED. Mr. Speaker, I move a call of the House.

Mr. PAYNE. Mr. Speaker, I hope the gentleman will not do that. We were taking a vote, and all the Chair has to do is to direct a roll call.

The SPEAKER. The gentleman is correct. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 144, nays 121, answered "present" 24, not voting 100, as follows:

YEAS—144.

Alexander, N. Y.	Fish	Knowland	Pickett
Allen	Fordney	Kopp	Plumley
Andrus	Foss, Ill.	Kronmiller	Pratt
Anthony	Foss, Mass.	Küstermann	Pray
Austin	Fuller	Lafean	Reeder
Bates	Gaines	Langham	Sheffield
Bennet, N. Y.	Gardner, N. J.	Langley	Slemp
Bingham	Gillett	Lawrence	Smith, Cal.
Boutell	Goebel	Longworth	Smith, Iowa.
Burke, Pa.	Good	Loud	Smith, Mich.
Burke, S. Dak.	Graff	Loudenslager	Sperry
Butler	Griest	Lowden	Stafford
Calder	Guernsey	Lundin	Steenerson
Campbell	Hamer	McCredie	Sterling
Cassidy	Hamilton	McKinley, Ill.	Stevens, Minn.
Cole	Hanna	McKinney	Sturgiss
Cook	Haugen	McLachlan, Cal.	Sulloway
Cooper, Pa.	Hawley	McLaughlin, Mich.	Swasey
Coudrey	Hayes	McMorran	Taylor, Ohio.
Cowles	Henry, Conn.	Madden	Tener
Creager	Hill	Mann	Thistlewood
Crow	Hinshaw	Martin, S. Dak.	Thomas, Ohio
Crumpacker	Howell, Utah	Miller, Minn.	Tilson
Davidson	Howland	Millington	Tirrell
Dawson	Hubbard, Iowa	Mondell	Townsend
Diekema	Huff	Morehead	Volstead
Dodds	Hull, Iowa	Morgan, Mo.	Vreeland
Draper	Humphrey, Wash.	Morgan, Okla.	Wanger
Driscoll, M. E.	Johnson, Ohio	Moxley	Washburn
Dwight	Joyce	Needham	Weeks
Edwards, Ky.	Kahn	Nye	Wheeler
Ellis	Keifer	Olcott	Wiley
Elvins	Kendall	Olmsted	Wilson, Ill.
Englebright	Kennedy, Iowa	Palmer, H. W.	Woods, Iowa
Fairchild	Kinkaid, Nebr.	Parker	Woodyard
Fassett	Knapp	Payne	Young, Mich.

NAYS—121.

Adair	Dies	Kitchin	Riordan
Adamson	Dixon, Ind.	Korbly	Robinson
Alexander, Mo.	Driscoll, D. A.	Latta	Roddenbery
Anderson	Edwards, Ga.	Lee	Rothermel
Barnhart	Ferris	Lenroot	Rucker, Mo.
Bartlett, Ga.	Flood, Va.	Lindbergh	Sabath
Boehne	Floyd, Ark.	Livingston	Saunders
Booher	Foster, Ill.	Lloyd	Shackleford
Borland	Gallagher	McDermott	Sharp
Brantley	Garner, Tex.	McHenry	Sheppard
Burgess	Gillespie	Macon	Sherwood
Burleson	Glass	Maguire, Nebr.	Sims
Byrd	Godwin	Martin, Colo.	Sisson
Byrns	Gordon	Maynard	Slayden
Candler	Graham, Ill.	Moon, Tenn.	Smith, Tex.
Carter	Gronna	Moore, Tex.	Sparkman
Cary	Hardwick	Morrison	Spight
Clark, Mo.	Hardy	Morse	Stanley
Collier	Harrison	Murdock	Stephens, Tex.
Conry	Hay	Murphy	Talbott
Cooper, Wis.	Heald	Nicholls	Taylor, Colo.
Covington	Henry, Tex.	Oldfield	Thomas, Ky.
Cox, Ind.	Houston	Padgett	Thomas, N. C.
Cox, Ohio	Howard	Page	Tou Velle
Craig	Hughes, Ga.	Peters	Turnbull
Cravens	Hull, Tenn.	Poindexter	Webb
Cullop	Humphreys, Miss.	Pujo	Weisse
Dent	James	Rainey	Wickliffe
Denver	Jamieson	Randell, Tex.	
Dickinson	Johnson, Ky.	Rauch	
Dickson, Miss.	Jones	Richardson	

ANSWERED "PRESENT"—24.

Aiken	Fornes	Helm	Madison
Chapman	Garrett	Howell, N. J.	Norris
Clayton	Goulden	Hubbard, W. Va.	Parsons
Currier	Graham, Pa.	Kennedy, Ohio	Pearre
Davis	Grant	Lamb	Reynolds
Fitzgerald	Greene	McCreary	Russell

NOT VOTING—100.

Ames	Denby	Hitchcock	Patterson
Ansberry	Douglas	Hobson	Pou
Ashbrook	Durey	Hollingsworth	Prince
Barchfeld	Ellerbe	Hughes, N. J.	Ransdell, La.
Barclay	Esch	Hughes, W. Va.	Reid
Barnard	Estopinal	Johnson, S. C.	Rhinock
Bartholdt	Finley	Kelliher	Roberts
Bartlett, Nev.	Focht	Kinkead, N. J.	Rodenberg
Beall, Tex.	Foelker	Law	Rucker, Colo.
Bell, Ga.	Foster, Vt.	Legare	Scott
Bennett, Ky.	Foulkrod	Lever	Sherley
Bowers	Fowler	Lindsay	Simmons
Bradley	Gardner, Mass.	McCall	Small
Broussard	Gardner, Mich.	McGuire, Okla.	Snapp
Brownlow	Garner, Pa.	McKinlay, Cal.	Southwick
Burleigh	Gill, Md.	Malby	Sulzer
Burnett	Gill, Mo.	Mays	Tawney
Calderhead	Gilmore	Miller, Kans.	Taylor, Ala.
Cantrill	Goldfogle	Moon, Pa.	Underwood
Capron	Gregg	Moore, Pa.	Wallace
Carlin	Hamill	Moss	Watkins
Clark, Fla.	Hamlin	Mudd	Willett
Cline	Hammond	Nelson	Wilson, Pa.
Cocks, N. Y.	Heflin	O'Connell	Wood, N. J.
Dalzell	Higgins	Palmer, A. M.	Young, N. Y.

The Clerk announced the following pairs:
For the remainder of the session:
Mr. YOUNG of New York with Mr. FORNES.
Mr. KENNEDY of Ohio with Mr. ASHBROOK.
Mr. CURRIER with Mr. FINLEY.
Mr. BRADLEY with Mr. GOULDEN.
Until further notice:
Mr. FOELKER with Mr. WATKINS.
Mr. SIMMONS with Mr. WILSON of Pennsylvania.
Mr. TAWNEY with Mr. SHERLEY.
Mr. GRAHAM of Pennsylvania with Mr. CLINE.
Mr. COCKS of New York with Mr. LAMB.
Mr. SOUTHWICK with Mr. REID.
Mr. HUBBARD of West Virginia with Mr. RUSSELL.
Mr. DENBY with Mr. GRAHAM of Illinois.
Mr. GRANT with Mr. JOHNSON of South Carolina.
Mr. WOOD of New Jersey with Mr. UNDERWOOD.
Mr. VREELAND with Mr. TAYLOR of Alabama.
Mr. SNAPP with Mr. SULZER.
Mr. SCOTT with Mr. RUCKER of Colorado.
Mr. PRINCE with Mr. RHINOCK.
Mr. NELSON with Mr. POU.
Mr. MOORE of Pennsylvania with Mr. PATTERSON.
Mr. MUDD with Mr. A. MITCHELL PALMER.
Mr. MILLER of Kansas with Mr. LINDSAY.
Mr. DAVIS with Mr. HOBSON.
Mr. GARDNER of Michigan with Mr. GOLDFOGLE.
Mr. GARNER of Pennsylvania with Mr. GREGG.
Mr. HIGGINS with Mr. HAMMOND.
Mr. HOLLINGSWORTH with Mr. HAMLIN.
Mr. HUGHES of West Virginia with Mr. HITCHCOCK.
Mr. MCCALL with Mr. HUGHES of New Jersey.
Mr. MCGUIRE of Oklahoma with Mr. KELIHER.
Mr. FOULKROD with Mr. GILMORE.
Mr. FOSTER of Vermont with Mr. GILL of Maryland.
Mr. FOCHT with Mr. GARRETT.
Mr. ESCH with Mr. CLAYTON.
Mr. DOUGLAS with Mr. CLARK of Florida.
Mr. CAPRON with Mr. CARLIN.
Mr. CALDERHEAD with Mr. BROUSSARD.
Mr. HOWELL of New Jersey with Mr. BURNETT.
Mr. BARCLAY with Mr. BOWERS.
Mr. BARCHFELD with Mr. BEALL of Texas.
Until April 23, 1910:
Mr. BARNARD with Mr. HEFLIN.
Mr. DUREY with Mr. BELL of Georgia.
Mr. BENNETT of Kentucky with Mr. ESTOPINAL.
Until Thursday, April 21, 1910:
Mr. BROWNLOW with Mr. RANDELL of Texas.
Until April 19, 1910:
Mr. BARTHOLDT with Mr. GILL of Missouri.
Until April 18, 1910:
Mr. DALZELL with Mr. FITZGERALD.
Until April 16, 1910:
Mr. AMES with Mr. AIKEN.
Mr. MOORE of Pennsylvania with Mr. SMALL.
Until April 15, 1910:
Mr. RODENBERG with Mr. MOSS.
Mr. ROBERTS with Mr. MAYS.
Mr. CHAPMAN with Mr. LEVER.
For this day:
Mr. GREENE with Mr. BARTLETT of Nevada.
Mr. MCCREARY with Mr. ELLERBE.
Mr. BURLEIGH with Mr. CANTRILL.
Upon this vote:
Mr. MALBY with Mr. HELM.

Mr. FITZGERALD. Mr. Speaker, I voted "no." I am paired with the gentleman from Pennsylvania [Mr. DALZELL], and therefore I desire to withdraw my vote.

Mr. OLMSTED. Mr. Speaker, I desire to ask if the gentleman from Pennsylvania [Mr. MOON] is recorded as voting?

The SPEAKER. He is not.

Mr. OLMSTED. I distinctly heard him vote and so did others sitting near me. He voted "aye." He stopped at my desk and said, "I voted with you," and walked out that door. I heard his name called on the second roll call and that is why I made the inquiry. His vote one way or the other is not of particular moment in this matter, but it is due him that the RECORD show that he was here and did vote.

Mr. BARTLETT of Georgia. Mr. Speaker, it looks to me like it is a matter for the gentleman from Pennsylvania [Mr. MOON].

The SPEAKER. The gentleman can correct it when the Journal comes to be approved.

Mr. CLARK of Missouri. I think the usual rule had better be pursued.

Mr. BARTLETT of Georgia. The gentleman can correct the RECORD or the Journal in the morning if he wants to do so.

The SPEAKER. On this question the yeas are 144, nays 121, voting "present" 23—a quorum.

The Doorkeeper will open the doors. The ayes have it, and the motion that the resolution do lie on the table is agreed to.

On motion of Mr. OLMSTED a motion to reconsider the vote by which the resolution was tabled was laid on the table.

Mr. OLMSTED. Mr. Speaker, I ask unanimous consent that the report and the exhibits be printed in the RECORD.

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

The report and exhibits are as follows:

[House Report No. 1015, Sixty-first Congress, second session.]

Mr. OLMSTED, from the Committee on Insular Affairs, submitted the following report (to accompany H. Res. 575):

The Committee on Insular Affairs, to which was referred H. Res. 575, requesting certain information of the War Department, respectfully reports that—

In response to an inquiry whether there was any objection to making public the information and documents referred to in the resolution, the Secretary of War promptly replied that there was no objection whatever to furnishing whatever the records of the department contained bearing on the matter, and that he had directed the Chief of the Bureau of Insular Affairs to give to the committee all the information in his possession. This the Chief of the Bureau of Insular Affairs did a couple of days later.

The letter of the Secretary of War, the letter of the Chief of the Bureau of Insular Affairs, and the voluminous exhibits accompanying the same are hereto annexed and made part of this report.

In view of the submission of the information, documents, and data thus furnished, and which appear to comply with the letter and spirit of the resolution, your committee recommends that the resolution itself do lie on the table.

WAR DEPARTMENT,
Washington, April 9, 1910.

MY DEAR MR. OLMSTED: I beg to acknowledge receipt of your letter of April 7, 1910, asking if there is any objection to furnishing to your committee the documents and data referred to in House resolution No. 575.

There is no objection whatever to furnishing whatever the records of the department contain bearing on this matter, and I have to-day directed the Chief of the Insular Bureau to give you all the information which he has in his possession.

Very truly, yours,

J. M. DICKINSON,
Secretary of War.

Hon. M. E. OLMSTED,
Chairman Committee on Insular Affairs,
House of Representatives.

WAR DEPARTMENT,
BUREAU OF INSULAR AFFAIRS,
Washington, April 11, 1910.

MY DEAR MR. OLMSTED: Pursuant to instructions of the Secretary of War, I beg to submit the documents and data referred to in House resolution 575.

If any related information not contained in the copies of records herewith is desired by you or your committee, effort will be made to secure it.

The first call is for:

"Copies of all correspondence, whether by letter, cable, or otherwise, between the Secretary of War, the Bureau of Insular Affairs, or other bureaus or officials of the War Department and the governor-general or other officials of the Philippine government, relative to the sale of the 55,000-acre San Jose estate in the island of Mindoro."

This is inclosed, marked "A."

The second call is for:

"A list of all sales or leases or proposed sales or leases of friar lands, other than the San Jose estate, in excess of 16 hectares to an individual, or 1,024 hectares to a corporation or association, including the alleged rental, with privilege of purchase, of the 50,000-acre Isabela estate and the 16,000-acre Tola estate."

This information, in so far as available, is contained in the annual report of the bureau of lands for the years 1905, 1906, 1907, 1908, and 1909. This report has been printed for all years, except 1909, as a part of the annual report of the Secretary of War, and has been made available to all persons in the United States who have expressed to the Bureau of Insular Affairs a desire for that information.

See page 136 et seq., part 2, Report of the Philippine Commission, 1906.

See page 184 et seq., part 2, Report of the Philippine Commission, 1907.

See page 225 et seq., part 2, Report of the Philippine Commission, 1908.

See page 1229 et seq., typewritten appendix to Report of the Philippine Commission, 1909.

While giving fully all details of the handling of these estates, it will be observed that these reports do not give a list of sales or leases to individuals in excess of 16 hectares. It is believed that there have been no sales to corporations or associations in excess of 1,024 hectares.

I inclose, marked "B," the correspondence with reference to the alleged rental, with privilege of purchase, of the 50,000-acre Isabella estate.

By the Tola estate is doubtless meant the Tala estate, in the province of Rizal. Attention is invited to the remarks with reference to this estate in the several reports above referred to. The last report of the bureau of lands shows the area of this estate to be 6,696 hectares, of which 80 per cent is estimated as occupied, and 866 lots have been leased, which constitute 77 per cent, or 5,157.15 hectares.

The third call is for:

"A transcript of all railway franchises granted in the Philippine Islands since the passage and approval of the Philippine government act of July 1, 1902."

These are published in the acts of the Philippine legislature, which have been reported annually to Congress and printed in the annual report of the Secretary of War. They are specifically as indicated on the inclosed list, marked "C."

The next call is for:

"The names of the friar estates contiguous to or to be traversed by each of said railways."

This is set forth in full in the report of the bureau of lands of the Philippine Islands for the year 1907. (See p. 192, vol. 2, Report of the Philippine Commission, 1907.)

The next call is for:

"Mileage of said railways completed under each of said franchises."

This has been reported annually in the report of the Philippine Commission. I am inclosing herewith an excerpt, marked "D," from the last report of the supervising railway expert showing this up to the date of that report.

The next call is for:

"Amount of bonds on each, interest on which is guaranteed by the Philippine government."

The amount of bonds issued by the Philippine Railway Company, the interest on which is guaranteed by the Philippine government, is $6,184,000. For no other roads have any bonds been issued the interest on which is guaranteed by the Philippine government.

The details of construction and operation of these roads are reported annually by the supervising railway expert.

The next request is for:

"The names and locations of all contracting individuals, firms, or companies which have been awarded contracts through the War Department, or the insular government of the Philippine Islands for the construction of insular or municipal improvements in the Philippine Islands since the passage of the Philippine government act of July 1, 1902, together with copies of all such contracts."

INSULAR IMPROVEMENTS.

The contracts for the construction of insular improvements in the Philippine Islands are invariably awarded by the Philippine government. The Bureau of Insular Affairs is only advised on awarding contracts of the names of the contractors in the most important cases, such, for example, as contracts which are advertised in the United States as well as in the Philippine Islands. In the general case these matters are reported with great detail in the annual report of the bureau of public works of the Philippine Islands, under which bureau such work is carried on. It will be seen that the names of the contractors are in general given in these annual reports.

MUNICIPAL IMPROVEMENTS.

These contracts are let by the municipalities, of which there are 685 in the Philippine Islands, and the contractor's name would in general only reach the Bureau of Insular Affairs in the printed annual reports of the bureau of public works, where such work was done under the supervision of that bureau. In the case of the large improvements, such as the water and sewer system in the city of Manila, the work was advertised in the United States as well as in the Philippine Islands, and the contracts were awarded as follows:

FOR THE WATER SYSTEM.

Matson, Lord & Belser Company (construction of dam)	$241,510.25
Henry W. Peabody & Co. (steel plates)	99,900.31
Atlantic, Gulf and Pacific Company (steel pipe)	281,935.00
Atlantic, Gulf and Pacific Company (tunnel)	179,987.50
Matson, Lord & Belser Company (reservoir)	222,477.70
Total	1,025,810.76

FOR THE SEWER SYSTEM.

Atlantic, Gulf and Pacific Company	$1,631,053.20

See pages 155 and 156, part 3, Report of the Philippine Commission, 1906.

The contracts awarded in the city of Manila are usually listed in the annual report of the municipal board of the city of Manila. A reference to the annual reports of the Philippine Commission will furnish the information called for under this head in considerable detail.

See report of the bureau of engineering, page 143 et seq., part 3, Report of the Philippine Commission, 1905.

See report of the bureau of port works, page 343 et seq., part 3, Report of the Philippine Commission, 1905.

See page 336 et seq., report of the director of public works, part 2, Report of the Philippine Commission, 1906.

See pages 374 and 375, report of the director of public works, part 2, Report of the Philippine Commission, 1907.

See page 449 et seq., report of the director of public works, part 2, Report of the Philippine Commission, 1908.

See page 1552, typewritten copy of the report of the director of public works, appendix to Report of the Philippine Commission, 1909 (filed in the Bureau of Insular Affairs).

Copies of these contracts have never been called for in the United States, and are not in the War Department.

I attach hereto, marked "E," copies of the Philippine laws relating to government contracts.

The next call is for—

"The number of occupants, settlers, tenants, and lessees upon the friar lands April 26, 1904, the date of the passage of the Philippine friar-land act by the Philippine Commission, and the number thereon at the end of the fiscal years 1905, 1906, 1907, 1908, and 1909."

The number of lessees and purchasers of holdings on the friar lands is reported annually in the reports of the bureau of lands, which have been heretofore referred to.

The number of occupants have been reported as something over 60,000.

The next call is for—

"The name of the attorney of the investor mentioned in the letter of the Chief of the Bureau of Insular Affairs to the chairman of the Committee on Insular Affairs, House of Representatives, of date March 24, 1910; whether the opinion of said attorney, that the sale of the San José estate is valid, is in writing, and, if so, a copy of the same."

The name of the attorney of the investor mentioned is Mr. C. A. de Gersdorff. The opinion referred to was the verbal opinion given to the Assistant Chief of the Bureau of Insular Affairs of the War Department. Whether the attorney has furnished a written opinion to his clients is not known, but as the sale of the estate was contingent upon his giving an opinion that the title to be transferred was valid, it is assumed that there is such an opinion in writing, but it is not in the records of the War Department, nor has it been seen by anybody connected with the department so far as known.

The next call is for—

"The name of the attorney of the purchaser mentioned in the letter of the Chief of the Bureau of Insular Affairs to the chairman of the Committee on Insular Affairs, House of Representatives, of date January 28, 1910; whether said attorney submitted in writing his question as to the right of the Philippine government to sell the San Jose friar estate, and, if so, a copy of the same."

The name of the attorney is as above stated. He did not submit his question in writing, but did submit a memorandum, a copy of which is attached hereto, marked "F."

The next call is for—

"Copies of all acts of the Philippine Commission since July 1, 1902, and of the Philippine assembly, granting insular or municipal public-utility privileges."

These are reported annually to Congress and are in the printed acts of the Philippine Commission, which have been supplied gratis to all persons requesting the same in the United States, except, possibly, from time to time when the supply of the particular act requested may have been exhausted.

A list of the acts granting insular or municipal public-utility franchises, by number and brief titles, is appended, marked "G." Copies of these acts are also inclosed herewith, attached to said list. The acts complete may be found in the printed volumes of the reports of the Philippine Commission, which are published annually in the report of the War Department.

The next call is for—

"All other information concerning the foregoing matters and not herein specifically called for."

This is believed to be supplied by the annual reports of the Philippine Commission, the annual report of the Bureau of Insular Affairs, and the annual report of the War Department, but any special information which you or your committee desire will be furnished.

The next call is for—

"The full report of the Philippine Commission for the fiscal year 1909, as published in the Philippine Islands."

The full report of the Philippine Commission for 1909 is published in the United States as one volume of the annual report of the Secretary of War, copy herewith. This report is not published at all in the Philippine Islands. There has been heretofore published as a part of the report of the Philippine Commission (included in the annual report of the Secretary of War) a number of appendixes, including the reports of the various chiefs of bureaus of the Philippine government. It was decided not to have these published as a War Department document this year for reasons set forth in a letter to the governor-general of the Philippine Islands, dated May 18, 1909, a copy of which and the reply thereto I inclose marked "H."

The appendixes to this report, however, have been received in the War Department, and are on file in the Bureau of Insular Affairs, and will be gladly supplied to the committee. It has been the custom to print these in pamphlet form in Manila, and I transmit such reports as have been received for the fiscal year 1909.

While it is believed that the accompanying papers with the foregoing references will satisfy as to all of the inquiries made in the resolution, yet I shall be glad to have any further inquiries answered, or to direct an officer of the Bureau of Insular Affairs to personally assist you or the committee in obtaining any further information desired.

Very respectfully,

C. R. EDWARDS,
Brigadier-General, United States Army, Chief of Bureau.

Hon. M. E. OLMSTED,
Chairman Committee on Insular Affairs,
House of Representatives.

A.

[Translation of cablegram received.]

OCTOBER 22, 1909.

SECRETARY OF WAR, *Washington:*

Prentiss and Poole[a] desire to purchase unoccupied sugar lands on San José friar estate, Mindoro; say Hammond[b] was informed by the Bureau of Insular Affairs an individual can not purchase more than 40 acres friar lands. Can not understand this, as acts 1847 and 1933 were passed amending friar-land act to give Government right to sell vacant friar lands without restriction as to area. Attorney-general[c] concurs in the opinion that this has been accomplished. Please confirm by telegraph to satisfy these gentlemen.

FORBES.

[Translation of cablegram sent.]

OCTOBER 22, 1909.

FORBES, *Manila:*

Thoroughly understood here unoccupied friar lands may be sold to individuals without limitation as to area. Will advise Hammond.[b] Wrote you September 27 requesting detailed description of such estates as are to be sold as unoccupied land. When Hammond called it was not understood efforts were being made to sell these estates.

EDWARDS.

[Translation of cablegram sent.]

NOVEMBER 23, 1909.

FORBES, *Manila:*

Am just advised that you are negotiating for the sale of Mindoro estate. The Secretary of War desires full information by cable in this matter, and desires that you do not consummate the sale until he has considered the question.

When may we expect opinion of the attorney-general referred to in your telegram October 22? Attorneys of purchasers desire opinion of the Attorney-General of the United States as to whether section 15, act of Congress approved July 1, 1902, is made applicable by section 65 thereof to the friar lands. If opinion of the attorney-general of the Philippine Islands has not been mailed, cable synopsis thereof.

EDWARDS.

[Translation of cablegram received.]

NOVEMBER 29, 1909.

SECRETARY OF WAR, *Washington:*

Referring to telegram from your office of 23d instant, present state negotiations for the sale of San Jose friar estate is as follows: Mr. E. L. Poole has signed certificate in which director of lands, acting for the Philippine government under the provisions of section 9, act No. 1120, as amended by act No. 1847 and act No. 1933, has certified that the government of the Philippine Islands has agreed to sell to E. L. Poole or his nominees San Jose friar estate for ₱734,000 Philippine currency, which will be value of said land on January 4, 1910, fixed in accordance with the provisions of section 12, act No. 1120. Purchaser is to pay ₱42,875 on January 4, 1910, when this sale becomes effective. Balance is to be paid in 19 equal annual installments. I consider this is an excellent sale, as ₱32 per hectare is high. Full report will be forwarded by mail by Dean C. Worcester. Sale, however, contingent upon approval of title by Poole's attorney.

FORBES.

[Translation of cablegram sent.]

DECEMBER 4, 1909.

FORBES, *Manila:*

Referring to telegram from your office of 29th ultimo, the Secretary of War approves sale of San Jose estate. At the request of attorneys for purchasers the question referred to in my telegram of November 23 will be submitted at once to Attorney-General for an opinion.

EDWARDS.

THE GOVERNMENT OF THE PHILIPPINE ISLANDS,
DEPARTMENT OF THE INTERIOR,
Manila, October 21, 1909.

The CHIEF OF THE BUREAU OF INSULAR AFFAIRS,
Washington, D. C.

MY DEAR GENERAL EDWARDS: Two gentlemen who are contemplating the purchase of considerable tracts of the San Jose friar estate called at my office the other day and in the course of the interview which followed, stated that they had been informed in Washington, at the Bureau of Insular Affairs, that the sale of friar lands was subject to the same limitations as that of public land.

It is true that this was the case in the friar-land act (No. 1120) as originally passed, but act No. 1147 was passed for the express purpose of doing away with the numerous difficulties which arose in consequence.

We should, of course, have gotten into endless trouble with tenants desiring to purchase if the amount of land we could sell to any one of them was limited to 40 acres, while if we are ever to dispose of the San Jose and Isabela estates, both of which are practically without tenants and are situated in remote and comparatively inaccessible regions, it will be necessary to sell the lands in tracts of considerable size.

You will, I think, note that act No. 1120, as amended by act No. 1847, leaves the director of lands entirely free to offer unoccupied friar lands for sale in such tracts as may seem to him wise. I am hoping very much that we shall be able to sell some of this land to the gentlemen in question and that they will start a good, up-to-date sugar plantation.

If we can only unload these two large estates the friar-land problem will, according to present indications, be solved quite readily.

Sincerely, yours,

DEAN C. WORCESTER,
Secretary of the Interior.

Received in Bureau of Insular Affairs December 13, 1909.

[Translation of cablegram sent.]

DECEMBER 22, 1909.

FORBES, *Manila:*

The Attorney-General of the United States is of the opinion that limitations in section 15, act of Congress approved July 1, 1902, do not apply to the estates purchased from religious orders. Attorneys of purchasers so notified to-day. Copy of opinion by mail.

MCINTYRE.

[Translation of cablegram sent.]

JANUARY 12, 1910.

FORBES, *Manila:*

Has sale of Mindoro estate been consummated?

MCINTYRE.

[Translation of cablegram received.]

JANUARY 13, 1910.

SECRETARY OF WAR, *Washington:*

Sale Mindoro estate consummated January 4. First payment, $83,500, has been received.

FORBES.

WAR DEPARTMENT,
BUREAU OF INSULAR AFFAIRS,
Washington, October 22, 1909.

MY DEAR MR. HAMMOND: When you were in the office about the 3d of September, among other things, with reference to the land laws of the Philippines discussed, was the application of these laws to the friar estates. Very little attention was paid to this feature of the case, as I explained to you that I was under the impression that no effort was being made to sell any of the friar estates in large blocks, and specifically that I did not understand that the Philippine government was making any effort to sell the San Jose estate of about 56,000 acres, on the island of Mindoro. You will recall that you had received advice from Manila, or that your clients had received advice, that this estate was in the market. In any case I am satisfied that I gave you the impression that the limitations of the act of Congress relating to the public lands had been extended to the friar estates.

I now desire to correct both of these impressions. A cable received from Manila to-day indicates that it is desired to sell the San Jose estate, and I inclose two acts of the Philippine legislature amending "The friar lands act," which make it clear that the unoccupied lands on the friar estates may be sold to individuals without any limitation as to area. I do not know that you are still interested in this matter in any way, but I do not desire that you should be under any misapprehension as to the matter due to our conversation.

Sincerely, yours,

FRANK MCINTYRE,
Major, Eighth Infantry,
Assistant to Chief of Bureau.

JOHN HENRY HAMMOND, Esq.,
Care of STRONG & CADWALADER,
40 Wall Street, New York, N. Y.

Inclosures: Acts Nos. 1847 and 1933 of the Philippine Commission.

40 WALL STREET,
New York, October 23, 1909.

Maj. FRANK MCINTYRE,
War Department, Bureau of Insular Affairs,
Washington, D. C.

MY DEAR MAJOR MCINTYRE: I beg to acknowledge receipt of your very kind letter of yesterday, inclosing copies of acts Nos. 1847 and 1933 of the Philippine Commission, relating to the sale of the friars' lands.

After careful consideration and in view of the fact that it may be necessary for my former clients to request some discretionary action on the part of the government officials, I decided that they had better be represented by other counsel. Accordingly the firm of Cravath, Henderson & de Gersdorff has taken up the matter. I have sent your letter and the inclosures to Mr. Leffingwell, of that firm.

Thanking you for your courtesy in the matter, I remain,

Sincerely, yours,

JOHN HENRY HAMMOND.

B.

[Extract of cablegram received January 17, 1910, from Manila, P. I.]

SECRETARY OF WAR, *Washington:*

Negotiations practically completed leasing W. H. Lawrence portion Isabela friar estate not now occupied and leased or sold to occupants 19,461 hectares for the year commencing December 1, 1909, rent $100. Under agreement, lessee, at his own expense, cause immediate examina-

[a] There is no prior record in the Bureau of Insular Affairs of Prentiss and Poole.

[b] The Mr. Hammond referred to in this cablegram had called at the Bureau of Insular Affairs on September 3, 1909. Major McIntyre was in charge of the office on that date and went over very generally with Mr. Hammond the land laws of the Philippine Islands. The question of the amount of land which an agricultural corporation could hold in the Philippine Islands, the amount of land of the public domain which a corporation or individual might purchase, and related matters were discussed. Major McIntyre thinks that Mr. Hammond did not bring up the question of the purchase of any special piece of property in the Philippine Islands, nor is he positive that he mentioned the purchase of land on the friar estates, though from the cable from Manila he believes that Mr. Hammond must have done so.

However, after going over the subject, Major McIntyre gained the impression that Mr. Hammond's clients desired to form a corporation to carry on agriculture in the Philippine Islands and to obtain land holdings from the Philippine government. After discussing the legal aspect of the question, Mr. Hammond said that in view of the relation of his firm—Strong & Cadwalader—to the administration, he thought that he would advise his clients, who had been referred to him by another lawyer, whose name he gave (Major McIntyre thinks it was Judge Johnson, from Philadelphia or Pittsburg), to obtain the service of some other attorney. Major McIntyre promised to send to Mr. Hammond certain opinions relating to the holding of lands in the Philippine Islands, which he did. This was acknowledged, and there was no further correspondence or conversation with Mr. Hammond relating to this matter until the receipt of the cablegram from Governor Forbes of October 22, which is quoted above.

In accordance with the statement in the answer, Major McIntyre wrote a letter to Mr. Hammond (copy attached marked "A"), and received a reply (copy attached marked "B"). This concluded the matter in so far as the bureau was concerned. Mr. Hammond did not give the names of his clients, nor was inquiry made of him as to this matter. It is assumed, however, that they were the clients subsequently represented by Mr. de Gerrsdorf.

[c] Attorney-general of the Philippine Islands.

tion premises competent soil agricultural expert for the purpose of determining quality soil and such other circumstances considerations affecting value of the property, rendering true report examination investigation; failing to purchase end of the year, complete report becomes property of the Philippine government. Price, January 1, 1910, $211,350. Signing lease after publication; Bandillos published gives lessee prior right to purchase; estate practically unoccupied; 110 miles nearest practicable port; lease, prospect sale, deemed advisable.

FORBES.

C.

List of railway franchises granted by the Philippine legislature since the approval of the Philippine government act of July 1, 1902.

TO THE MANILA RAILROAD COMPANY.

No.	Title.
554	An act conferring a franchise upon the Manila Railway Company (Limited) to construct and operate a railroad from Guiguinto, on the present line of the Manila and Dagupan Railroad, to Cabanatuan, in the province of Nueva Ecija, an estimated distance of 71 kilometers.
555	An act to authorize the construction by the Manila Railway Company (Limited), owning and operating the Manila and Dagupan Railway, of two branches, one connecting Mabalacat with the main line and one connecting Bayambang with the main line.
703	An act conferring a franchise upon the Manila Railway Company (Limited) to construct, maintain, and operate a railroad from a point on the present Manila and Dagupan Railroad 1.00005 kilometers from what is known at the present time as the terminus of said railroad, in the city of Manila, to Antipolo, in the province of Rizal, an estimated distance of 32 kilometers, and to construct, maintain, and operate a spur or branch of said railroad from its crossing of the river San Juan to a point on the river Pasig opposite the municipality of San Pedro Macati, in the province of Rizal, an estimated distance of 3 kilometers.
704	An act amending act No. 554, conferring a franchise upon the Manila Railway Company (Limited) to construct a branch railroad from Guiguinto to Cabanatuan, by requiring the company to pay 1½ per cent of its gross earnings to the insular government.
705	An act amending act No. 555, conferring a franchise upon the Manila Railway Company (Limited) to construct two branch roads, one connecting Mabalacat with the main line and one connecting Bayambang with the main line, by requiring the company to pay 1½ per cent of its gross earnings to the insular government.
879	An act amending act No. 555 as amended, conferring a franchise upon the Manila Railway Company (Limited) to construct two branch roads, one connecting Mabalacat with the main line and one connecting Bayambang with the main line, by requiring the company to file each month with the insular auditor a sworn statement of its gross earnings.
1452	An act to amend act No. 703 by granting to the Manila Railway Company (Limited) a revocable license to construct, maintain, and operate a ferry from the Fort William McKinley station on the north bank to a point immediately opposite on the south bank of the Pasig River.
1453	An act to amend section 2 of act No. 554, so as to grant to the Manila Railway Company (Limited) the right to construct, maintain, and operate a freight spur 620 meters in length from a point 83,600 linear meters from the initial point at Bigaa of the Bigaa and Cabanatuan Railroad to a point on the east bank of the Pampanga River in the village of Santa Rosa, Nueva Ecija, and the right to construct, maintain, and operate a cableway 400 meters in length from said point on the east bank of the Pampanga River to a point immediately opposite on the west bank of said river.
1510	An act granting to the Manila Railroad Company a concession for railway lines in the island of Luzon, and providing in respect of proceedings for condemnation of land by public-service corporations.
1714	An act to amend subdivision (d) of section 1 of act No. 1510, so as to authorize a change of the railroad therein prescribed, and authorizing and providing for the construction of mileage equivalent to that of the route abandoned, and for other purposes.
1812	An act providing for the filing with the division of archives, patents, copyrights, and trade-marks of the executive bureau of the contracts of mortgage executed by the Manila Railroad Company as security for the issuance of bonds and other obligations, creating and fixing upon the property covered by said instruments a lien at and from the time of filing the same, and exempting said instruments from the payment of stamp taxes, and for other purposes.
1905	An act granting the Manila Railroad Company certain additional concessions for railroad lines in the island of Luzon and guaranteeing interest on the first-mortgage bonds of said lines and of certain lines already authorized by act No. 1510, and for other purposes.

TO THE MANILA ELECTRIC RAILROAD AND LIGHT COMPANY.

484	An act providing for the granting of a franchise to construct an electric street railway on the streets of Manila and its suburbs, and a franchise to construct, maintain, and operate an electric light, heat, and power system in the city of Manila and its suburbs, after competitive bidding.
44	An ordinance granting to Charles M. Swift a franchise to construct an electric street railway on the streets of Manila and its suburbs, and a franchise to construct, maintain, and operate an electric light, heat, and power system in the city of Manila and its suburbs.
70	An ordinance amending ordinance No. 44 of the municipal board, enacted March 24, 1904, entitled "An ordinance granting to Charles M. Swift a franchise to construct an electric street railway on the streets of Manila and its suburbs, and a franchise to construct, maintain, and operate an electric light, heat, and power system in the city of Manila and its suburbs.
71	An ordnance approving of certain changes in the lines of the Manila Electric Railroad and Light Company.
1325	An act providing for the amendment of paragraph 7 of part 2 of ordinance No. 44 of the city of Manila, enacted in pursuance of act No. 484 of the Philippine Commission, so as to extend the time within which the conditions mentioned therein shall be complied with.
1348	An act conferring upon the Manila Electric Railroad and Light Company a franchise for an extension of its lines, and granting it the right to expropriate land necessary for the purposes of the company.

List of railway franchises granted by the Philippine legislature, etc.—Continued.

TO THE MANILA ELECTRIC RAILROAD AND LIGHT COMPANY—continued.

No.	Title.
1447	An act granting permission to the Manila Electric Railroad and Light Company to construct certain tracks and overhead work in the city of Manila and use the same, and to carry freight and parcels over its lines.
1112	An act authorizing the assignment, sale, and transfer to the Manila Electric Railroad and Light Company of all the assets of the Compañía de los Tranvias de Filipinas providing for the surrender by the Manila Electric Railroad and Light Company of the franchises, and amendments thereto, of the said Compañía de los Tranvias de Filipinas, and for certain amendments to ordinance No. 44 of the municipal board of Manila, enacted in pursuance of act No. 484 of the Philippine Commission, and for the opening of certain new streets by the municipal board of Manila, and for a franchise to the Manila Electric Railroad and Light Company to construct, maintain, and operate an electric street railway and an electric light, heat, and power system from the limits of the city of Manila to Malabon.

TO THE MANILA SUBURBAN RAILWAY COMPANY.

1446	An act granting a franchise to Charles M. Swift to construct, maintain, and operate an electric railway, and to construct, maintain, and operate an electric light, heat, and power system from a point in the city of Manila in an easterly direction to the town of Pasig, in the province of Rizal.
1589	An act granting the Manila Suburban Railways Company an extension of time within which to complete that portion of its line eastward of Fort William McKinley; granting the right to build a branch line eastward of the barrio of San Pedro Macati, in a southerly direction to the town of Taguig, and to the Laguna de Bay; and granting the right to transport freight, express packages, baggage, and the mails over its lines under reasonable regulations, and to make reasonable charges for the same.
1762	An act fixing the maximum rates which may be charged by the Manila Suburban Railways Company.
1448	An act granting a franchise to Walter E. Olsen (Tarlac Railway Company) to construct, maintain, and operate by steam power a tramway from the town of Panique, situate on the line of the Manila and Dagupan Railroad, province of Tarlac, to the town of Camiling, in the same province, approximately a distance of 10 miles.

TO THE DAET TRAMWAY COMPANY.

1111	An act granting a franchise to Charles W. Carson to construct, maintain, and operate by animal power a tramway within the limits of the municipality of Daet, in the province of Ambos Camarines, from the wharves of the barrio of Mercedes, in said municipality, to the town proper, or poblacion of Daet, and through the said town of Daet to a point on the public highway 1 mile distant from the municipal building of said municipality of Daet in the direction of the town of Talisay.
1435	An act amending act No. 1111, entitled "An act granting a franchise to Charles W. Carson to construct, maintain, and operate by animal power a tramway within the limits of the municipality of Daet, in the province of Ambos Camarines, from the wharves of the barrio of Mercedes, in said municipality, to the town proper, or poblacion of Daet, and through the said town of Daet to a point on the public highway 1 mile distant from the municipal building of said municipality of Daet in the direction of the town of Talisay."

TO THE PHILIPPINE RAILWAY COMPANY.

1497	An act granting to the Philippine Railway Company a concession to construct railways in the islands of Panay, Negros, and Cebu, and guaranteeing interest on the first-mortgage bonds thereof, under authority of the act of Congress approved February 6, 1905.
1889	An act amending subsection 1 of paragraph 3 of section 1 of act No. 1497, changing the termini of the line of the Philippine Railway Company in the island of Negros.

TO THE LEPANTO MINING COMPANY (INCORPORATED).

1700	An act to grant to the Lepanto Mining Company (Incorporated) a franchise to construct a highway from a point near Comillas, province of Lepanto-Bontoc, in a general westerly direction to the China Sea at a point near the town of Bangar, province of La Union; and thereon to take toll, to operate as a common carrier, and, at its option, to construct a railroad.

TO THE INSULAR COAL COMPANY (INCORPORATED).

1835	An act to grant to the Insular Coal Company (Incorporated) a franchise to construct, maintain, and operate a railway line from the shore line at the port of Danao to the coal district of Camansi, province of Cebu.
16	Joint resolution approving, ratifying, and confirming the acceptance by the Insular Coal Company of the franchise granted in act No. 1835, and the action of the acting secretary of commerce and police in receiving and considering said acceptance as a compliance with the law.

D.

In the following table is shown kilometrage of railroad lines authorized by law in the Philippine Islands, with the length constructed, to be constructed, and in operation on June 30, 1909:

Road.	Authorized.	Constructed, in operation.	Constructed, not in operation.	To be constructed.
Manila Railroad Co	1,355.0	[a] 545.8	9.1	800.1
Manila Electric Railroad and Light Co	45.0	39.8	----------	5.2
Manila Suburban Railways Co	19.9	9.9	----------	10.0
Tarlac Railway Co	20.6	20.6	----------	----------
Daet Tramway Co	7.2	7.2	----------	----------
Philippine Railway Co	[b] 368.6	159.4	5.0	204.2
Lepanto Mining Co	42.0	----------	----------	42.0
Insular Coal Co	12.0	12.0	----------	----------
Total	1,870.3	794.7	14.1	1,061.5

[a] Includes belt line, Manila, not included last year.
[b] Excludes north Negros line and Carcar-Barili-Dumanjug branch.

E.

[Extract from Compilation of Acts of Philippine Commission, printed at Manila, 1908.]

SEC. 1295. No contract for the construction or repair of public works shall be entered into until the same has been authorized and an appropriation of a sum sufficient to meet the estimated expense of the same has been made by the commission, except in case of continuous contract for the prosecution of authorized work for which appropriations are made from time to time by the commission as the necessities of the work require.

SEC. 1296. All public works of construction or repair involving a cost greater than 4,000 pesos shall be let to the lowest responsible bidder, after at least ten days' notice of the letting by advertisement in two newspapers, one of which newspapers shall be printed in the English language and one in Spanish, of general circulation in the province or city where the work is to be done; or, if there be no Spanish or English newspaper of general circulation in the province or city where the work is to be done, then it shall be a sufficient compliance with this section if the notice of such letting be posted for ten days previous to the letting on the door of the provincial building or buildings of the province or provinces where the work is to be done and be published in a daily English newspaper and a daily newspaper printed in the Spanish language in the city of Manila having a general circulation. The director of public works is authorized to reject any or all bids and to waive defects; and if, in his opinion, the bids are excessive, he may, with the approval of the secretary of commerce and police, purchase material and hire labor and supervise the authorized work. All material and supplies shall be purchased through the purchasing agent, except in cases of emergency when life or property is in danger, or when the location of the work is remote from Manila, in which cases supplies and material may be purchased in the open markets, subject to the approval of the secretary of commerce and police.

The secretary of commerce and police, whenever, in his discretion, it is deemed advantageous to the interests of the government, shall direct the advertisement for contracts in at least two papers having general circulation in the United States.

SEC. 585. Every contract under which a payment may be made shall be submitted to the auditor with the account to which such payment pertains. In the case of deeds to property purchased by the government, the auditor shall require an official certificate by the court of land registration or other evidence satisfactory to the governor-general that the title is in the government.

SEC. 589. When suit is brought in any case of delinquency of an officer or agent accountable or responsible for public funds or property, a transcript from the books and proceedings of the auditor of the bureau or office concerned, or both, certified by the auditor under his seal, shall be admitted as evidence and judicial notice shall be taken thereof, and the court trying the case shall be authorized to grant judgment and award execution accordingly. All copies of bonds, contracts, or other papers relating to or connected with the settlement of any account between the government and an individual, when certified by the auditor under his seal to be true copies of the originals on file in his office or that of the bureau or office concerned, or both, may be annexed to such transcripts, and shall have equal validity and be entitled to the same degree of credit which would be due to the original papers if produced and authenticated in court: *Provided*, That where suit is brought upon a bond or other instrument and the answer of the defendant denies the execution of the same, and the defendant makes his motion to the court for the production of the same, verifying such answer and motion by his oath, the court may take the same into consideration and, if it appears to be necessary for the attainment of justice, may require the production of the original bond, contract, or other papers specified on such affidavit.

F.

The act of Congress of July 1, 1902, provided as follows:

"That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December 10, 1898, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, except as provided in this act."

Section 15 provides, in part, as follows:

"That the government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain other than timber and mineral lands of the United States in said islands as it may deem wise, not exceeding 16 hectares to any one person and for the sale and conveyance of not more than 1,024 hectares to any corporation or association of persons."

Section 16 provides as follows:

"That in granting or selling any part of the public domain under the provisions of the last preceding section, preference in all cases shall be given to actual occupants and settlers; and such public lands of the United States in the actual possession or occupancy of any native of the Philippine Islands shall not be sold by said government to any other person without the consent thereto of said prior occupant or settler first had and obtained: *Provided*, That the prior right hereby secured to an occupant of land, who can show no other proof of title than possession, shall not apply to more than 16 hectares in any one tract."

Sections 63, 64, and 65, conferring authority upon the Philippine Islands government to purchase lands of religious orders and others and issue bonds for the purchase price, provide as follows:

"SEC. 63. That the government of the Philippine Islands is hereby authorized, subject to the limitations and conditions prescribed in this act, to acquire, receive, hold, maintain, and convey title to real and personal property, and may acquire real estate for public uses by the exercise of the right of eminent domain.

"SEC. 64. That the powers hereinbefore conferred in section 63 may also be exercised in respect of any lands, easements, appurtenances, and hereditaments which on the 13th of August, 1898, were owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels and in such manner as in the opinion of the commission injuriously to affect the peace and welfare of the people of the Philippine Islands. And for the purpose of providing funds to acquire the lands mentioned in this section said government of the Philippine Islands is hereby empowered to incur indebtedness, to borrow money, and to issue and to sell at not less than par value, in gold coin of the United States of the present standard value, or the equivalent in value in money of said islands, upon such terms and conditions as it may deem best, registered or coupon bonds of said government for such amount as may be necessary, said bonds to be in denomination of $50, or any multiple thereof, bearing interest at a rate not exceeding 4½ per cent per annum, payable quarterly, and to be payable at the pleasure of said government after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with interest thereon, in gold coin of the United States of the present standard value or the equivalent in value in money of said islands; and said bonds shall be exempt from the payment of all taxes or duties of said government, or any local authority therein, or of the Government of the United States, as well as from taxation in any form by or under state, municipal, or local authority in the United States or the Philippine Islands. The moneys which may be realized or received from the issue and sale of said bonds shall be applied by the government of the Philippine Islands to the acquisition of the property authorized by this section, and to no other purposes.

"SEC. 65. That all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years after their acquisition by said government on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act: *Provided*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section and said deferred payments shall bear interest at the rate borne by the bonds. All moneys realized or received from sales or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said government."

Section 75 of the same act prohibits any corporation from holding real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and limits the amount of real estate which can be held by an agricultural corporation to 1,024 hectares.

Act No. 1120 of the Philippine Commission, providing for the administration and temporary leasing and sale of the friar lands, contains the following recital:

"Whereas the said lands are not 'public lands' in the sense in which those words are used in the public-land act No. 926, and can not be acquired or leased under the provisions thereof, and it is necessary to provide proper agencies for carrying out the terms of said contracts of purchase and the requirements of said act of Congress with reference to the leasing and selling of said lands and the creation of a sinking fund to secure the payment of the bonds so issued."

Section 9 of said act, as originally enacted, was as follows:

"SEC. 9. In the event the chief of the bureau of public lands should find any of the said lands vacant, he is directed to take possession and charge thereof, and he may either lease such unoccupied lands for a term not exceeding three years or offer the same for sale, as in his judgment may seem for the best interests of the government, and in making such sales he shall proceed as provided in chapter 2 of the public-land act."

Chapter 2 of the public-land act, section 10, provided as follows:

"SEC. 10. Any citizen of the Philippine Islands, or of the United States or of any insular possession thereof, or any corporation or like association of persons organized under the laws of the Philippine Islands or of the United States or any State, Territory, or insular possession thereof, and authorized to transact business in the Philippine Islands, may purchase any tract of unoccupied, unappropriated, and unreserved nonmineral agricultural public land in the Philippine Islands, as defined in the act of Congress of July 1, 1902, not to exceed 16 hectars for an individual or 1,024 hectares for a corporation or like association, by proceeding as hereinafter provided in this chapter: *Provided*, That no association of persons not organized as above and no mere partnership shall be entitled to purchase a greater quantity than will equal 16 hectares for each member thereof."

Section 9, as amended by acts Nos. 1847 and 1933 of the first Philippine legislature, reads, in part, as follows:

"SEC. 9. In the event the director of lands should find any of the said lands vacant, he is directed to take possession thereof, and he may either lease such unoccupied lands for a term not exceeding three years or sell same, as may be solicited, and in making such leases or such sales he shall proceed as provided in section 11 of this act."

Section 11 of this act, as amended by act No. 1847, provides complete and independent machinery for the sale and disposition of the friar lands.

The governor-general has advised the Bureau of Insular Affairs of the War Department by cable dated October 22, 1909, as follows:

"Acts 1847 and 1933 were passed amending friar-land act to give government right to sell vacant friar lands without restriction as to

area. Attorney-general concurs in the opinion that this has been accomplished."

A ruling is desired from the Department of Justice as to whether section 15 of the act of Congress of July 1, 1902, and the restrictions therein contained as to the amount of public land which may be held by an individual apply to friar lands so as to render ineffective the acts of the Philippine legislature above referred to.

NOVEMBER 23, 1909.

G.

List of public-utility franchises granted by the Philippine legislature since July 1, 1902.

No.	Title.
1223	An act granting to Cho Hang Lin, of Manila, P. I., a revocable license to construct, operate, and maintain a slipway or marine railway on the west bank of the Iloilo River, in the municipality of Iloilo, province of Iloilo, island of Panay.
1256	An act granting to Juan Bautista Fernandez, of Cebu, a license to construct, operate, and maintain a slipway or marine railway on a tract of land situated in the barrio of Canghana, in the municipality of Opon, province of Cebu.
1262	An act granting to Ignacio Arnalot, of the municipality of Tayabas, province of Tayabas, a concession to divert certain waters for the purpose of generating electric power.
1308	An act granting to Martin M. Levering a franchise to install, operate, and maintain an electric light, heat, and power supply system in the municipality of Cebu, province of Cebu.
1368	An act to provide for the granting of a franchise to construct, maintain, and operate telephone and telegraph systems and to carry on other electrical transmission business in and between the provinces, cities, and municipalities of the island of Luzon.
1456	An act granting to Bonifacio Villanueva, of the municipality of Mauban, province of Tayabas, a revocable license to divert the waters of the Trapichi River, situated in the said municipality of Mauban, province of Tayabas, for the purpose of generating power to operate certain rice-thrashing machinery.
1658	An act to provide for the granting of a franchise to construct, maintain, and operate telephone and telegraph systems and to carry on other electrical transmission business in and between the provinces, cities, and municipalities of the island of Luzon.
1790	An act to confirm certain rights and franchises of the Banco Español-Filipino and to amend its statutes.
1826	An act to provide for the granting of a franchise to construct, maintain, and operate telephone and telegraph systems and to carry on other electrical transmission business in and between the provinces of Albay and Ambos Camarines and in and between the municipalities thereof.
17	Joint resolution approving, ratifying, and confirming the acceptance by Charles W. Carson of the franchise granted him in act No. 1826, and receiving and considering said acceptance as a good and sufficient compliance with the terms of said act.
1947	An act to ratify and confirm certain mining concessions granted under royal decrees of the Kingdom of Spain, to amend the terms and conditions of said concessions, and to provide for their registration.

NOTE.—By reference to the list of railroad franchises granted by the Philippine legislature (herewith), it will be seen that some of these also contained grants of franchises for works of public utility.

[No. 1223.]

An act granting to Cho Hang Lin, of Manila, P. I., a revocable license to construct, operate, and maintain a slipway or marine railway on the west bank of the Iloilo River, in the municipality of Iloilo, Province of Iloilo, Island of Panay.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. Cho Hang Lin, of the city of Manila, P. I., is hereby granted a revocable license to construct, operate, and maintain a slipway or marine railway consisting of one or more slips on that portion of the west bank of the Iloilo River, in the municipality of Iloilo, Province of Iloilo, Island of Panay, which is bounded upon the north and west by property claimed by Cornelio Melliza, on the south by lands claimed by Ynchausti & Co., and on the east by the waters of the Iloilo River.

SEC. 2. The slipway or marine railway and the machinery, appliances, and auxiliaries of said slipway or marine railway, must be so constructed and placed as not to obstruct or injuriously to interfere with the free and convenient navigation of the Iloilo River; and in no event shall said slipway or marine railway or any of the machinery, appliances, or auxiliaries thereof, extend into the Iloilo River to a point more than 50 feet beyond the present low-water line.

SEC. 3. Said slipway or marine railway must be constructed according to detailed plans approved in writing by the consulting engineer to the commission, and such plans shall be submitted by the said Cho Hang Lin to the consulting engineer to the commission for official action within forty days after the passage of this act.

SEC. 4. Said slipway or marine railway shall not be put in operation or opened for public use until the same has been inspected and a permit to operate it and open it for public use shall have been issued by the said consulting engineer to the said Cho Hang Lin.

SEC. 5. Whenever it is decided by the Philippine Commission that said slipway or marine railway, or the machinery, appliances, or auxiliaries thereof, constitute an interference with the free or convenient navigation of the Iloilo River, or that the space occupied by said slipway or marine railway, or by the machinery, appliances, or auxiliaries thereof, is necessary for the improvement of the river or harbor or for the protection or convenience of navigation, it shall be the duty of Cho Hang Lin, his lessees, grantees, or successors in interest, to remove within the time to be specified by the consulting engineer to the commission any part or portion of said slipway or marine railway, or the machinery, appliances, or auxiliaries of said slipway or marine railway, constituting an interference with the free or convenient navigation of the Iloilo River, or occupying space necessary for the improvement of the river or harbor or for the protection or convenience of navigation.

SEC. 6. The grantee of this revocable license shall begin the construction of said slipway or marine railway within ninety days, and shall fully complete said slipway or marine railway and put the same in operation for the public convenience within one year after the passage of this act; and for a failure to begin the work of construction within the time limited by this section, or to put said slipway or marine railway in full operation for the public convenience within the time herein prescribed, the license granted by this act to construct, maintain, and operate said slipway or marine railway shall be forfeited and revoked.

SEC. 7. The rates to be charged for the use of said slipway or marine railway, or for services rendered by said slipway or marine railway, shall always be subject to examination and regulation by act of the commission or other legislative authority of these islands.

SEC. 8. The grantee of this revocable license, his lessees, grantees, or successors in interest, shall at all times maintain said slipway or marine railway in good repair to the satisfaction of the consulting engineer to the commission, and in a suitable state of efficiency for the proper carrying out of the work for which said slipway or marine railway is constructed.

SEC. 9. The revocable license granted by this act to Cho Hang Lin shall not be assigned, transferred, let, or sublet, without the authorization and consent of the Philippine Commission.

SEC. 10. The license granted by this act may be revoked at any time by act of the commission.

SEC. 11. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 12. This act shall take effect on its passage.

Enacted August 29, 1904.

[No. 1256.]

An act granting to Juan Bautista Fernandez, of Cebu, a license to construct, operate, and maintain a slipway or marine railway on a tract of land situated in the barrio of Canghana, in the municipality of Opon, province of Cebu.

By authority of the United States, be it enacted by the Philippine Commission that:

SECTION 1. Juan Bautista Fernandez, of the municipality of Cebu, province of Cebu, his successors and assigns, is hereby granted a license to construct, operate, and maintain a slipway or marine railway for the period of fifty years, consisting of one or more slips, in that portion of the waters lying between the island of Cebu and the island of Mactan, which constitutes the water front of a tract of land owned by the said Juan Bautista Fernandez, in the barrio of Canghana, in the municipality of Opon, in the province of Cebu.

SEC. 2. Said slipway, or marine railway, must be constructed according to detailed plans approved in writing by the consulting engineer to the commission, and such plans shall be submitted for such approval by the said Fernandez within forty days after the passage of this act.

SEC. 3. Said slipway or marine railway shall not be put in operation or opened for public use until the same has been inspected and a permit to operate it and open it for public use shall have been issued by the said consulting engineer to the said Fernandez.

SEC. 4. The grantee of this license shall begin the construction of said slipway or marine railway within ninety days, and shall fully complete said slipway or marine railway and put the same in operation for the public convenience within eighteen months after the passage of this act; and for a failure to begin the work of construction within the time limited by this section or to put said slipway or marine railway in full operation for the public convenience within the time herein prescribed the license granted by this act to construct, maintain, and operate said slipway or marine railway shall be forfeited and revoked.

SEC. 5. The rates to be charged for the use of said slipway or marine railway, or for services rendered by said slipway or marine railway, shall always be subject to examination and regulation by act of the commission or other legislative authority of these islands.

SEC. 6. The grantee of this license, his lessees, grantees, or successors in interest, shall at all times maintain said slipway or marine railway in good repair to the satisfaction of the consulting engineer to the commission and in a suitable state of efficiency for the proper carrying out of the work for which said slipway or marine railway is constructed. The duly authorized agent of the government of the Philippine Islands shall always have the right to enter and examine any and all parts of said property at any time, either in person or by agent.

SEC. 7. The grantee of this license, his lessees, grantees, or successors in interest, shall pay annually to the government of the Philippine Islands one-half of 1 per cent per annum of the gross receipts derived from the operation of said slipway or marine railway from and after the date of the acceptance of this license. Said payment shall be made on the 15th day of January of each and every year for the year preceding, and any accredited officer of the insular government shall, upon demand, have the right to examine and inspect the books of the grantee, his successors or assigns, for the purpose of ascertaining the gross receipts of the said slipway or marine railway for any year; but nothing in this section shall be construed to interfere with the rights of the municipal, provincial, or insular governments to assess taxes upon the land in question or improvements thereon, nor shall it affect the right of the government to assess and collect any business or income tax on his business.

SEC. 8. The license granted herein is subject to amendment, alteration, or repeal by the Congress of the United States as provided in section 74 of act of Congress approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes."

SEC. 9. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 10. This act shall take effect on its passage.

Enacted November 1, 1904.

[No. 1262.]

An act granting to Ignacio Arnalot, of the municipality of Tayabas, Province of Tayabas, a concession to divert certain waters for the purpose of generating electric power.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. There is hereby granted to Ignacio Arnalot, of the municipality of Tayabas, Province of Tayabas, his successors and assigns,

the right, privilege, and authority, for a period of twenty-five years from and after the passage of this act, to divert the waters of the Ibiang Munti and Ibiang Malaqui rivers, situated between the municipalities of Lucban and Tayabas, in said province, for the purpose of generating electric power and transmitting the same to the factory now owned by said Ignacio Arnalot in the municipality of Tayabas; to construct, operate, and maintain dams, canals, power houses, transmission line, and all other appurtenances connected with the utilization of said waters as herein set forth; and to furnish electric power to individuals and corporations and to charge and collect tolls, rates, and compensation therefor: *Provided*, That such tolls, rates, and compensation shall always be subject to regulation by act of the Philippine Commission or the legislative body of the Islands: *Provided further*, That the water utilized for the purposes of this franchise be returned to the river in such manner and place as the consulting engineer to the commission shall direct.

SEC. 2. Said grantee shall file his acceptance of the conditions of this franchise with the secretary of commerce and police within thirty days from the date hereof, and said power plant and any highway bridges that may become necessary by reason of the installation of said plant and its appurtenances shall be constructed and maintained by the grantee of this franchise according to detailed plans and specifications approved in writing by the consulting engineer to the commission, and said plans and specifications shall be submitted by said grantee for such approval within forty days after the passage of this act; and said grantee shall begin the construction of said power plant within ninety days after approval of the plans, and shall fully complete and put the same in operation within fifteen months after the passage of this act; and for failure to begin the work of construction or to put said power plant into operation within the time herein specified, or for failure to keep all parts of said power plant and bridges in a good state of repair, to the satisfaction of the consulting engineer to the commission, or for discontinuing the bona fide operation of said power plant for a period of two years, the franchise granted by this act shall be forfeited and revoked.

SEC. 3. Said power plant shall not be put into operation until it shall have been duly inspected and a permit to operate the same issued by said consulting engineer to the commission, and said grantee shall thereafter keep all parts of said power plant and highway bridges constructed under the provisions of this act in a satisfactory state of repair.

SEC. 4. The right to use for municipal purposes from the rivers Ibiang Munti and Ibiang Malaqui the quantity of 30 liters of water per second, and as much more as will not materially interfere with the operations of the power plant of the grantee, is hereby reserved to the municipality of Tayabas.

SEC. 5. The electric installations used by the grantee shall be in accordance with the general regulations contained in the last edition of the National Electric Code as adopted in the United States, and the work of construction, operation, and maintenance of said power plant shall be subject to inspection and examination by the consulting engineer to the commission or his authorized agent, who shall at all times have the right of access to the plant for such purpose.

SEC. 6. The grantee of this franchise, his successors and assigns, shall pay annually to the government of the Philippine Islands 1 per cent of the gross receipts derived from the sale of electric power or current to individuals and corporations as authorized by section 1 hereof; but nothing in this section shall be construed to interfere with the rights of the municipal, provincial, or insular governments to assess taxes upon the property, real or personal, of the grantee, his successors or assigns, nor shall it affect the right of the government to assess and collect any business or income tax on his business.

SEC. 7. In case the grantee, his successors or assigns, shall sell or furnish electric power to individuals and corporations as authorized by section 1 hereof, his books shall always be open to the inspection of the insular treasurer or a deputy designated by him for the purpose, and it shall be the duty of said grantee to submit to the insular treasurer quarterly reports showing the gross receipts and the net receipts for the quarter past and the general condition of the business.

SEC. 8. This franchise is granted with the understanding and upon the condition that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, as provided in section 74 of the act of Congress approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and that it shall be subject, in all respects, to the limitations upon corporations and the granting of franchises contained in said act of Congress.

SEC. 9. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 10. This act shall take effect on its passage.

Enacted November 15, 1904.

[No. 1303.]

An act granting to Martin M. Levering a franchise to install, operate, and maintain an electric light, heat, and power supply system in the municipality of Cebu, Province of Cebu.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. There is hereby granted to Martin M. Levering, a citizen of the United States, the right, privilege, and authority, for the period of thirty-five years from and after the passage of this act, to erect, construct, maintain, and operate in, along, and over any and all streets, thoroughfares, and public places within the boundaries of the municipality of Cebu, poles, wires, and all necessary apparatus and appurtenances for the transmission and distribution of electric currents for electric power, heat, and light, and for any other purpose for which electricity may be used, and to furnish electric power, heat, and light within said municipality of Cebu for municipal, domestic, or manufacturing uses and for any other use to which electricity may be put, and to charge and collect tolls, rates, and compensation for such power, heat, light, and use: *Provided*, That such tolls, rates, and compensation shall always be subject to regulation by act of the Philippine Commission or its successors.

SEC. 2. The poles erected by the grantee shall be of such height as to support wires strung thereon at a distance of at least 20 feet above the ground, shall not be of such crooked or ungainly appearance as to disfigure the streets, and shall be placed in accordance with a plan which must have been approved by the municipal authorities; and said grantee shall supply electric power, heat, and light to any applicant for the same within fifteen days after the date of his application, and, as between such applicant and other like applicants in the order of the date of his application up to the limit of the capacity of the plant of said grantee, to be determined by the provincial supervisor on the application of such person or said grantee; and should the demand for electric power, heat, and light at any time increase beyond the capacity of the plant of said grantee to supply the same, the capacity of said plant shall be increased to meet such demand, if the Philippine Commission or its successors shall so direct: *Provided*, That the point at which the electric power, heat, or light is to be supplied is not more than 80 meters from the lines or wires maintained by said grantee.

SEC. 3. All apparatus and appurtenances used by the grantee shall be modern and first class in every respect, and said wires shall be insulated and carefully connected and fastened so as not to come in direct contact with any object through which a "ground" could be formed, and shall be stretched so as not to interfere with the free and unobstructed use of said streets and alleys: *Provided*, That the grantee herein shall, whenever the Philippine Commission or its successors may so direct, place said wires in underground pipes or conduits at his own expense and without any cost or damage to the municipality of Cebu.

SEC. 4. Whenever it shall be necessary in the erection of said poles to take up any portion of the sidewalks or dig up the ground in or near the sides or the corners of the streets or thoroughfares, then the said grantee shall, after said poles are erected, without delay, replace said sidewalk and property in a neat, workmanlike manner and remove from said sidewalks, streets, or thoroughfares all rubbish, sand, and dirt or other material which may have been placed there, taken up, or dug up in the erection or construction of said poles, and shall put such sidewalk, street, or thoroughfare in as good a condition as it was before it was taken up or disturbed.

SEC. 5. Whenever any person has obtained permission to use any of the streets of the municipality for the purpose of removing any building or in the prosecution of any municipal work or for any other cause whatsoever, making it necessary to raise or remove any of said wires which may obstruct the removal of said building or hinder the prosecution of said work, the said grantee, upon forty-eight hours' notice from the municipal council of the municipality of Cebu, shall raise or remove any of said wires which may hinder the prosecution of such work or obstruct the removal of said building so as to allow the free and unobstructed passage of said building and the free and unobstructed prosecution of said work. Such notice shall be a duly adopted resolution of the municipal council, in writing, and served upon said grantee or his duly authorized representative or agent by any person competent to be a witness in a civil action; and in case of the refusal or failure or said grantee to comply with such notice, the municipal president, with the approval of the municipal council first had, shall raise or remove such wires at the expense of said grantee, for the purpose aforesaid.

SEC. 6. Said grantee contracts and covenants hereby to indemnify the said municipality of Cebu for any injury arising from any casualty or accident to person or property by reason of the construction under this franchise or of any neglect or omission to keep the said poles and wires in a safe condition, and for all valid claims against said municipality for damages caused by said wires or electric currents conducted thereby.

SEC. 7. Said grantee shall file his acceptance of the conditions of this franchise with the secretary of commerce and police within thirty days from the date hereof, and shall commence work within six months from the date of filing such acceptance, and shall complete the system and have the same in operation within eighteen months from the date such acceptance is filed, and shall thereafter maintain a first-class electric light, heat, and power service, and in consideration of the franchise hereby granted shall pay quarterly into the provincial treasury of Cebu, to be divided equally between the municipality of Cebu and the Province of Cebu, 1 per cent of the gross earnings of the enterprise during the first ten years and 2 per cent during the following twenty-five years of the life of this franchise.

SEC. 8. At the time of filing the acceptance mentioned in the last preceding section the grantee shall deposit in the insular treasury ₱1,000, Philippine currency, as an earnest of the good faith of his application, and within six months thereafter shall deposit in the insular treasury the additional sum of ₱9,000, Philippine currency, as a guaranty of the faithful performance of the conditions mentioned in this section, and in case said deposit of ₱9,000, Philippine currency, is not made within six months after the date of filing said acceptance the sum of ₱1,000 already deposited shall be forfeited to the municipality of Cebu. In case, after the deposit of said sum of ₱9,000, the work to be done under this franchise is not begun within the time specified, or is not completed within the time provided, both said deposits may be forfeited at the option of the governor-general, and be divided equally between the municipality of Cebu and the Province of Cebu as liquidated damages for the breach of the contract involved in the acceptance of this franchise, and this franchise shall become null and void. In case of the fulfillment of the conditions by this section provided, both said deposits of ₱1,000 and ₱9,000 shall be returned by the insular treasurer to the grantee upon proper certificate of the provincial supervisor of Cebu of the fulfillment of said conditions: *Provided*, That if work shall be begun by the grantee within the time specified the funds deposited may be returned to the grantee as the work progresses, in monthly or quarterly installments in the discretion of the municipal authorities, in the proportion which the work done bears to the work to be done: *Provided further*, That the insular treasurer may accept duly executed and satisfactory fidelity bonds of a fidelity company in lieu of the cash deposits by this section required.

SEC. 9. The municipality of Cebu shall have the privilege, without compensation, of using the poles of the grantee for the purpose of installing, maintaining, and operating a telephone or fire and police alarm system, but the wires of such telephone or fire and police alarm system shall be placed and stretched in such manner as to cause no interference with or damage to the wires of the electric service of the grantee.

SEC. 10. This franchise is granted with the understanding and upon the condition that it shall be subject to amendment, alteration, or repeal by the Congress of the United States as provided in section 74 of the act of Congress approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and that it shall be subject, in all respects, to the limitations upon corporations and the granting of franchises contained in said act of Congress, and that all lands or rights of use or occupation of lands secured by virtue of this franchise shall revert upon its termination to the insular, provincial, or municipal government by which such lands were, respectively, granted.

SEC. 11. The grantee of this franchise is forbidden to issue stock or bonds under this franchise except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or

bonds so issued. Neither shall said grantee declare any stock or bond dividend.

SEC. 12. The books of the grantee shall always be open to the inspection of the provincial treasurer or a deputy designated by him for the purpose, and it shall be the duty of the grantee to submit to the provincial treasurer quarterly reports in duplicate showing the gross receipts and the net receipts for the quarter past and the general condition of the business, one of which shall be forwarded by the provincial treasurer to the insular auditor, who shall keep the same on file.

SEC. 13. Nothing in this franchise shall be construed to interfere with the rights of the municipal, provincial, or insular government to assess and collect any business or income tax upon the business of the grantee.

SEC. 14. The grantee herein may sell, lease, give, grant, convey, or assign this franchise and all property and rights acquired thereunder to any person, company, or corporation competent to conduct the business authorized thereby, but no title to this franchise or to the property or rights acquired thereunder shall pass by sale, lease, gift, grant, conveyance, transfer, or assignment to the vendee, donee, transferee, lessee, or assignee, or be enjoyed by him until he shall have filed in the office of the secretary of commerce and police an agreement in writing agreeing to comply with all the terms and conditions imposed on the grantee by the franchise and accepting the said franchise subject to all its existing terms and conditions.

SEC. 15. The municipal council of the municipality of Cebu, after hearing the grantee, shall have the power, with the approval of the governor-general, to declare the forfeiture of this franchise for failure to comply with any of the terms and conditions thereof, unless such failure shall have been directly or primarily caused by the act of God, the public enemy, or force majeure. Against such declaration of forfeiture the grantee may apply to any court of competent jurisdiction for such relief as to him may seem proper, but if no such application is made within sixty days after the forfeiture has been declared by the municipality and approved by the governor-general the right to apply to the courts shall be considered waived.

SEC. 16. Wherever in this franchise the term "grantee" is used, it shall be held and understood to stand for and represent Martin M. Levering, said grantee, his representatives, successors, and assigns.

SEC. 17. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 18. This act shall take effect on its passage.

Enacted February 24, 1905.

[No. 1368.]

An act to provide for the granting of a franchise to construct, maintain, and operate telephone and telegraph systems, and to carry on other electrical transmission business in and between the provinces, cities, and municipalities of the island of Luzon.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. There is hereby granted, for a period of fifty years from and after the passage of this act, upon the considerations and conditions herein contained, to John I. Sabin and Louis Glass and their successors or assigns the right and privilege to construct, maintain, and operate in the island of Luzon and in and between the provinces, cities, and municipalities thereof a telephone and telegraph system, to carry on the business of transmitting messages and signals by means of electricity in and between said provinces, cities, and municipalities, and for the purpose of operating said telephone and telegraph system and of transmitting messages and signals by means of electricity, to construct telephone and telegraph lines in and between said provinces, cities, and municipalities, to construct, maintain, and operate and use all apparatus, conduits, and appliances necessary for the electrical transmission of messages and signals, to erect poles, string wires, build conduits, lay cables, and to construct, maintain, and use such other approved and generally accepted means of electrical conduction in, on, over, or under the public roads, highways, lands, bridges, streets, lanes, alleys, avenues, and sidewalks of said provinces, cities, and municipalities as may be necessary and best adapted to the transmission of messages and signals by means of electricity: *Provided, however,* That all poles erected and all conduits constructed or used by the grantees, their successors or assigns, shall be located in the places designated by provincial, city, or municipal authorities, as the case may be, and poles shall be straight and smooth and erected and painted in a good, substantial, and workmanlike manner, to the satisfaction of such authorities; but it shall not be obligatory on the grantees, their successors or assigns, to paint poles except in cities and centers of population of municipalities: *And provided further,* That said poles shall be of such a height and the wires or conductors strung or used by said grantees shall be so placed and safeguarded as to prevent danger to life or property by reason of contact with electric light, power, or street railway wires or conductors: *And provided further,* That upon reasonable notice and by resolution of the proper insular, provincial, city, or municipal authorities the grantees, their successors or assigns, may be required to relocate poles or remove or raise wires or other conductors so as to permit the passage of buildings or other structures from one place to another, one-half the actual cost of such relocation of poles or raising or removal of wires or other conductors to be paid by the person at whose instance the building or structure is moved; and, at the expense of the grantees, their successors or assigns, to relocate conduits, poles, and wires, and to raise or remove wires or other conductors when the public interest so requires in order to enable insular, provincial, city, or municipal authorities to prosecute and complete any public work.

Should the grantees, their successors or assigns, fail, refuse, or neglect within a reasonable time to relocate their poles, conduits, or wires or other conductors or to raise their wires or other conductors when so directed by the proper insular, provincial, city, or municipal authorities, then said authorities may relocate said poles, conduits, or wires or other conductors or raise said wires or other conductors at the expense of the grantees, their successors or assigns: *And provided further,* That whenever 25 or more pairs of open wires or other conductors are carried on one line of poles in any city or municipal center, said wires or conductors shall be placed in one cable, and whenever more than 250 pairs of wires or other conductors in cables are carried on one line of poles, said cables shall be placed underground.

SEC. 2. For the purpose of erecting and maintaining poles or other supports for said wires or other conductors or for the purpose of laying and maintaining underground said wires, cables, or other conductors, it shall be lawful for the grantees, their successors or assigns, under such regulations and orders as may be prescribed by insular, provincial, city, or municipal authorities, to make excavations and lay conduits in any of the public places, lands, roads, highways, streets, lanes, alleys, avenues, bridges, or sidewalks in or between the said provinces, cities, or municipalities: *Provided, however,* That any public place, road, highway, street, lane, alley, avenue, bridge, or sidewalk disturbed, altered, or changed by reason of the erection of poles or other supports or the laying underground of wires or other conductors shall, wherever disturbed, altered, or changed, be repaired and replaced in a good, substantial, and workmanlike manner by said grantees, their successors or assigns, to the satisfaction of the insular, provincial, city, or municipal authorities, as the case may be. Should the grantees, their successors or assigns, after reasonable written notice from said authorities, fail, refuse, or neglect to repair and replace in a good, substantial, and workmanlike manner, to the satisfaction of said insular, provincial, city, or municipal authorities, any part of a public place, road, highway, street, lane, alley, avenue, bridge, or sidewalk altered, changed, or disturbed by said grantees, their successors or assigns, then the insular, provincial, city, or municipal authorities, as the case may be, shall have the right to have the same properly repaired and placed in good order and condition at the cost and expense of the grantees, their successors or assigns.

SEC. 3. All telegraph and telephone lines and systems for the transmission of messages and signals by means of electricity owned, maintained, or operated by the grantees, their successors or assigns, shall be maintained and operated at all times in a complete, modern, first-class style as understood in the United States, and it shall be the further duty of said grantees, their successors or assigns, to modify, improve, and change such telephone and telegraph system, or system for the transmission of messages by means of electricity, in such manner and to such extent as the progress of science and improvements in the method of transmission of messages and signals by means of electricity may make reasonable and proper.

SEC. 4. The grantees, their successors or assigns, shall keep a separate account of the gross receipts of the telephone, telegraph, and electrical transmission business transacted by them in the city of Manila and in each of the municipalities of the various provinces and shall furnish to the insular auditor and the insular treasurer a copy of such account not later than the 31st day of July of each year for the twelve months preceding the 1st day of July. For the purpose of auditing the accounts so rendered to the insular auditor and insular treasurer all of the books and accounts of the grantees, their successors or assigns, shall be subject to the official inspection of the insular auditor, or his authorized representatives, and in the absence of fraud or mistake the audit and approval by the insular auditor of the accounts so rendered to him and to the insular treasurer shall be final and conclusive evidence as to the amount of said gross receipts.

SEC. 5. The grantees, their successors or assigns, shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of the franchise, as other persons or corporations are now or hereafter may be required by law to pay. The grantees, their successors or assigns, shall further pay to the insular treasurer each year, within ten days after the audit and approval of the accounts as prescribed in section 4 of this act, 2 per cent of all gross receipts of the telephone, telegraph, or other electrical transmission business transacted under this franchise by the grantees, their successors or assigns, and the said percentage shall be in lieu of all taxes on the franchise or earnings thereof.

SEC. 6. As a guaranty that the franchise has been accepted in good faith and that within eighteen months from the date of the passage of this act the grantees, or their successors or assigns, will begin the business of transmitting messages by telephone and will be fully equipped and ready to operate according to the terms of this franchise 1,000 telephones in the city of Manila, the said grantees shall deposit at the time of such acceptance, with the insular treasurer, 50,000 pesos or negotiable bonds of the United States or other securities, approved by the governor-general, of the face value of 50,000 pesos: *Provided, however,* That if the deposit is made in money, the same shall be deposited at interest in some interest-paying bank approved by the governor-general and all interest accruing and due on such deposit shall be collected by the insular treasurer and paid to the grantees, their successors or assigns, on demand: *And provided further,* That if the deposit made with the insular treasurer be negotiable bonds of the United States or other interest-bearing securities approved by the governor-general, the interest on such bonds or securities shall be collected by the insular treasurer and paid over to the grantees, their successors or assigns, on demand. Should the said grantees, their successors or assigns, for any cause other than the act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause, fail, refuse, or neglect to begin within eighteen months from the date of the passage of this act, the business of transmitting messages by telephone, or fail, refuse, or neglect to be fully equipped and ready to operate within eighteen months from the date of the passage of this act 1,000 telephones in the city of Manila according to the terms of this franchise, then the deposit prescribed by this section to be made with the insular treasurer, whether in money, bonds, or other securities, shall become the property of the insular government as liquidated damages caused to such government by such failure, refusal, or neglect, and thereafter no interest on said bonds or other securities deposited shall be paid to the grantees, their successors or assigns. Should the said grantees, their successors or assigns, begin the business of transmitting messages by telephone and be ready to operate according to the terms of this franchise 1,000 telephones in the city of Manila within eighteen months from the date of the passage of this act, then and in that event the deposit prescribed by this section shall be returned by the insular government to the grantees, their successors or assigns.

SEC. 7. The books and accounts of the grantees, their successors or assigns, shall be subject to official inspection at any and all times by the insular auditor or his authorized representatives.

SEC. 8. The rights herein granted shall not be exclusive, and the right and power to grant to any corporation, association, or person other than the grantees franchises for the telephonic, telegraphic, or electrical transmission of messages or signals shall not be impaired or affected by the granting of this franchise: *Provided,* That the poles erected, wires strung, or conduits laid by virtue of any franchise for telephone, telegraph, or other electrical transmission of messages and signals granted subsequent to this act shall be so placed as not to impair the efficient and effective transmission of messages or signals under this franchise: *And provided further,* That the grantees of this franchise may be required by the Philippine Commission to remove, relocate, or replace their poles, wires, or conduits, but in such case the reasonable cost of the removal, relocation, or replacement shall be paid by the grantees of the subsequent franchise or their successors or assigns to the grantees of this franchise or their successors or assigns.

SEC. 9. The grantees, their successors or assigns, shall hold the insular, provincial, city, and municipal governments harmless from all claims,

accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the telephone, telegraph, or other electrical transmission system of the said grantees, their successors or assigns.

SEC. 10. The city of Manila and the municipalities in which the grantees, their successors or assigns, may establish telephone, telegraph, or any other system of electrical transmission of messages and signals shall have the privilege of using, without compensation, the poles of the grantees, their successors or assigns, for the purpose of installing, maintaining, and operating a fire and police telephone alarm system, but the wires of such fire and police telephone alarm system shall be so placed, strung, stretched, and insulated as not to interfere with the efficient transmission of messages and signals by the grantees, their successors or assigns.

SEC. 11. Within ninety days after the date of the passage of this act the grantees shall file with the executive secretary of the Philippine Islands their written acceptance of the franchise granted by this act and of all the terms and conditions thereof, and the grantees shall begin the construction of their telephone system in the city of Manila within six months from the date of such acceptance and shall begin the business of transmitting messages by telephone and be fully equipped and ready to operate 1,000 telephones in said city within eighteen months from the date of the passage of this act unless prevented by act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause.

The failure, refusal, or neglect to comply with any of the terms and conditions required of the grantees, their successors or assigns, by this act, shall subject the franchise to forfeiture unless such failure, refusal, or neglect was directly and primarily caused by act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause.

SEC. 12. Until the grantees, their successors or assigns, shall have in operation 4,000 telephones in the city of Manila the rates to be charged by the grantees, their successors or assigns, shall not exceed the following:

(*a*) Subscribers for telephones other than residence telephones, having an individual and metallic circuit, with unlimited exchange switching, shall pay monthly in advance a flat rate not to exceed 13 pesos, or, at the option of the grantees, their successors or assigns, in lieu of such flat rate not to exceed 10 centavos per switch, telephone rent free;

(*b*) Subscribers for telephones other than residence telephones, having a party wire, with not exceeding two subscribers on the same line and unlimited exchange switching, shall each pay monthly in advance a flat rate of not to exceed 9 pesos, or, at the option of the grantees, their successors or assigns, in lieu of such flat rate, not to exceed 10 centavos per switch, telephone rent free;

(*c*) Subscribers for telephones other than residence telephones, having a party wire, with four or more subscribers on the same line and unlimited exchange switching, shall each pay monthly in advance a flat rate of not to exceed 6 pesos, or, at the option of the grantees, their successors or assigns, in lieu of such flat rate, not to exceed 10 centavos per switch, telephone rent free;

(*d*) Subscribers having residence telephones on an individual and metallic circuit and unlimited exchange switching shall pay monthly in advance a flat rate of not to exceed 10 pesos;

(*e*) Subscribers having residence telephones on party wire, with two subscribers on the same line and unlimited exchange switching, shall each pay monthly in advance a flat rate of not to exceed 7 pesos;

(*f*) Subscribers having residence telephones on party wire, with four or more subscribers on the same line and unlimited exchange switching, shall each pay monthly in advance a flat rate of not to exceed 5 pesos: *Provided*, That these rates shall only apply within the following described limits in the city of Manila:

Commencing at a point on the shore of Manila Bay, about 150 feet distant in a northerly direction from the north line of Calle de Moriones, prolonged so as to intersect said shore, and running in a straight line from said point to a point about 150 feet northwest of the junction of Calle Zurbaran and Calle Feliz, thence in a straight line to a point on the Estero de Valencio about 100 feet north of Calle de Santa Mesa, thence following the center line of said estero to the center line of the Pasig River, thence following said center line of the Pasig River in a westerly direction to a point opposite the mouth of the Estero Paco, thence following the center line of the said Estero Paco to a point about 150 feet south of the Paco Bridge, thence westerly in a straight line parallel with Calle de Herran to a point about 150 feet east of Calle Nueva, thence in a southerly direction parallel with Calle Nueva to a point about 200 feet north of the Estero de San Antonio, thence in a straight line in a southwesterly direction to the shore line of Manila Bay and thence along said shore line as now or hereafter existing to the point of beginning.

For each telephone line in the city of Manila running beyond said limits an additional charge of 15 pesos per annum may be made for each additional quarter mile, or fraction thereof greater than 120 feet, beyond said limits, such additional charge to be divided among the telephones on such line: *Provided, however*, That whenever there are 25 or more pairs of wires or conductors in use on any line of poles or conduits or portion thereof beyond said limits and in the city of Manila no mileage or extra compensation in addition to the maximum rates fixed above shall be charged to anyone for service on such wires or conductors or to anyone along said line of poles or conduits.

SEC. 13. The right is hereby reserved to the government of the Philippine Islands to regulate the rates to be charged by the grantees, their successors or assigns, but any rates which may hereafter be fixed shall be sufficient to yield a reasonable return to the grantees, their successors or assigns, upon the capital invested after making due allowance for maintenance, operation, and other necessary expenses.

SEC. 14. The grantees may transfer, sell, or assign this franchise to any corporation formed, organized, or existing under the laws of the Philippine Islands or of any State of the United States and such corporation shall have the right to buy and to own said franchise. Any corporation to which this franchise is sold, transferred, or assigned shall be subject to the corporation laws of the Philippine Islands now existing or hereafter enacted and shall be subject to all the terms, conditions, restrictions, and limitations, of this franchise as fully and completely and to the same extent as if the franchise had been originally granted to said corporation.

SEC. 15. Should the grantees, their successors or assigns, purchase the franchise of the Sociedad de Teléfonos de Manila, all rights and privileges acquired by such franchise shall be considered as merged in this franchise, and the telephone system so purchased shall be maintained, operated, and conducted under the provisions, terms, conditions, restrictions, and limitations of this act and the franchise under which the said Sociedad de Teléfonos de Manila is now operating shall have no force or effect whatever after the purchase thereof by the grantees, their successors or assigns.

SEC. 16. No private property shall be taken for any purpose by the grantees of this franchise, their successors or assigns, without proper condemnation procedings and just compensation paid or tendered therefor; and any authority to take and occupy land shall not authorize the taking, use, or occupation of any land, except such as is required for the actual necessary purposes for which the franchise is granted. All lands or rights of use and occupation of lands granted to the grantees, their successors or assigns, shall, upon the termination of this franchise or upon its revocation or repeal, revert to the insular government or the provincial or municipal government to which such lands or the right to use and occupy them belonged at the time the grant thereof or the right to use or occupy the same was conceded to the grantees, their successors or assigns. The grantees, their successors or assigns, shall not issue stock or bonds, except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds issued, and said grantees, their successors or assigns, shall not declare any stock or bond dividend. The grantees, their successors or assigns, shall not use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude. This franchise is granted subject to amendment, alteration, or repeal by the Congress of the United States.

SEC. 17. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 18. This act shall take effect on its passage.

Enacted July 6, 1905.

[No. 1456.]

An act granting to Bonifacio Villanueva, of the municipality of Mauban, Province of Tayabas, a revocable license to divert the waters of the Trapichi River situated in the said municipality of Mauban, Province of Tayabas, for the purpose of generating power to operate certain rice-thrashing machinery.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. There is hereby granted to Bonifacio Villanueva, of the municipality of Mauban, Province of Tayabas, a license, which may be revoked by the Philippine Commission whenever in its opinion the public interests so require, to divert the waters of the Trapichi River, situated in the said municipality of Mauban, Province of Tayabas, for the purpose of furnishing power for the operation of certain rice-thrashing machinery now owned by said Bonifacio Villanueva in the municipality of Mauban, and to construct such dams, basins, etc., as may be necessary to generate the power required: *Provided*, That said waters shall be returned to the river at a point about 30 feet below the thrashing mill referred to.

SEC. 2. Said power plant shall be duly inspected and a permit to operate same issued by the director of public works, and said grantee shall thereafter keep all parts of said construction in a state of repair satisfactory to the director of public works.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 4. This act shall take effect upon its passage.

Enacted February 20, 1906.

[No. 1658.]

An act to provide for the granting of a franchise to construct, maintain, and operate telephone and telegraph systems, and to carry on other electrical transmission business in and between the provinces, cities, and municipalities of the island of Luzon.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. There is hereby granted, for a period of fifty years from and after the passage of this act, upon the considerations and conditions herein contained, to William H. Allen and J. H. Brown, and their successors or assigns, the right and privilege to construct, maintain, and operate in the island of Luzon, and in and between the provinces, cities, and municipalities thereof, a telephone and telegraph system, to carry on the business of transmitting messages and signals by means of electricity in and between said provinces, cities, and municipalities, and for the purpose of operating said telephone and telegraph systems and of transmitting messages and signals by means of electricity to construct telephone and telegraph lines in and between said provinces, cities, and municipalities, to construct, maintain, and operate and use all apparatus, conduits, and appliances necessary for the electrical transmission of messages and signals, to erect poles, string wires, build conduits, lay cables, and to construct, maintain, and use such other approved and generally accepted means of electrical conduction in, on, over, or under the public roads, highways, lands, bridges, streets, lanes, alleys, avenues, and sidewalks of said provinces, cities, and municipalities as may be necessary and best adapted to the transmission of messages and signals by means of electricity: *Provided, however*, That all poles erected and all conduits constructed or used by the grantees, their successors or assigns, shall be located in the places designated by provincial, city, or municipal authorities, as the case may be, and poles shall be straight and smooth and erected and painted in a good, substantial, and workmanlike manner to the satisfaction of such authorities, but it shall not be obligatory on the grantees, their successors or assigns, to paint poles except in cities and centers of population or municipalities: *And provided further*, That said poles shall be of such a height and the wires or conductors strung or used by said grantees shall be so placed and safeguarded as to prevent danger to life or property by reason of contact with electric light, power, or street-railway wires or conductors: *And provided further*, That upon reasonable notice and by resolution of the proper insular, provincial, city, or municipal authorities, the grantees, their successors or assigns, may be required to relocate poles or remove or raise wires or other conductors so as to permit the passage of buildings or other structures from one place to another, one-half the actual cost of such relocation of poles or raising or removal of wires or other conductors to be paid by the person at whose instance the building or structure is moved; and, at the expense of the grantees, their successors or assigns, to relocate conduits, poles, and wires and to raise or remove wires or other conductors when the insular, city, or any provincial or municipal government declares that the public interest so requires: *Provided, however*, That from any order or regulation of a provincial or municipal government requiring the grantees, their successors or assigns, to relocate conduits, poles, or

wires, or to raise or remove wires or other conductors, the said grantees their successors or assigns, shall have the right of appeal to the governor-general, whose decision in the matter shall be final and conclusive.

Should the grantees, their successors or assigns, fail, refuse, or neglect within a reasonable time to relocate their poles, conduits, or wires or other conductors, or to raise their wires or other conductors when so directed by the proper insular, provincial, city, or municipal authorities, then said authorities may relocate said poles, conduits, or wires or other conductors or raise said wires or other conductors at the expense of the grantees, their successors or assigns: *And provided further*, That the installation of all instruments, the inside wiring, and all outside construction work shall be done in accordance with the rules, regulations, or ordinances covering electrical work adopted by insular, provincial, city, or municipal authorities: *And provided further*, That whenever 25 or more pairs of open wires or other conductors are carried on one line of poles in a city or municipal center, said wires or conductors shall be placed in one cable; and that whenever more than 100 pairs of wires or other conductors in cables are carried on one line of poles, said cables shall be placed underground: *And provided further*, That the grantees, their successors or assigns, under this franchise, shall install in the city of Manila, within eighteen months from the date of the passage of this act, underground conduit equivalent to at least 120,000 feet of single conduit: *And provided further*, That the poles erected, wires and cables strung, or conduits laid by virtue of this franchise shall be so placed as not to impair the efficient and effective transmission of messages or signals under the franchise granted to the Philippine Islands Telephone and Telegraph Company, or to impair the efficient and effective transmission of messages or signals of any other company whose poles are erected, whose wires and cables are strung, or whose conduits are actually laid at the time that poles are to be erected, wires and cables are to be strung, or conduits are to be laid under and by virtue of this franchise.

SEC. 2. For the purpose of erecting and maintaining poles or other supports for said wires or other conductors or for the purpose of laying and maintaining underground said wires, cables, or other conductors, it shall be lawful for the grantees, their successors or assigns, under such regulations and orders as may be prescribed by insular, provincial, city, or municipal authorities, to make excavations and lay conduits in any of the public places, lands, roads highways, streets, lanes, alleys, avenues, bridges, or sidewalks in or between the said provinces, cities, or municipalities: *Provided, however*, That any public place, road, highway, street, lane, alley, avenue, bridge, or sidewalk disturbed, altered, or changed by reason of the erection of poles or other supports or the laying underground of wires or other conductors or of conduits, shall, wherever disturbed, altered, or changed, be repaired and replaced in a good, substantial, and workmanlike manner by said grantees, their successors or assigns, to the satisfaction of the insular, provincial, city, or municipal authorities, as the case may be. Should the grantees, their successors or assigns, after reasonable written notice from said authorities, fail, refuse, or neglect to repair and replace in a good, substantial, and workmanlike manner to the satisfaction of said insular, provincial, city, or municipal authorities any part of a public place, road, highway, street, lane, alley, avenue, bridge, or sidewalk altered, changed, or disturbed by said grantees, their successors or assigns, then the insular, provincial, city, or municipal authorities, as the case may be, shall have the right to have the same properly repaired and placed in good order and condition at the cost and expense of the grantees, their successors or assigns.

SEC. 3. All telegraph and telephone lines and systems for the transmission of messages and signals by means of electricity owned, maintained, or operated by the grantees, their successors or assigns, shall be maintained and operated at all times in a complete, modern, first-class style as understood in the United States, and it shall be the further duty of said grantees, their successors or assigns, to modify, improve, and change such telephone and telegraph system or systems for the transmission of messages by means of electricity, in such manner and to such extent as the progress of science and improvements in the method of transmission of messages and signals by means of electricity may make reasonable and proper.

SEC. 4. The grantees, their successors or assigns, shall keep a separate account of the gross receipts of the telephone, telegraph, and electrical transmission business transacted by them in the city of Manila and in each of the municipalities of the various provinces and shall furnish to the insular auditor and the insular treasurer a copy of such account not later than the 31st day of July of each year for the twelve months preceding the 1st day of July. For the purpose of auditing the accounts so rendered to the insular auditor and insular treasurer, all of the books and accounts of the grantees, their successors or assigns, shall be subject to the official inspection of the insular auditor or his authorized representatives, and in the absence of fraud or mistake the audit and approval by the insular auditor of the accounts so rendered to him and to the insular treasurer shall be final and conclusive evidence as to the amount of said gross receipts.

SEC. 5. The grantees, their successors or assigns, shall be liable to pay the same taxes on their real estate, buildings, and personal property exclusive of the franchise as other persons or corporations are now or hereafter may be required by law to pay. The grantees, their successors or assigns, shall further pay to the insular treasurer each year, within ten days after the audit and approval of the accounts as prescribed in section 4 of this act, 2 per cent of all gross receipts of the telephone, telegraph, or other electrical transmission business transacted under this franchise by the grantees, their successors or assigns, and the said percentage shall be in lieu of all taxes on the franchise or earnings thereof.

SEC. 6. As a guaranty that the franchise has been accepted in good faith and that within eighteen months from the date of the passage of this act, the grantees, or their successors or assigns, will have constructed of reinforced concrete or other material approved by the director of public works, a main central building in the city of Manila, which building, including the site on which it is constructed, shall cost not less than ₱80,000, and the structure itself not less than ₱60,000; that they will have placed underground conduit equivalent to 100,000 feet of single conduit; that they will begin the business of transmitting messages by telephone and will be fully equipped and ready to operate according to the terms of this franchise 1,000 telephones in the city of Manila, the said grantees shall deposit at the time of such acceptance, with the insular treasurer, ₱50,000 or negotiable bonds of the United States or other securities, approved by the governor-general, of the face value of ₱50,000: *Provided, however*, That if the deposit is made in money the same shall be deposited at interest in some interest-paying bank approved by the governor-general and all interest accruing and due on such deposit shall be collected by the insular treasurer and paid to the grantees, their successors or assigns, on demand: *And provided further*, That if the deposit made with the insular treasurer be negotiable bonds of the United States or other interest-bearing securities approved by the governor-general, the interest on such bonds or securities shall be collected by the insular treasurer and paid over to said grantees, their successors or assigns, on demand. Should the said grantees, their successors or assigns, for any cause other than the act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause, fail, refuse, or neglect to construct the building or lay the conduit prescribed by this act within eighteen months after its passage, or fail, refuse, or neglect to begin within eighteen months from the date of the passage of this act the business of transmitting messages by telephone, or fail, refuse, or neglect to be fully equipped and ready to operate within eighteen months from the date of the passage of this act 1,000 telephones in the city of Manila, according to the terms of this franchise, then the deposit prescribed by this section to be made with the insular treasurer, whether in money, bonds, or other securities, shall become the property of the insular government as liquidated damages caused to such government by such failure, refusal, or neglect, and thereafter no interest on said bonds or other securities deposited shall be paid to the grantees, their successors or assigns: *Provided*, That a reasonable extension of time, for proper cause shown, may be granted by the governor-general for the completion of the work.

Should the said grantees, their successors or assigns, construct the building and lay the conduit as prescribed by this act and begin the business of transmitting messages by telephone and be ready to operate according to the terms of this franchise 1,000 telephones in the city of Manila within eighteen months from the date of the passage of this act, then and in that event the deposit prescribed by this section shall be returned by the insular government to the grantees, their successors or assigns.

SEC. 7. The books and accounts of the grantees, their successors or assigns, shall be subject to official inspection at any and all times by the insular auditor or his authorized representatives.

SEC. 8. The rights herein granted shall not be exclusive, and the right and power to grant to any corporation, association, or person other than the grantees franchises for the telephonic, telegraphic, or electrical transmission of messages or signals shall not be impaired or affected by the granting of this franchise: *Provided*, That the poles erected, wires strung, or conduits laid by virtue of any franchise for telephone, telegraph, or other electrical transmission of messages and signals granted subsequent to this act shall be so placed as not to impair the efficient and effective transmission of messages or signals under this franchise by means of poles erected, wires strung, or conduits actually laid and in existence at the time of the granting of said subsequent franchise: *And provided further*, That the grantees of this franchise may be required by the governor-general to remove, relocate, or replace their poles, wires, or conduits, but in such case the reasonable cost of the removal, relocation, or replacement shall be paid by the grantees of the subsequent franchise or their successors or assigns to the grantees of this franchise or their successors or assigns.

SEC. 9. The grantees of this franchise, their successors or assigns, shall hold the insular, provincial, city, and municipal governments harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the telephone, telegraph, or other electrical-transmission system of the said grantees, their successors or assigns.

SEC. 10. The city of Manila, and the municipalities in which the grantees, their successors or assigns, may establish telephone, telegraph, or any other system of electrical transmission of messages and signals shall have the privilege of using, without compensation, the poles of the grantees, their successors or assigns, for the purpose of installing, maintaining, and operating a fire and police telegraph or telephone alarm system, but the wires of such telegraph or telephone, fire, and police alarm shall be so placed, strung, stretched, and insulated as not to interfere with the efficient transmission of messages and signals by the grantees, their successors or assigns. In consideration of the city of Manila permitting drainage into the new sewers of the city from the ducts of the grantees, their successors or assigns, and in consideration of the said city permitting the grantees, their successors or assigns, to hang their wires and cables on its poles, the said grantees, their successors or assigns, shall give to the city, free of charge, the exclusive use of one duct throughout its underground conduits for its fire and police alarm wires: *Provided, however*, That any drainage from the ducts into the sewers shall be under reasonable rules and regulations prescribed by the municipal board of Manila, and in case permission to drain from the ducts into the sewers is not granted to the grantees of this franchise, or their successors or assigns, before construction work is commenced, then no free use of the duct shall be required as aforesaid: *And provided further*, That in case the grantees, their successors or assigns, shall hang their wires and cables on the poles of the said city of Manila, they shall be so placed, strung, stretched, and insulated as not to interfere with the efficient transmission of fire and police alarm messages and signals by the city of Manila, and the placing, stringing, stretching, and insulating of the wires and cables of the grantees, their successors and assigns, on poles of the city of Manila shall be done in accordance with regulations prescribed by the city of Manila.

SEC. 11. Within sixty days after the passage of this act the grantees shall file with the secretary of commerce and police their written acceptance of the franchise granted by this act and of all the terms and conditions thereof, and the grantees shall begin the construction of their telephone system in the city of Manila within eight months from the date of such acceptance and shall begin the business of transmitting messages by telephone and be fully equipped and ready to operate at least 1,000 telephones in said city within eighteen months from the date of the passage of this act unless prevented by act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause.

The failure, refusal, or neglect to comply with any of the terms and conditions required of the grantees, their successors or assigns, by this act shall subject the franchise to forfeiture unless such failure, refusal, or neglect was directly and primarily caused by act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause. The time during which the grantees are prevented from carrying out the terms and conditions of this franchise by any of the causes cited herein shall be added to the time allowed by this franchise for compliance with its provisions.

SEC. 12. The rates to be charged by the grantees, their successors or assigns, shall not exceed the following:

(*a*) Subscribers for telephones other than residence telephones, having an individual and metallic circuit, with unlimited exchange switching, shall pay monthly in advance a flat rate not to exceed ₱10;

(*b*) Subscribers having residence telephones on an individual and metallic circuit, and unlimited exchange switching, shall pay monthly in advance a flat rate of not to exceed ₱5;

(*c*) Subscribers for telephones, residence or otherwise, having a party wire, with not exceeding two subscribers on the same line, and unlimited exchange switching, shall each pay monthly in advance a flat rate of not to exceed 65 per cent of the rate charged subscribers for residence or other telephones, respectively, having individual and metallic circuits.

These rates shall apply within the corporate limits of the city of Manila. No subscribers for telephones authorized by this act shall be obliged to purchase instruments or to make any deposit whatever for telephone installation.

SEC. 13. The right is hereby reserved to the government of the Philippine Islands to regulate the rates to be charged by the grantees, their successors or assigns, but any rates which may hereafter be fixed shall be sufficient to yield a reasonable return to the grantees, their successors or assigns, upon the capital invested after making due allowance for the maintenance, operation, and other necessary expenses.

SEC. 14. The grantees may transfer, sell, or assign this franchise to the Automatic Telephone Construction Company, formed and organized under the laws of the State of California, and such company shall have the right to buy and to own said franchise, but the grantees shall not transfer, sell, or assign this franchise to any other person, firm, company, corporation, or other commercial or legal entity without the written approval of the governor-general first had. Any corporation to which this franchise is sold, transferred, or assigned shall be subject to the corporation laws of the Philippine Islands, now existing or hereafter enacted, and any person, firm, company, corporation, or other commercial or legal entity to which this franchise is sold, transferred, or assigned shall be subject to all the conditions, terms, restrictions, and limitations of this franchise as fully and completely and to the same extent as if the franchise had been originally granted to said persons, firm, company, corporation, or other commercial or legal entity.

Unless otherwise authorized by the governor-general, the person, firm, company, corporation, or other commercial or legal entity to which this franchise may be transferred, sold, or assigned shall operate the automatic telephone system in the city of Manila during the life and under the terms of this franchise, and the property of the person, firm, company, corporation, or other commercial or legal entity concerned shall be security for the carrying out of the terms of this section and of this franchise; and for the failure to operate the automatic telephone system in the city of Manila in accordance with the terms of this franchise, and for the period for which this franchise is granted, all property of the grantees, or their successors or assigns, in the city of Manila shall become the property of the government of the Philippine Islands as liquidated damages.

SEC. 15. No private property shall be taken for any purpose under this franchise without just compensation paid or tendered therefor, and any authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted. All lands or rights of use and occupation of lands granted to the grantees, their successors or assigns, shall, upon the termination of this franchise, or upon its revocation or repeal, revert to the insular government or the provincial or municipal government to which such lands or the right to use and occupy them belonged at the time the grant thereof or the right to use or occupy the same was conceded to the grantees, their successors or assigns. The grantees, their successors or assigns, shall not issue stock or bonds except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds issued, and said grantees, their successors or assigns, shall not declare any stock or bond dividend. The grantees, their successors or assigns, shall not use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude. This franchise is granted subject to amendment, alteration, or repeal by the Congress of the United States.

SEC. 16. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 17. This act shall take effect on its passage.

Enacted May 18, 1907.

[No. 1790.]

An act to confirm certain rights and franchises of the Banco Español-Filipino and to amend its statutes.

Whereas the Banco Español-Filipino is a bank incorporated under a charter granted by the Kingdom of Spain, conferring certain privileges and rights upon the bank, and especially that of the exclusive right of issuing and circulating notes of the bank to an amount equal to three times its capital stock, which was authorized to be ₱3,000,000, equivalent to $1,500,000 American currency; and

Whereas the bank has a paid-in capital of ₱1,500,000 and claims to have in addition an unimpaired surplus of ₱900,000; and

Whereas the bank has issued, and has now in circulation, its circulating notes amounting substantially to ₱1,500,000; and

Whereas the authorities of the bank contend that under the American sovereignty, by reason of the guaranty of the treaty of Paris, they may exercise the same exclusive privilege with respect to circulating notes which was given them under the Spanish charter, and therefore, that they may increase their capital stock to ₱3,000,000 and issue notes to the amount of ₱9,000,000; and

Whereas the representatives of the bank contend that the Philippine government has violated the exclusive right of the bank above set forth in issuing so-called silver certificates secured by a deposit of similar pesos in the treasury of the islands; and

Whereas the Philippine government, while recognizing as valid the present circulation, has heretofore denied the right of the Philippine bank under its charter to issue notes equal to three times its capital stock, on the ground that such note-issuing franchise was an exercise of sovereign power which was not transmitted or guaranteed by the treaty of Paris, and has, therefore, imposed a prohibitory tax of 12 per cent on any notes issued beyond the actual paid-in capital stock of the bank, because of its belief that the certain payment or redemption of such notes will not be properly secured under the provisions of the Spanish charter; and

Whereas the bank now threatens to test in court the validity of its franchise and the validity of the prohibitory tax, and relies upon the action of the Congress of the United States in confirming a similar charter granted to the Bank of Porto Rico; and

Whereas the Philippine government has no objection to the issue of circulating notes by this bank to the extent permitted by the Spanish charter, provided only that it shall not be exclusive, and that proper provision shall be made for securing the redemption or payment of such notes: Now, therefore,

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. By way of compromise of the questions arising between the Banco Español-Filipino and the Philippine government in respect to its charter, and the rights already conferred thereby, the Philippine government, by virtue of the general powers conferred upon it under section 74 and other sections of the act of Congress of July 1, 1902, does hereby amend and confirm the Spanish charter of the Banco Español-Filipino as the same is hereinafter set forth: *Provided, however,* That nothing in this act shall affect the validity of acts done and rights and causes of action which have arisen under the existing statutes of said bank in its relations with individuals, firms, corporations, and associations in the conduct of the banking business, except that validity is hereby given to all acts heretofore performed by the bank which would otherwise be legal, and whose validity might be questioned by reason of the failure of the bank to comply with its statutes in regard to the participation of the government in the management of the bank: *And provided further,* That the charter and statutes of the bank hereinafter set forth by way of amendment and confirmation shall not take effect until the same shall be duly and in legal form accepted by the proper authorities of the bank representing the corporation.

Articles of incorporation of the Banco Español-Filipino.

TITLE I.—NAME, CONSTITUTION, TITLE, OBJECTS, DOMICILE, AND DURATION OF THE CORPORATION.

ARTICLE I.

That the Banco Español-Filipino, founded in 1851 by a joint stock company duly authorized to transact business, and reorganized by virtue of royal decree of February 7, 1896, shall hereafter be governed by these articles of incorporation.

ARTICLE II.

That the Banco Español-Filipino shall be a body corporate with power to adopt a corporate seal and shall have succession for the period herein provided; that its corporate existence shall be extended for twenty-five years from January 1, 1903. This period may be extended at the request of the majority of the stockholders of the bank, provided such request be made at least one year before the expiration of the twenty-five years mentioned. It may make contracts, sue and be sued, complain and defend, in any court of law or equity, as fully as a natural person.

ARTICLE III.

That the bank is authorized to change its name, by vote of the stockholders in general assembly, to "The Bank of the Philippine Islands."

ARTICLE IV.

The head office of the corporation shall be located in the city of Manila, but branches of the bank now established may be continued, and others may be established or discontinued in other parts of the Philippine Islands, subject to the approval of the governor-general of the Philippine Islands, and agencies of such bank may be established in the United States and in foreign countries, subject to the approval of the governor-general of the Philippine Islands, and in accordance with the laws of the United States or such foreign countries.

ARTICLE V.

The bank is authorized to engage in the following classes of transactions:

1. Discounting bills of exchange whose maturity does not exceed six months, and commercial promissory notes whose maturity does not exceed one year.

2. Making collections of drafts and other current negotiable paper, and advancing money thereon.

3. Receiving deposits and opening current accounts in currency or upon the deposit of public, provincial, municipal, industrial, or railway securities issued by legally constituted corporations.

4. Receiving and caring for money deposited in trust, arising from legacies, voluntary and other trusts, and judicial decrees, or in any other manner.

5. Receiving in the same manner as under paragraph 4 gold and silver bars, jewelry with or without precious stones, and stocks and bonds and other securities issued by corporations.

6. Negotiating or drawing bills of exchange, whether domestic or foreign, under the formalities prescribed by the code of commerce as modified by the provisions of this act.

7. Dealing in gold and silver.

8. Making loans upon the security of deposit with the bank, as collateral, of precious metals, articles of commerce, products of the country, negotiable securities, and industrial and commercial bills which are easily and safely realized upon at any time: *Provided,* That all such loans shall be made under regulations established by the general board of directors. Such collateral securities shall be accepted only at a rate not exceeding three-fourths of their market or appraised value, except that when the person or legal entity to which a loan is to be made is, in the judgment of the general board of directors, sufficiently solvent, apart from the collateral furnished, loans may be made to the amount of 90 per cent of the market value of said collateral security, provided that said security is easily convertible into cash and the person to whom the advance is made is a client of the bank; but said person shall, upon the demand of the bank, pay in cash or deposit first-class securities to cover any depreciation in the market value of the securities furnished.

9. Making loans on bills of lading, when invoices and insurance policies satisfactory to the bank are attached thereto: *Provided,* That the amount of such loan shall not exceed three-fourths of the current market value of the articles covered by such bills of lading.

10. Granting current credit accounts in favor of clients who have been approved by the general board of directors, such accounts paying

to the bank a commission upon the sums upon which they are entitled to draw, in addition to the interest upon amounts actually used.

11. Buying and selling or otherwise negotiating securities, and borrowing money upon securities owned by the bank.

12. Making loans upon real estate, when mortgage certificates running for a definite term can be sold for the amounts thus loaned; but the amount invested at any one time in such loans, or in any loans upon real-estate security, shall not exceed 20 per cent of the capital of the bank, and if such investments are now in excess of that sum they shall be reduced as rapidly as the interests of the bank are deemed to justify, under the direction of the treasurer of the Philippine Islands.

13. Making loans upon vessels which are insured and free from encumbrance, provided such loans do not exceed half the value of the ship nor run for more than one year. Such loans shall not exceed 10 per cent of the paid-up capital of the bank.

14. Making loans to firms and corporations established in the Philippine Islands, and which, in the opinion of the general board of directors, are of undoubted solvency, provided such loans shall not exceed ninety days in duration.

15. Undertaking on commission the purchase and sale of securities and such other banking operations, under regulations established by the general board of directors, as may be within the incidental powers of a bank; but no powers shall be exercised which are not expressly granted by this act, if such exercise is prohibited by the governor-general of the Philippine Islands.

16. Preparing, issuing, and circulating bank notes under the provisions of this act.

ARTICLE VI.

The bank shall not make any loan or discount on the security of the shares of its own capital stock, nor be a purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall be sold or disposed of at public or private sale within six months from the time it is acquired.

ARTICLE VII.

All notes and bills of exchange discounted by the bank must bear at least two signatures of known solvency, one of which must be a resident of the locality of the transaction, and must comply in other respects with the provisions of the code of commerce, except that such transactions may, with the approval of the president of the bank, be for a longer period than ninety days, and one signature may be dispensed with when loans are made on negotiable securities, as provided by paragraph 8 of Article V.

Warrants or drafts drawn by the treasurer of the Philippine Islands or of the United States may be accepted without the signatures and conditions required in the case of private parties.

ARTICLE VIII.

The total liabilities to the bank of any person, or of any company, corporation, or firm, for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, shall at no time exceed one-tenth of the amount of the capital stock of the bank, actually paid in and unimpaired, and one-tenth part of its unimpaired surplus fund; but the discount of bills of exchange, drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be considered as money borrowed.

ARTICLE IX.

Before making loans on precious metals, merchandise, and goods in warehouse, the value of the same shall be appraised by experts appointed by the officers of the bank, but the bank shall not be liable for any loss, damage, deterioration, or shortage of or to the merchandise so stored, except in cases arising from its default or negligence.

ARTICLE X.

All real property upon which mortgage loans are made must have a marketable title, and be free from all encumbrance and liens.

Buildings, if city property, must be constructed of substantial material; and in all cases the buildings or improvements upon such real estate shall be insured to at least 75 per cent of their value, and no loans shall be made on real estate to an amount greater than 50 per cent of the value thereof.

ARTICLE XI.

Merchandise specified in a bill of lading upon which a loan is made by the bank must be consigned to such person as the bank shall designate at the place of destination, who may deduct the current commissions and charges, and shall comply with the orders of the shipper as to the sale or disposition of the property, and pay the proceeds thereof to the bank to the amount of its loan, charges, and expenses.

In case of loss of merchandise, the bank may proceed, at its option, against the shippers or carriers thereof for the amount of the loan, with all charges and expenses, or against the insurance company insuring the same for the amount of such insurance.

ARTICLE XII.

Upon deposits made in the bank of precious metals or merchandise, other than money in current account, the bank shall furnish to the depositor a certificate containing the following particulars:

First. The name and domicile of the depositor, or of the authority ordering the deposit.

Second. The nature and value of the deposit, and where it consists of bars or jewelry of gold or silver, the weight and specific qualities thereof.

Third. The date of the deposit and the entry number in the proper books of the bank.

ARTICLE XIII.

The officers of the bank shall, within the limitations of this act, be exclusive judges as to the acceptance or refusal of drafts, notes, and bills of exchange submitted for discount, and of all applications for loans, and of other business transactions.

ARTICLE XIV.

The rates of interest on discounts and loans, on deposits, collections, mortgages, etc., shall be fixed every six months by the general board of directors, with the approval of the president of the bank, and such rates, if not contrary to law, shall be those charged in cases where no specific agreement is made, but the bank may change such rates from time to time upon notice of one week and may make other rates by agreement of both parties. All expenses connected with the transactions, including the fees of appraisers, shall be charged to the borrower.

ARTICLE XV.

The bank may order the sale of collateral security in its custody, consisting of securities or merchandise or any other thing, three days after having called upon the debtor, by written notice, to increase the amount of such security, if in the meantime he has failed to comply with such request, or after the maturity of a loan if the loan has not been paid. These sales shall be made at public auction, with the assistance of a notary or exchange agent or broker, and without the requirement of any judicial order or process; and in order to avoid delay or difficulty in the disposal of such collateral security, and that the bank may accomplish the sale without interference on the part of the debtor, it shall set forth in the note or evidence of indebtedness that the collateral security given is to be considered as transferred to the bank without any further formality by the fact of delivery, under the conditions set forth therein.

All such securities registered in the name of the owner shall be transferred in due form to the bank, which shall issue therefor a receipt setting forth the terms of the delivery and the purposes for which such transfer has been made.

If the proceeds of the sale of such securities do not cover the full amount of the loan, together with interest and other charges thereon, the bank may proceed against the debtor for the difference, but any amount exceeding the full indebtedness to the bank shall be paid over to the debtor.

Parties obtaining loans on bills of lading must increase the amount of security with the bank whenever a fall of 10 per cent takes place in the market value of the merchandise, and if upon maturity of the loan the amount has not been paid, or the vessel has not arrived with the merchandise constituting such security, the bank may, at its option, proceed against the debtor or await the arrival of the vessel in order to make a sale of such merchandise, with the understanding that if the bank shall elect the former remedy, such action shall not impair the right of the bank to proceed against the security itself at such time and in such manner as it may deem proper.

TITLE II.—CONCERNING CAPITAL STOCK AND SHARES.

ARTICLE XVI.

The bank may increase the amount of its capital stock from time to time to a total amount not exceeding ₱10,000,000 by a vote of a majority in amount of the stock at a meeting of the general assembly of the stockholders, by the bona fide sale of new stock for not less than par in cash, and such increase of capital shall be valid only when the whole amount of such increase shall be paid in and notice thereof shall have been transmitted to the treasurer of the Philippine Islands and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of the bank.

ARTICLE XVII.

The existing capital and any increase of the same which may be made shall be represented by shares of the face value of ₱200 each.

ARTICLE XVIII.

In case of an increase of the capital stock by authority of a general assembly of the stockholders, the shares shall be issued upon the payment in full of the price therefor, to be fixed by the bank, not less than ₱200 for each share, plus such percentage as corresponds to the ratio of the reserve funds or surplus then on hand and unimpaired to the aggregate amount of the capital after such increase of capital: *Provided, however,* That if the general assembly of stockholders, in order to facilitate the issue of shares amongst themselves, considers it advisable it may resolve to transfer from the voluntary reserve fund to the legal reserve fund an amount necessary to make the latter correspond to the legal amount required by law.

ARTICLE XIX.

The bank shall maintain a reserve fund or surplus of not less than 15 per cent of its capital stock issued and outstanding, which fund shall be subject to the same obligations as capital, and shall be made up of the net profits resulting from the operations of the bank after deducting the dividends paid upon capital.

The bank may create an additional reserve fund for the purpose of distributing dividends when the amount actually earned in any year does not reach 6 per cent of the capital stock, but this fund shall not be applied to the increase of the capital stock of the bank.

ARTICLE XX.

The ownership of the shares of the capital of the bank shall be recorded in the name of a person, corporation, or other legal entity in the register of the bank, and registered stock certificates shall be issued to the record owners thereof. New issues of capital shall be registered in the same manner, under regulations to be made by the general board of directors.

ARTICLE XXI.

Shares of the capital stock may be transferred by a declaration made in person before a proper officer of the bank by the party transferring the same, or by some one having power of attorney to sign said register, upon first presenting to the bank the original certificate, for which, upon cancellation, a new certificate will be issued.

ARTICLE XXII.

That the stockholders of the bank shall be subject to no other or additional liability than the amount which they shall have paid or bound themselves to contribute in payment for the shares standing in their names, not exceeding the face value of said shares, unless otherwise provided in the Code of Commerce.

ARTICLE XXIII.

Stock in the bank may be held by persons and corporations without regard to domicile, and officers and directors may be chosen without regard to nationality, except that a majority of the board of directors shall be made up of citizens of the United States or of the Philippine Islands; but money in current account and securities and other articles of value deposited in the bank which is the property of foreigners, shall not be subject to attachment, confiscation, or seizure because of war between their respective nations, except as such processes would lie in the ordinary course of law against citizens of the United States or of the Philippine Islands.

TITLE III.—CONCERNING THE ISSUE OF CIRCULATING NOTES.

ARTICLE XXIV.

That the circulating notes of the bank shall hereafter be issued under the following limitations of amount and conditions:

(*a*) To a present amount not exceeding ₱2,400,000, which shall represent the paid-up and unimpaired capital of the bank and the value

of the surplus as ascertained by the governor-general of the Philippine Islands; and in case such capital and surplus shall not, in the opinion of the governor-general of the Philippine Islands, be equal in value to the amount of circulation herein authorized, then said governor-general may require a contraction of such circulation until it shall not exceed the value of the capital and surplus of the bank, or the deposit with the treasurer of the Philippine Islands of commercial paper conforming to the statutes of the bank and acceptable to the governor-general, for any excess in the amount of circulation above the value of the capital and surplus as ascertained and determined by him: *Provided, however,* That as a condition precedent of issuing notes to the extent of the paid-up and unimpaired capital of the bank and the value of the surplus as ascertained by the governor-general as above permitted, said surplus shall be formally treated as a part of the capital of the bank and shares of stock issued therefor to the persons entitled thereto: *Provided,* That the price at which such shares of stock shall be sold shall have added thereto an amount which in equity will equalize between the old and the new shares of stock the interest in surplus. And said bank is hereby authorized to issue its circulating notes, secured by its capital as herein provided, in equal proportion with each increase of paid-in capital stock in cash, not exceeding ₱9,000,000; and all notes so issued shall be governed by the provisions of this section.

(*b*) To a present additional amount not exceeding ₱600,000 upon deposit with the treasurer of the Philippine Islands of bonds of the United States, bonds or certificates of the government of the Philippine Islands, bonds of the city of Manila, stock or bonds of railways or mortgage banks upon which interest or principal has been guaranteed by the government of the Philippine Islands, or other securities acceptable to the governor-general of said Philippine Islands, and the percentage of circulation to be allowed upon the face value or market value of each of said class of securities shall be determined by said governor-general of the Philippine Islands. Such notes may be issued at the discretion of the bank, subject only to the condition that the securities deposited shall be acceptable in character and amount to the governor-general of the Philippine Islands, and without regard to whether issues have been made or applied for under other provisions of this act. And in case of the increase of the paid-up and unimpaired capital and surplus of the bank from ₱2,400,000 to ₱3,000,000 the treasurer of the Philippine Islands shall deliver to the bank the securities deposited with him to cover circulating notes under this paragraph (*b*).

It being the intention that the total circulating notes issued under this act shall never exceed in amount ₱9,000,000, representing an equal amount of the paid-up and unimpaired capital of the bank.

ARTICLE XXV.

All outstanding notes of the bank shall, after January 1, 1908, constitute a preferred lien upon the assets of the bank, except as to such securities as have been specifically deposited under special agreements with public officials for the safe-keeping of public moneys; and any bonds or other securities deposited with the treasurer of the Philippine Islands, as hereinbefore provided, for the security of the circulating notes of the bank, shall be held exclusively for that purpose until such notes shall be redeemed; but the treasurer of the Philippine Islands shall give to the bank powers of attorney to receive and appropriate to its own use the interest and dividends on such securities in the custody of said treasurer; but such powers shall become inoperative whenever the bank shall fail to redeem its circulating notes, and said treasurer of the Philippine Islands, under regulations prescribed by the governor-general, may permit or require an exchange to be made of any of the securities in his custody.

ARTICLE XXVI.

The bank shall be held to renounce all claim to the exclusive privilege of issuing notes in the Philippine Islands, or to any other exclusive privilege not set forth in this act; but no laws or regulations shall be made or enforced affecting the bank, or imposing charges or taxation upon it, which shall not apply equally to other banks of a similar type operating under similar conditions, and no bank shall be authorized to issue circulating notes in the Philippine Islands with a paid-up capital less than ₱2,000,000; but this provision shall not preclude the government from granting special privileges to agricultural banks, savings banks, mortgage banks, or other institutions of special types whose principal business is not commercial banking.

ARTICLE XXVII.

That the treasurer of the Philippine Islands, and all assistant treasurers and provincial and municipal treasurers and other public officials shall be directed to receive the circulating notes of the bank for public dues so long as said circulating notes are paid in the lawful money of the Philippine Islands or of the United States, without discount and on demand, at the bank and its branches.

ARTICLE XXVIII.

That the notes issued under the provisions of paragraph (*a*) of Article XXIV of this act shall pay a tax at the rate of one-half of 1 per cent per annum; and the notes temporarily issued under the provisions of paragraph (*b*) of said Article XXIV of this act shall pay a tax at the rate of 1 per cent per annum, such taxes to be assessed upon the amount of notes actually in circulation and not held in the bank or its branches, at fixed intervals not less frequently than once a month, to be determined by regulations made by the treasurer of the Philippine Islands: *Provided,* That these taxes of one-half of 1 per cent and 1 per cent shall not be increased during the term of twenty-five years mentioned in Article II hereof.

ARTICLE XXIX.

That whenever the bank desires to withdraw circulating notes which are not in its possession, it may deposit with the treasurer of the Philippine Islands in the lawful money of the Philippine Islands or of the United States an amount equal to the face value of the circulating notes which are to be withdrawn and retired, and if such notes are represented by securities in the custody of said treasurer, he may surrender such portion of said securities as, in his opinion, will represent a just proportion of the securities held to secure circulating notes, and thereupon the taxes imposed by this act upon circulating notes shall cease upon an amount thereof equal to the amount of lawful money deposited, and such lawful money shall be repaid from time to time to the bank upon the presentation and surrender to said treasurer of the Philippine Islands of notes which have been received or redeemed.

ARTICLE XXX.

That the circulating notes of the bank may be issued in denominations of ₱5, ₱10, ₱20, ₱50, ₱100, and ₱200, and shall express upon their face the promise of the bank to redeem them on demand in lawful money of the Philippine Islands or of the United States, attested by the signatures of the president or vice-president and cashier.

ARTICLE XXXI.

That the bank shall at all times have on hand, in lawful money of the Philippine Islands or of the United States, an amount equal in value to at least 25 per cent of the aggregate amount of its notes in circulation and in addition thereto 20 per cent of its deposits in current accounts which are payable on demand: *Provided, however,* That this requirement shall not apply to the notes issued under paragraph (*b*), Article XXIV above.

ARTICLE XXXII.

That the circulating notes of the bank shall hereafter be issued to the bank by the treasurer of the Philippine Islands, who shall make requisitions upon the Bureau of Insular Affairs at Washington for such a supply as may be necessary to anticipate reasonable demands, and he shall keep such notes in his custody in the treasury of the Philippine Islands; but said notes shall not have validity as currency until the seal of the bank and the signatures of its officers duly authorized to perform such functions are attached.

TITLE IV.—CONCERNING THE POWERS OF THE GENERAL ASSEMBLY OF THE STOCKHOLDERS.

ARTICLE XXXIII.

The stockholders of the bank shall be represented at its general assembly by those among them who are owners of or who represent at least 10 shares of the capital stock registered in their names at least two months before the meeting, as shown by the registered list of stockholders.

Stockholders may be represented at general meetings by proxies designated by them, but the appointment of such proxies shall be valid only when proper power of attorney is executed before a notary public.

Stockholders not possessing full legal capacity, as married women, minors, etc., or possessing the character of corporations, associations, or other legal entities, shall be represented at the general meetings and in all other matters relating to the bank by their legal representatives.

ARTICLE XXXIV.

One vote in the general assembly of the stockholders shall be allowed each ten shares of the capital of the bank actually represented by the owner thereof or by duly authorized proxy.

ARTICLE XXXV.

The general assembly of the stockholders of the bank shall be held on the second Tuesday of February in each year, and may be adjourned from day to day until its business is concluded.

ARTICLE XXXVI.

The general assembly of the stockholders shall have the following powers:

1. To elect the president, the vice-presidents, and the members of the general board of directors, and to fix the salaries which the president and vice-presidents shall receive.

2. To inform themselves of the condition of the bank through a report presented annually or oftener by the general board of directors and through the annual general balance sheet.

3. To act on recommendations made by the general board of directors relating to the interests of the bank in conformity with the statutes and by-laws.

4. Any member of the general assembly of the stockholders may present to said general assembly in writing such suggestions as he may deem proper for the welfare of the bank, but such recommendations shall not be acted upon until the next following meeting, nor until the general board of directors has passed upon them.

5. To authorize the increase of the capital stock and prescribe the manner and conditions under which it shall be made, subject to the provisions of this act.

6. To exercise any other powers expressly granted by or reasonably to be implied from these statutes and the by-laws of the bank and not in conflict with this act.

ARTICLE XXXVII.

A general assembly of the stockholders of the bank may be convened in extraordinary session whenever the number of members of the general board of directors has been so reduced as to make it impossible for the members thereof to perform their duties or whenever five members of the general board of directors shall so request, and the object of such meeting shall be stated in the call.

ARTICLE XXXVIII.

The election of the president, vice-presidents, and directors of the bank shall be by secret ballot and by absolute majority of votes.

TITLE V.—POWERS OF THE BOARD OF DIRECTORS.

ARTICLE XXXIX.

The direction of the bank shall be under the control of a general board of directors, who shall choose a cashier and such other officers as they may deem expedient, and said general board of directors may fix the salaries of such officials at such amounts as they may deem proper.

ARTICLE XL.

The general board of directors of the bank shall be composed of the president and vice-presidents as ex officio members and of the directors, all of whom shall be chosen annually by the general assembly of stockholders. The number of vice-presidents shall be determined by the general assembly of stockholders, but shall not exceed five; the number of directors shall likewise be determined by the general assembly of stockholders, but may not exceed fifteen nor be less than eight. Members of the general board of directors shall be eligible for reelection.

ARTICLE XLI.

There may be elected by the general assembly of the stockholders, at its discretion, associate directors of branches in the Philippine Islands, in the United States, or in foreign countries, who shall, under regulations made by the general board of directors, meet separately from said general board to consider matters relating to the interests of the branch for which they are elected; but their action shall be advisory only and shall be subject to the approval of the general board of directors at Manila. Such associate directors may or may not, in the discretion of the general assembly, be required to be stockholders in the bank, and shall be subject to removal or termination of their functions at any time upon vote of said general assembly.

ARTICLE XLII.

Each member of the general board of directors, in order to be eligible as a member, shall deposit with the bank, in trust, before assuming his duties, not less than 10 shares of the stock of the bank, registered in

his name. Each such director, when appointed or elected, shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank, and that he will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, which oath, subscribed by himself and certified by the officer before whom it is taken, shall be immediately transmitted to the Treasurer of the Philippine Islands and by him filed and preserved in his office.

ARTICLE XLIII.

Members of the board of directors, except the president and vice-presidents, of the bank shall be entitled to a fee for attendance at meetings of said board, which shall be fixed by the general board, but shall not exceed ₱25.

ARTICLE XLIV.

The duties of the general board of directors shall be as follows:

1. To supervise the issue and transfer of certificates of stock and establish regulations therefor.
2. To determine from time to time the number and amount of circulating notes to be issued under the provisions of this act.
3. To fix the rate of discounts and loans.
4. To prepare confidential lists of the firms and corporations to which it considers discounts may properly be accorded, fixing the amount of credit to be extended to each.
5. To appoint agents and correspondents and to designate the points where they are to be stationed.
6. To authorize the establishment of branch banks at such points as will serve the public interest and that of the bank, in accordance with Article IV of these statutes.
7. To ratify, if satisfactory to it, transactions between the bank and the Government, and other current transactions.
8. To take care that in all the offices of the bank the statutes, by-laws, orders, and resolutions in force are strictly observed.
9. To examine and consider at each regular meeting the transactions of the officers of the bank and the operations of the bank.
10. To elect the secretary and cashiers of the bank.
11. To appoint, on recommendation of the officers of the bank, bookkeepers and minor employees of the bank and of its branches.
12. To remove or suspend employees of the bank, with or without the recommendations of the officers.
13. To draw up the annual report concerning the operations of the bank, which shall be read at the general assembly of the stockholders.
14. To examine and audit the accounts submitted by the officers and to approve the general balance sheet.
15. To declare semiannually, in accordance with such balance sheet and the state of the voluntary reserve fund, the dividend to be paid to the stockholders.
16. To examine into and take under advisement recommendations made by stockholders in general assembly for the welfare of the bank and to present the same, with their report thereon, to the next general assembly.
17. To make of its own motion to said general assembly all suggestions which it deems proper for the advantage of the bank.

ARTICLE XLV.

No action shall be taken at the sessions of the general board of directors except when a majority is present.

ARTICLE XLVI.

Resolutions of the general board of directors must be passed by the votes of a majority of the members present.

ARTICLE XLVII.

The secretary of the bank shall be present at all the sessions of the general board of directors, without voice or vote, and shall draw up the minutes, which shall be signed by the president and the secretary himself.

TITLE VI.—CONCERNING THE OFFICERS OF THE BANK.

ARTICLE XLVIII.

The administration of all the affairs of the bank and the control of its operations shall be in charge of the president, assisted by the vice-president or vice-presidents, and a secretary, who shall perform such duties as the president may direct.

ARTICLE XLIX.

The officers of the bank shall receive, in addition to their salaries, the compensation hereinafter set forth, which shall be divided as prescribed by the general board of directors.

ARTICLE L.

The powers of the president of the bank shall be:

1. To direct all the operations of the bank and to give orders and instructions to all the employees thereof who are to take part in said operations.
2. To execute all contracts entered into on behalf of the bank, and to perform all other duties customarily incident to his office.
3. To authenticate by his signature all administrative acts and obligations and documents issued by the bank.
4. To consider and pass upon applications for discounts and loans.
5. To institute and prosecute, in the name of the bank, all judicial proceedings that may be necessary for the collection of debts due to the bank and for the preservation of its rights.
6. To make recommendations to the general board of directors in regard to transactions not provided for by these statutes.
7. To recommend to the general board of directors the appointment of all subordinate employees and servants of the bank.
8. To supervise and direct the conduct of the employees of the bank in the performance of their duties, and to temporarily suspend for just cause those who are delinquent therein, with the exception of those elected by the general assembly of stockholders and by the general board of directors, who can only be suspended by the latter.
9. To call the regular general assemblies of the stockholders and such extraordinary general assemblies as may be requested by a sufficient number of the general board of directors.
10. To convene the general board of directors in extraordinary session whenever he deems it necessary, either upon his own motion or at the request of any three members of said board.
11. To preside at general assemblies of the stockholders and meetings of the general board of directors, with a vote.
12. To make visits of inspection to the offices of the bank, and to address to the general board of directors such recommendations as he may deem proper concerning its condition.
13. To verify the monthly balance sheet and to sign his approval of the same in the records of the bank.
14. To sign stock certificates and to certify by his signature notes issued payable to bearer.
15. To examine the report to be made to the general assembly relative to the condition of the bank, and to approve the same before it is read to the meeting, satisfying himself in advance of the correctness of its contents.

ARTICLE LI.

That in the absence or disability of the president, the vice-presidents, in the order designated by the general board of directors, shall exercise the powers herein granted to the president.

ARTICLE LII.

In the case of any judicial proceedings other than for the collection of obligations to the bank, the officers must obtain the approval of the general board of directors before acting therein.

ARTICLE LIII.

The officers shall be personally accountable to the bank for all operations carried on by them beyond their powers or contrary to the statutes, by-laws, and regulations of the bank.

TITLE VII.—GENERAL PROVISIONS.

ARTICLE LIV.

It shall be lawful for the bank to purchase, hold, and convey real estate as follows:

1. Such as shall be necessary for its immediate accommodation in the transaction of its business.
2. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.
3. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings, under the limitations hereinbefore imposed.
4. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the bank, or shall purchase to secure debts due to it.

The bank shall not purchase or hold real estate in any other case, or for any other purpose than as specified in this article, nor shall it hold for a longer period than five years the possession of any real estate under mortgage or the title and possession of any real estate purchased to secure any debts due to it.

ARTICLE LV.

The profits or net earnings resulting from the operations of the bank, after deducting the expenses of administration, and such portion as corresponds to the legal reserve fund, shall be applied as follows: Four per cent to the executive officers of the bank, to be divided according to regulations prescribed by the general board of directors; 5 per cent to the members of the general board of directors, to be distributed in the manner provided in the by-laws. The remaining 91 per cent shall belong to the stockholders, but may be added to the regular or special reserve funds, or distributed as dividends at a fixed pro rata amount according to the number of shares.

ARTICLE LVI.

The distribution of dividends shall be made at least once in each six months, when in the judgment of the general board of directors, earnings justify the declaration of a dividend. Should the profits not exceed 7 per cent per annum on the par value of each share, the entire amount shall be distributed; should there be an excess over said 7 per cent, it shall be divided two-thirds to the stockholders and one-third to the legal reserve fund mentioned in Article XIX, until said reserve fund shall amount to not less than 25 per cent of the capital stock; after which any surplus shall be divided amongst the stockholders in whole or in part, or may be used for the creation of the voluntary reserve fund also mentioned in said article, as the general board of directors may deem best.

ARTICLE LVII.

Dividends declared and not called for within three years following the date upon which they are due and payable shall draw the interest specified for voluntary deposits in money, commencing from the expiration of said period.

ARTICLE LVIII.

No information shall be furnished by the bank concerning the funds in its custody in a current account, or on deposit, belonging to a given person, corporation, or other legal entity, except under authority of an order of the governor-general or of a court with jurisdiction.

ARTICLE LIX.

That the treasurer of the Philippine Islands, provincial and municipal treasurers, and other authorized public officials shall, from time to time, deposit with the bank and its branches, upon such terms as may be prescribed by the government of the Philippine Islands, such public moneys and trust funds as may be available for this purpose, without discrimination against the bank or in favor of other institutions; but this clause shall not bind such officials to make or maintain such deposits when, in their opinion, it is inadvisable.

ARTICLE LX.

The balance sheet provided for in article 157 of the Code of Commerce shall be drawn up and published monthly, and the bank and its branches shall make to the treasurer of the Philippine Islands not less than five reports during each and every year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of the bank and attested by the signatures of at least three of the directors; which report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the bank at the close of business on any past day specified by said treasurer, and shall transmit such report to him within ten days after the receipt of a request or requisition therefor from him; and the report above required, in the same form in which it is made to the treasurer, shall be published, at the expense of the bank, in a newspaper in the city of Manila; and the treasurer of the Philippine Islands shall have power to call for special reports of the condition of the bank and its branches whenever in his judgment the same shall be necessary in order to a full and complete knowledge of its condition. Failure to make and transmit such a report shall render the bank liable to a penalty of ₱100 for each day after ten days that said bank or any of its branches shall delay to make and transmit any report as aforesaid; these reports shall be in lieu of the quarterly reports prescribed by section 1 of act No. 52 of the Philippine Commission of November 23, 1900, which quarterly reports shall no longer be required from the bank.

ARTICLE LXI.

That the government of the Philippine Islands renounces all rights which it may have derived under Spanish law to appoint the governor and other officers of the bank or to interfere in any way with its administration, except to make examination of its solvency and supervise its conduct in the interest of the public in the same manner as such

examination and supervision are or may be exercised over national banks in the United States and as prescribed by the laws of the Philippine Islands.

ARTICLE LXII.

That the government of the Philippine Islands renounces all right and title derived from Spanish law and existing statutes of the bank to a loan of any money to the treasury of the Philippine Islands.

TITLE VIII.—DISSOLUTION AND WINDING UP OF THE BANK.

ARTICLE LXIII.

The bank shall be dissolved (1) upon the expiration of its legal term, unless legally extended in accordance with the provisions of this act; (2) upon the loss of one-half of the capital subscribed, in which case the general board of directors shall immediately call, within as short a period as possible, an extraordinary general assembly of the stockholders to report the condition of the bank.

The general board of directors may direct that the bank shall continue, in which case it may determine the necessary steps to be taken to fix the status of the bank, provided those present and voting represent two-thirds of the capital.

ARTICLE LXIV.

A dissolution having been decided upon, the winding up of the bank's affairs shall be in charge of the general board of directors then in office, unless said general board shall determine to appoint receivers, in which case said receivers shall receive such compensation as said general board may direct.

ARTICLE LXV.

While the winding up of the affairs of the bank continues the powers of the general board shall remain intact.

The board shall specially have the power to approve the accounts of the receivership and to give a discharge.

The amount realized, after paying the debts and expenses of the bank, shall be distributed pro rata among the stockholders.

ARTICLE LXVI.

That nothing in this act shall be held to prevent the exercise by the governor-general and the treasurer of the Philippine Islands of the powers conferred upon them by act No. 556 of the Philippine Commission, enacted December 9, 1902, or such amendments of that act as may have been enacted or as may hereafter be enacted.

SEC. 2. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited, in accordance with section 2 of "An act prescribing the order of procedure by the commission in the enactment of laws," passed September 26, 1900.

SEC. 3. This act shall take effect upon the filing with the executive secretary by the general board of directors of the Banco Español-Filipino of the written acceptance by the bank of the provisions hereof.

Enacted October 12, 1907.

First Philippine legislature, first session. C. B. 14.

[No. 1826.]

An act to provide for the granting of a franchise to construct, maintain, and operate telephone and telegraph systems, and to carry on other electrical transmission business in and between the provinces of Albay and Ambos Camarines and in and between the municipalities thereof.

By authority of the United States, be it enacted by the Philippine legislature, that:

SECTION 1. There is hereby granted for a period of fifty years from and after the passage of this act, upon the considerations and conditions herein contained, to Charles W. Carson and his successors or assigns, the right and privilege to construct, maintain, and operate in and between the provinces of Albay and Ambos Camarines and in and between the municipalities thereof a telephone and telegraph system, to carry on the business of transmitting messages and signals by means of electricity in and between said provinces and municipalities and for the purpose of operating said telephone and telegraph system and of transmitting messages and signals by means of electricity, to construct telephone and telegraph lines in and between said provinces and municipalities, to construct, maintain, and operate and use all apparatus, conduits, and appliances necessary for the electrical transmission of messages and signals, to erect poles, string wires, build conduits, lay cables, and to construct, maintain, and use such other approved and generally accepted means of electrical conduction in, on, over, or under the public roads, highways, lands, bridges, streets, lanes, alleys, avenues, and sidewalks of said provinces and municipalities as may be necessary and best adapted to the transmission of messages and signals by means of electricity: *Provided, however,* That all poles erected and all conduits constructed or used by the grantee, his successors or assigns, shall be located in places designated by provincial or municipal authorities, as the case may be, and poles shall be straight and smooth and erected and painted in a good, substantial, and workmanlike manner to the satisfaction of such authorities, but it shall not be obligatory on the grantee, his successors or assigns, to paint poles except in centers of population or poblaciones of municipalities: *And provided further,* That said poles shall be of such a height and the wires or conductors strung or used by said grantee, his successors or assigns, shall be so placed and safeguarded as to prevent danger to life or property by reason of contact with electric light, power, or street-railway wires or conductors: *And provided further,* That upon reasonable notice and by resolution of the proper insular, provincial, or municipal authorities, the grantee, his successors or assigns, may be required to relocate poles or remove or raise wires or other conductors so as to permit the passage of buildings or other structures from one place to another, one-half the actual cost of such relocation of poles or raising or removal of wires or other conductors to be paid by the person at whose instance the building or structure is moved; and, at the expense of the grantee, his successors or assigns, to relocate conduits, poles, and wires and to raise or remove wires or other conductors when the insular government or any provincial or municipal government declares that the public interest so requires: *Provided, however,* That from any order or regulation of a provincial or municipal government requiring the grantee, his successors or assigns, to relocate conduits, poles, or wires, or to raise or remove wires or other conductors, the said grantee, his successors or assigns, shall have the right of appeal to the governor-general, whose decision in the matter shall be final and conclusive.

Should the grantee, his successors or assigns, fail, refuse, or neglect within a reasonable time to relocate his or their poles, conduits, wires, or other conductors, or to raise his or their wires or other conductors when so directed by the proper insular, provincial, or municipal authorities, then said authorities may relocate said poles, conduits, wires, or other conductors, or raise said wires or other conductors at the expense of the grantee, his successors or assigns: *And provided further,* That the installation of all instruments, the inside wiring, and all outside construction work shall be done in accordance with the rules, regulations, or ordinances covering electrical work adopted by the insular, provincial, or municipal authorities: *And provided further,* That whenever 25 or more pairs of open wires or other conductors are carried on one line of poles in any city or municipal center, said wires or conductors shall be placed in one cable and that whenever more than 250 pairs of wires or other conductors in cables are carried on one line of poles, said cables shall be placed underground by the grantee, his successors or assigns, whenever ordered so to do by the proper insular, provincial, or municipal authorities: *And provided further,* That the poles erected, wires and cables strung, or conduits laid by virtue of this franchise shall be so placed as not to impair the efficient and effective transmission of messages or signals by any other company whose poles are erected, whose wires and cables are strung, or whose conduits are actually laid at the time that poles are to be erected, wires and cables are to be strung, or conduits are to be laid under and by virtue of this franchise.

SEC. 2. For the purpose of erecting and maintaining poles or other supports for said wires or other conductors or for the purpose of laying and maintaining underground said wires, cables, or other conductors, it shall be lawful for the grantee, his successors or assigns, under such regulations and orders as may be prescribed by insular, provincial, or municipal authorities, to make excavations and lay conduits in any of the public places, lands, roads, highways, streets, lanes, alleys, avenues, bridges, or sidewalks in or between the said provinces or municipalities: *Provided, however,* That any public place, road, highway, street, lane, alley, avenue, bridge, or sidewalk disturbed, altered, or changed by reason of the erection of poles or other supports, or the laying underground of wires or other conductors or of conduits shall wherever disturbed, altered, or changed be repaired and replaced in a good, substantial, and workmanlike manner by said grantee, his successors or assigns, to the satisfaction of the insular, provincial, or municipal authorities, as the case may be. Should the grantee, his successors or assigns, after reasonable written notice from said authorities, fail, refuse, or neglect to repair and replace in a good, substantial, and workmanlike manner, to the satisfaction of said insular, provincial, or municipal authorities, any part of a public place, road, highway, street, lane, alley, avenue, bridge, or sidewalk altered, changed, or disturbed by said grantee, his successors or assigns, then the insular, provincial, or municipal authorities, as the case may be, shall have the right to have the same properly repaired and placed in good order and condition at the cost and expense of the grantee, his successors or assigns.

SEC. 3. All telephone and telegraph lines and systems for the transmission of messages and signals by means of electricity owned, maintained, or operated by the grantee, his successors or assigns, shall be maintained and operated at all times in a complete, modern, and first-class style as understood in the United States, and it shall be the further duty of said grantee, his successors or assigns, to modify, improve, and change such telephone and telegraph system, or systems, for the transmission of messages and signals by means of electricity, in such manner and to such extent as the progress of science and improvements in the method of transmission of messages and signals by means of electricity may make reasonable and proper.

SEC. 4. The grantee, his successors or assigns, shall keep a separate account of the gross receipts of the telephone, telegraph, and electrical transmission business transacted by him in each of the municipalities of the provinces of Albay and Ambos Camarines, and shall furnish to the insular auditor and the insular treasurer a copy of such account not later than the 31st day of July of each year for the twelve months preceding the 1st day of July. For the purpose of auditing the accounts so rendered to the insular auditor and the insular treasurer all of the books and accounts of the grantee, his successors or assigns, shall be subject to the official inspection of the insular auditor, or his authorized representatives, and in the absence of fraud or mistake the audit and approval by the insular auditor of the accounts so rendered to him and to the insular treasurer shall be final and conclusive evidence as to the amount of said gross receipts.

SEC. 5. The grantee, his successors or assigns, shall be liable to pay the same taxes on his or their real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition, the grantee, his successors or assigns, shall pay to the insular treasurer each year, within ten days after the audit and approval of the accounts as prescribed in section 4 of this act, 2 per cent of all gross receipts of the telephone, telegraph, or other electrical transmission business transacted under this franchise by the grantee, his successors or assigns, and the said percentage shall be in lieu of all taxes on the franchise or earnings thereof.

Sec. 6. As a guaranty that the franchise has been accepted in good faith and that within six months from the date of the passage of this act the grantee or his successors or assigns will begin the business of transmitting messages by telephone and will be fully equipped and ready to operate according to the terms of this franchise 50 telephones in the Province of Albay and 50 telephones in the Province of Ambos Camarines, the said grantee shall deposit at the time of such acceptance, with the insular treasurer ₱1,000, or negotiable bonds of the United States, or other securities approved by the secretary of commerce and police, of the face value of ₱1,000: *Provided, however,* That if the deposit is made in money the same shall be deposited at interest in some interest-paying bank approved by the secretary of commerce and police, and all interest accruing and due on such deposit shall be collected by the insular treasurer and paid to the grantee, his successors or assigns, on demand: *And provided further,* That if the deposit made with the insular treasurer be negotiable bonds of the United States, or other interest-bearing securities approved by the secretary of commerce and police, the interest on such bonds or securities shall be collected by the insular treasurer and paid over to the grantee, his successors or assigns, on demand.

Should the said grantee, his successors or assigns, for any other cause than the act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause, fail, refuse, or neglect to begin within two months from the date of the passage of this act the business of transmitting messages by telephone, or fail, refuse, or neglect to be fully equipped and ready to operate within six months from the date of the passage of this act 50 telephones in the Province of Albay and 50 telephones in the Province of Ambos Camarines, according to the terms of this franchise, then the deposit prescribed by this section to be made with the insular treasurer, whether in money, bonds, or other securities, shall become the property of the insular government as liquidated damages caused to such government by such

failure, refusal, or neglect, and thereafter no interest on said bonds or other securities deposited shall be paid to the grantee, his successors or assigns. Should the said grantee, his successors or assigns, begin the business of transmitting messages by telephone and be ready to operate 50 telephones in the Province of Albay and 50 telephones in the Province of Ambos Camarines according to the terms of this franchise within six months from the date of the passage of this act, then, and in that event, the deposit prescribed by this section shall be returned by the insular government to the grantee, his successors or assigns: *Provided, however,* That all the time during which the grantee, his successors or assigns, may be prevented from carrying out the terms and conditions of this franchise by any of said causes shall be added to the time allowed by this franchise for compliance with its provisions.

SEC. 7. The books and accounts of the grantee, his successors or assigns, shall be subject to official inspection at any and all times by the insular auditor or his authorized representatives.

SEC. 8. The rights herein granted shall not be exclusive, and the right and power to grant to any corporation, association, or person other than the grantee franchises for the telephonic, telegraphic, or electrical transmission of messages or signals shall not be impaired or affected by the granting of this franchise: *Provided,* That the poles erected, wires strung, or conduits laid by virtue of any franchise for telephone, telegraph, or other electrical transmission of messages and signals granted subsequent to this act shall be so placed as not to impair the efficient and effective transmission of messages or signals under this franchise by means of poles erected, wires strung, or conduits actually laid and in existence at the time of the granting of said subsequent franchise: *And provided further,* That the grantee of this franchise, his successors or assigns, may be required by the governor-general to remove, relocate, or replace his poles, wires, or conduits, but in such case the reasonable cost of the removal, relocation, or replacement shall be paid by the grantees of the subsequent franchise or their successors or assigns to the grantees of this franchise or their successors or assigns.

SEC. 9. The grantee of this franchise, his successors or assigns, shall hold the insular, provincial, and municipal governments harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the telephone, telegraph, or other electrical transmission system of the said grantee, his successors or assigns.

SEC. 10. The municipalities of the provinces of Albay and Ambos Camarines, in which the grantee, his successors or assigns, may establish telephone, telegraph, or any other system of electrical transmission of messages and signals, shall have the privilege of using, without compensation, the conduits and poles of the grantee, his successors, or assigns, for the purpose of installing, maintaining, and operating a fire and police telegraph or telephone alarm system, but the wires of such fire and police telegraph or telephone alarm system shall be so placed, strung, stretched, and insulated as not to interfere with the efficient transmission of messages and signals by the grantee, his successors, or assigns.

SEC. 11. Within thirty days after the passage of this act the grantee shall file with the secretary of commerce and police his written acceptance of the franchise granted by this act and of all the terms and conditions thereof, and the grantee shall begin the construction of his telephone system in the provinces of Albay and Ambos Camarines within two months from the date of such acceptance, and shall begin the business of transmitting messages by telephone and be fully equipped and ready to operate at least 50 telephones in the province of Albay and at least 50 telephones in the province of Ambos Camarines within six months from the date of the passage of this act unless prevented by act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause.

The failure, refusal, or neglect to comply with any of the terms and conditions required of the grantee, his successors, or assigns, by this act, shall subject the franchise to forfeiture unless such failure, refusal, or neglect was directly and primarily caused by act of God, the public enemy, usurped or military power, martial law, riot, civil commotion, or inevitable cause.

SEC. 12. The grantee, his successors, or assigns, shall be entitled to charge such rates as may from time to time be previously approved by the board of rate regulation created by act No. 1779, entitled "An act to create a board for the regulation of rates chargeable by public-service corporations in the Philippine Islands, and for other purposes." No subscribers for telephones authorized by this act shall be obliged to purchase instruments or to make any deposit whatever for telephone installation.

SEC. 13. The right is hereby reserved to the government of the Philippine Islands to regulate the rates to be charged by the grantee, his successors, or assigns, but any rates which shall be fixed shall be sufficient to yield a reasonable return to the grantee, his successors, or assigns, upon the capital invested after making due allowance for maintenance, operation, and other necessary expenses.

SEC. 14. The grantee may transfer, sell, or assign this franchise to any corporation formed, organized, or existing under the laws of the Philippine Islands or of any State or Territory of the United States, and such corporation shall have the right to buy and to own said franchise, but the grantee shall not sell, transfer, or assign this franchise to any other person, firm, company, corporation, or other commercial or legal entity without the written approval of the governor-general first had. Any corporation to which this franchise may be sold, transferred, or assigned shall be subject to the corporation laws of the Philippine Islands now existing or hereafter enacted, and any person, firm, company, corporation, or other commercial or legal entity to which this franchise is sold, transferred, or assigned shall be subject to all the conditions, terms, restrictions, and limitations of this franchise as fully and completely and to the same extent as if the franchise had been originally granted to the said person, firm, company, corporation, or other commercial or legal entity.

SEC. 15. This franchise, or concession, is granted subject to amendment, alteration, or repeal by the Congress of the United States; no stock or bonds shall be issued by the grantee, his successors, or assigns, hereunder except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds so issued, and said grantee, his successors, or assigns, shall not declare any stock or bond dividend. No private property shall be taken for any purpose under this franchise without just compensation paid or tendered therefor, and any authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which this franchise is granted. All lands, or rights of use and occupation of lands, granted to the grantee, his successors, or assigns, shall, upon the termination of this franchise or upon its revocation or repeal, revert to the insular government or to the provincial or municipal government to which such lands or the right to use and occupy them belonged at the time the grant thereof or the right to use or occupy the same was conceded to the grantee, his successors, or assigns.

The foregoing and all other terms and provisions of section 74 of the act of Congress approved July 1, 1902, which are applicable to grantees of franchises or concessions, or to their successors or assigns, are incorporated into and made a part hereof, with the same effect as if they were set forth herein at length.

SEC. 16. This act shall take effect on its passage.

Enacted May 20, 1908.

First Philippine legislature, second session. C. J. R. 11.

Joint resolution 17, approving, ratifying, and confirming the acceptance by Charles W. Carson of the franchise granted him in act No. 1826, and receiving and considering said acceptance as a good and sufficient compliance with the terms of said act.

Resolved by the Philippine Commission and the Philippine assembly, That the acceptance of Charles W. Carson of the franchise granted him in and by act No. 1826, to construct, maintain, and operate in and between the provinces of Albay and Ambos Camarines and in and between the municipalities thereof a telephone and telegraph system, which said acceptance bears date of July 16, 1908, is hereby ratified and declared to be sufficient to confirm the grant of said franchise for all purposes of said act No. 1826.

Adopted May 19, 1909.

First Philippine legislature, second session. A. B. 446.

[No. 1947.]

An act to ratify and confirm certain mining concessions granted under royal decrees of the Kingdom of Spain to amend the terms and conditions of said concessions, and to provide for their registration.

By authority of the United States, be it enacted by the Philippine legislature, that:

SECTION 1. The royal concessions granted by the Kingdom of Spain and hereinafter enumerated, which were issued and perfected under and by virtue of the royal decree of May 14, 1867, and by the royal decrees supplementary thereto and amendatory thereof, in favor of the persons hereinafter named, prior to the transfer of the sovereignty of Spain in these islands to the United States of America, are hereby ratified and confirmed with regard to the grantees therein named, their successors and assigns, ad perpetuam, as hereinafter set forth: Concession of the mine denominated "Nueva California Primera," of January 8, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 4 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the mine denominated "Nueva California Segunda," of January 29, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 4 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the mine denominated "Nueva California Tercera," of January 15, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 4 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the mine denominated "Nueva California Cuarta," of January 15, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 4 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the mine denominated "Nueva California Quinta," of January 29, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 4 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the mine denominated "Germania," of January 8, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 4 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the gold mine denominated "Magallanes," of January 8, 1897, in favor of Martín Buck and Joaquín Casanovas, comprising 24 claims of 60,000 square meters each, situate at Paracale, Province of Ambos Camarines; concession of the coal mine denominated "Magallanes," of March 13, 1888, in favor of the association "Nuevo Langreo," comprising 2 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "Nuevo Langreo," of March 13, 1888, in favor of the association "Nuevo Langreo," comprising two claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "Cebuana," of March 13, 1888, in favor of the association "Nuevo Langreo," comprising 2 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "Portiella," of March 13, 1888, in favor of the association "Nuevo Langreo," comprising 2 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "La Mestiza," of March 13, 1888, in favor of the association "Nuevo Langreo," comprising a claim of 150,000 square meters, situate at Danao, Province of Cebu; concession of the mine denominated "Angeles," of May 16, 1891, in favor of Ramón Montañés, comprising 12 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "San Julián," of May 16, 1891, in favor of the association "Nuevo Langreo," comprising 8 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "San Enrique," of July 5, 1894, in favor of Ramón Montañés, comprising 4 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "Rafael Reyes," of October 11, 1895, in favor of Ramón Montañés, comprising 2 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "Carlota," of June 6, 1896, in favor of the association "Nuevo Langreo," comprising a claim of 150,000 square meters, situate at Danao, Province of Cebu; concession of the mine denominated "Angeles," of March 23, 1898, in favor of Ramón Montañés, comprising 8 claims of 150,000 square meters each, situate at Danao, Province of Cebu; concession of the mine denominated "Sodupe," of December 6, 1895, in favor of Jacinto Gil Gorroño, comprising 2 claims of 150,000 square meters each, situate at Bacon, Province of Sorsogon; concession of the mine denominated "Bilbao," of December 6, 1895, in favor of Jacinto Gil Gorroño, comprising 4 claims of 150,000 square meters each, situate at Bacon, Province of Sorsogon; concession of the mine denominated "Lucas y Josefa," of December 6, 1895, in favor of Jacinto Gil Gorroño, comprising a claim of 150,000 square meters, situate at Bacon, Province of Sorsogon; concession of the mine denominated "Chiñadura," of December 6, 1895, in favor of Jacinto Gil Gorroño, comprising a claim of 150,000 square meters, situated at Bacon, Province of Sorsogon; concession of the mine denominated "Presentación," of December 6, 1895, in favor of Jacinto Gil Gorroño, comprising 2 claims of 150,000 square meters each, situate at Bacon, Province of Sorsogon; concession of the mine denominated "Olaveaga," of December 6, 1895, in favor of Jacinto

Gil Gorroño, comprising 2 claims of 150,000 square meters each, situate at Bacon, Province of Sorsogon; concession of the mine denominated "María y Leopolda," of March 9, 1897, in favor of José Cortés y Dominguez, comprising 2 claims of 60,000 square meters each, situate at Placer, Province of Surigao; concession of the mine denominated "Mundaca," of March 9, 1897, in favor of José Cortés y Dominguez, comprising 2 claims of 60,000 square meters each, situate at Placer, Province of Surigao; concession of the mine denominated "Andrés y Agustina," of March 9, 1897, in favor of José Cortés y Dominguez, comprising a claim of 60,000 square meters, situate at Placer, Province of Surigao; concession of the mine denominated "Vizcaya," of March 9, 1897, in favor of José Cortés y Dominguez, comprising 2 claims of 60,000 square meters each, situate at Placer, Province of Surigao; concession of the mine denominated "Castilla," of March 9, 1897, in favor of José Cortés y Dominguez, comprising 2 claims of 60,000 square meters each, situate at Placer, Province of Surigao.

SEC. 2. From the date of the passage of this act the aforesaid mining concessions enumerated in section 1 of this act shall be held, possessed, and enjoyed by the grantees, their successors and assigns, subject only to the terms and conditions expressly prescribed therefor by the provisions of the aforesaid royal decree of May 14, 1867, which have not expired or become unreasonable or impossible to comply with: *Provided, however,* That in view of the modifications brought about by the change of sovereignty the said terms and conditions shall hereafter be valid and binding for the grantees of the aforesaid mining concessions, their successors and assigns, to the extent and under the terms hereinafter set forth, to wit:

1. That the mine shall be worked in accordance with mining rules, and the grantees and their laborers shall submit to the police regulations established by the regulations in force or as may be established by the government of the Philippine Islands or that of its political subdivisions from time to time.

2. That the grantee shall be liable for all damages resulting to others from his mining work.

3. That the grantee shall likewise make good any damage to his neighbors resulting from the accumulation of water caused by his operations whenever he fails to draw off such water within the time that he shall be formally requested to do so.

4. That he shall contribute to the work of draining the mines contiguous to his own and to the construction of draining levels or passage galleries, in proportion to the benefits received, whenever, by authority of the governor-general, such works are undertaken for a group of claims or for the entire mining region where the mine is situate.

5. That the development of each mine or group of mines and the active work connected therewith shall be guaranteed by such annual output from the same, or by such an annual expenditure for improvements thereon, as the governor-general may determine, upon the registration of said mine or group of mines, having regard to the nature and condition of the same and to other circumstances connected therewith.

6. That the grantee shall reenforce the walls of the mine within such time as may be set, whenever they are in danger of being ruined on account of structural defects, provided he is not prevented from so doing by circumstances beyond his control.

7. That the grantee shall not make a subsequent working of the mine difficult or impossible by covetous exploitation.

8. That the grantee shall not suspend the working of the mine with intent to abandon it without previously communicating his intention to the governor-general, and in such case he shall leave the mine in a good condition as regards reenforcement.

9. That he shall pay on the mine and on its output the taxes established by the royal decree of May 14, 1867.

10. That the grantee shall fulfill all other provisions contained in said royal decree of May 14, 1867, and regulations thereunder, except in so far as the provisions thereof have become unreasonable or impossible of performance by reason of existing legislation.

SEC. 3. Any person or persons claiming to be the owner of any of the mining concessions ratified and confirmed by this act, or of any interest therein, shall, within two years' time from the passage of this act, apply to the court of land registration for the registration of the title thereto, and said court shall have exclusive jurisdiction to hear and decide said applications in the same manner as in the case of applications for the registration of title to real estate.

SEC. 4. If the court of land registration, after the examination, shall find that the applicant has a title as set forth in his application, it shall issue an order of confirmation and registration, which shall have the same force, effect, and consequences, and shall be registered and made of record in the same manner as in the case of rights of confirmation and registration of title to real estate.

SEC. 5. While an application for the registration of title to the mining concessions mentioned in this act is pending examination and decision, and prior to the issuance of the order relative to the same, the governor-general shall certify to the court of land registration the manner and terms in which the future development and working of the mining property covered by the application is to be guaranteed, and the said terms shall be included in the right and form a part thereof: *Provided, however,* That the said guaranty shall in all cases consist either of an obligation to produce annually a given minimum output of the mine, or in an obligation to invest annually a given sum of money in the development and improvement of the mine.

SEC. 6. The procedure, examination, and decision of all the applications for the registration of titles to the mining concessions mentioned in this act shall be governed by the regulations established by the court of land registration under act No. 496 of the Philippine Commission and its amendments, except where it is impossible to apply the said act to such applications.

SEC. 7. This act shall take effect on its passage.

Enacted May 20, 1909.

WAR DEPARTMENT,
BUREAU OF INSULAR AFFAIRS,
Washington, May 18, 1909.

MY DEAR GOVERNOR: In connection with the printing of the annual reports of the Philippine Commission, which have in the past been published in the annual reports of the Secretary of War, the bureau has been considering the advisability of having these reports arranged in the future so as to make it possible to publish in one volume the reports of the commission, the governor-general, of the four executive departments, of the auditor, of the treasurer, and of the bureau of civil service, with such other bureau reports, as appendices to their respective department reports, as might be of special interest in any year. There will, of course, always be included as an appendix to the report the laws enacted by the Philippine legislature during the year covered thereby. The voluminous annual reports of the Philippine government may have been in the past, and certainly were for several years after we entered the Philippine Islands, demanded by the public interest in what we were doing in those islands. The reports of the bureaus are now largely in the nature of repetition from year to year, the form of the government is fairly well crystallized, and it is thought that in the interest of economy, as well as in meeting the public demand, a one-volume report would be ample.

In order to bring about this result, the reports of the various bureaus of the Philippine government, with the exception of those mentioned above, will no longer be printed in the annual report of the Philippine Commission, and this report will, as heretofore stated, include only the report of the Philippine Commission, the report of the governor-general, the reports of the heads of the four executive departments, of the treasurer, of the auditor, and the report of the bureau of civil service; and the laws enacted by the legislature of the Philippine Islands during the year covered by the report will be printed as an appendix thereto, to meet the provision of law which requires that this legislation be reported to Congress.

To make this arrangement effective without omitting from the report anything which is now of interest, the various heads of departments who make reports which are to be printed in annual report of the Secretary of War should include such references to the reports of the various bureaus of their departments as might be of sufficient interest to warrant general publication and distribution, and as may be necessary to a full understanding of the administration of the islands.

The publication of the commission's report in this form is in the interest of economy, and to make possible an earlier distribution of the report than formerly. It is also felt that the report has been too voluminous in recent years to be generally read, even by persons deeply interested in the conduct of affairs in the islands.

It would also greatly facilitate matters in this connection to have the reports come here, so that they may be printed before the beginning of the regular annual sessions of Congress, and they should be sent as soon as possible after the end of the fiscal year in order that this may be done.

It is desired, of course, that the reports of all the various bureaus be sent here, as formerly, but only those will be published which are of especial interest in any year.

Very sincerely,

C. R. EDWARDS.

Hon. W. CAMERON FORBES,
Acting Governor-General of the Philippines, Manila, P. I.

OFFICE OF THE GOVERNOR-GENERAL
OF THE PHILIPPINE ISLANDS,
Cotabato, P. I., July 11, 1909.

MY DEAR GENERAL: I have read your letter of May 18, and heartily approve the lessening of the amount of matter in the annual report of the Philippine Commission. We have been encouraged and allowed to become as verbose as possible, and I can see no conceivable good in it. The criticism of my own annual report last year, made during my absence, was that it was vastly too voluminous, and I shall do my part in reducing the extent of the report to the fewest possible words. I propose to take a great deal of time and thought in the process. I have already directed the bureau chiefs to reduce their reports, and it is possible that I can so abridge the total amount of material covered so that you will find space for the reports of all the bureaus in one volume, without the necessity of completely leaving them out of the printed matter; in other words, I believe that I can reduce the amount of the report so that all may be printed without unnecessary repetition or containing matter that will not be interesting.

I agree with you that the size of the annual reports of the commission have been their own undoing. I believe that no living man has ever read through all of the reports; and if he had, his time would have been spent most unprofitably to himself or to anyone else.

Sincerely, yours,

W. CAMERON FORBES,
Acting Governor-General.

Brig. Gen. CLARENCE R. EDWARDS,
Chief of the Bureau of Insular Affairs,
War Department, Washington.

FRAUDS IN THE COLLECTION OF CUSTOMS.

Mr. HILL. Mr. Speaker, I desire to present a privileged report (No. 1019) from the Committee on Expenditures in the Treasury Department.

The SPEAKER. The gentleman from Connecticut presents a privileged report from the Committee on Expenditures in the Treasury Department, which the Clerk will read.

The Clerk read as follows:

The Committee on Expenditures in the Treasury Department, to which was referred House resolution 480, respectfully report that they have had the same under consideration, and recommend the adoption of the following substitute:

Resolved, That the President be, and he is hereby, requested to inform the House if there still exist any reasons which make it inconvenient or inexpedient that a thorough examination at this time be made by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session.

Mr. FITZGERALD. Mr. Speaker, I desire to make the point of order against the substitute. It changes the privileged character of the resolution.

The SPEAKER. It occurs to the Chair that if the resolution is privileged the substitute is privileged. But the Chair will hear the gentleman.

Mr. FITZGERALD. The resolution requests the President to inform the House what facts exist which make a certain investigation inexpedient at this time, which is a different proposition from calling upon the President for opinions and reasons. That is not privileged. We are not concerned about his opinions or reasons, but want facts.

The SPEAKER. The Chair will read the original resolution:

Resolved, That the President be, and he is hereby, requested to inform the House if there still exists any reason——

Mr. FITZGERALD. That is not the original resolution.

The SPEAKER. The Chair will read the substitute:

If there still exist any reasons which make it inconvenient and inexpedient that a thorough examination at this time be made by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session.

That is the proposed substitute.

Mr. FITZGERALD. I can explain to the Chair the distinction.

The SPEAKER. One moment. The original resolution is:

That the President be, and he is hereby, requested to inform the House what facts, if any, now exist which make inexpedient a thorough examination at this time by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session.

Now, the proposed substitute is like unto the original resolution, except the request to inform the House "if there still exist any reasons which make it inexpedient that a thorough examination," etc.

Now the Chair will hear the gentleman.

Mr. FITZGERALD. I submit to the Chair that the use of the term "reasons" involves an expression of opinion on the part of the President, rather than a request to state the facts. In his annual message at this session he called attention to the fact that there were extensive frauds developed in the customs service, and stated:

That an investigation of the frauds by Congress at present, pending the probing by the Treasury Department and the Department of Justice, as proposed, might by giving immunity and otherwise prove an embarrassment in securing conviction of the guilty parties.

These are certain existing facts which might embarrass the administration in the prosecution of the criminals. I take it nobody desires to embarrass the administration in the enforcement of the criminal laws. Four or five months have passed, and no attempt has been made to secure an investigation of the customs frauds by this House, so a resolution has been presented which requests the President to inform the House if any facts still exist which would make such an investigation inexpedient. It would not be possible to ask the President, in a privileged resolution, whether "in his opinion" it was expedient or inexpedient to make this investigation; and it seems to me that this may lead to the conclusion that the President will express his "opinion."

Nobody wants the President's "opinion." I say this with due respect to the President. The House should have a statement of any facts which might influence its judgment in taking action looking toward an investigation. I am unable to distinguish between the use of the expression as framed in the substitute from a request for the President's "opinion." I can see no good reason why the President should be unwilling to state as a fact, if it be a fact, that an investigation at this time would embarrass the administration in the prosecution of criminals and the prosecution of the trust. If that be not a fact, then there seems to be no reason for further delay in an investigation of these conditions which have been described by the Secretary of the Treasury as a disgrace to the political party in power.

Mr. HILL. Mr. Speaker, at the opening of this session of Congress the President sent his annual message to Congress, in which he said:

Criminal prosecutions are now proceeding against a number of the government officers. The Treasury Department and the Department of Justice are exerting every effort to discover all the wrongdoers, including the officers and employees of the companies who may have been privy to the fraud. It would seem to me that an investigation of the frauds by Congress at present, pending the probing by the Treasury Department and the Department of Justice, as proposed, might by giving immunity and otherwise prove an embarrassment in securing conviction of the guilty parties.

This resolution was introduced by the gentleman from New York [Mr. FITZGERALD] on the 28th day of February. The chairman of the committee was absent from the city, and, as a matter of courtesy on the part of the gentleman from New York, which the chairman appreciates very much indeed, it was left over until my return. I returned on Monday, sent out notices for a committee meeting yesterday, had the committee meeting to-day, and present this substitute resolution as the unanimous report of the committee, not a partisan report at all. It simply makes the inquiry as to whether the reasons that existed then exist still, and asks the President of the United States to report whether these reasons or any other reasons exist, whether any condition exists why a thorough investigation should not be made. It is strictly in compliance with the gentleman's resolution, except a slight change in phraseology, covering both the reasons that were given before, and asking for other reasons.

Mr. FITZGERALD. Under this substitute would it not be possible for the President, in strict compliance with it, to volunteer his own opinion?

Mr. HILL. Not at all.

Mr. FITZGERALD. I think it would.

Mr. HILL. It is simply a request for information and nothing else. If he chooses to supplement that, it is a matter of his own. I know nothing about that; but this is purely a request for information, and the committee have unanimously reported it. My suggestion to the gentleman from New York is that he withdraws his objection that the privileged character of the resolution is taken away, for the committee intended in good faith, unanimously, to give him what he desired.

Mr. FITZGERALD. I appreciate that. As the gentleman states, I waited until his return. Now, it is a matter of common rumor that the gentleman visited the President and had a conference about this very matter, and that if this resolution is adopted in this form, the result of it will be that the President will reply that it is not expedient at this time to make this investigation.

Mr. HILL. Oh!

Mr. FITZGERALD. That would be both a reason and an opinion, but it would not be a fact.

Mr. HILL. I know nothing whatever about what his reply will be. The committee have tried to carry out the gentleman's wishes fully and completely, and perhaps to go a little further.

Mr. MANN. May I ask the gentleman from New York a question?

Mr. FITZGERALD. I yield to the gentleman.

Mr. MANN. Under the resolution of the gentleman from New York, would he feel that the President should set forth those facts which make an investigation undesirable, thereby disclosing the very things that are desired to be kept secret pending the court proceedings?

Mr. FITZGERALD. No; I think if the President will state it as a fact that an investigation at this time would embarrass the administration in the prosecution of certain persons who are under indictment, or under investigation looking to indictment, that however much men may differ with the President, nevertheless, as he is the responsible person in our Government in a matter of this kind, his statement would have very considerable weight in whatever action might be taken upon it.

Mr. MANN. I read the gentleman's resolution when it was introduced, and it occurred to me, as it evidently occurred to the committee, that if the resolution were passed and the President complied with it and set forth the facts the existence of which made him think that Congress ought not to have the investigation, he would be thereby disclosing to the people under prosecution the very information which he wishes to preserve from them; whereas, under the resolution now introduced, the President is required to state in his opinion if there be facts or reasons, which are the same thing, why the Congress should not make an investigation.

Mr. FITZGERALD. If the gentleman's conclusion be correct, that this resolution as now amended requires the President to state his opinion if there be facts, then the point of order made by myself is good, because that is not privileged. I am inclined to agree that that is exactly what the resolution does call for, namely, the President's opinion.

Now, there is no desire to have the President state any facts which will be of benefit to any defendants, but if he states to the House that this investigation at this time would probably result in the granting of immunity to some of the persons now under indictment or some persons likely to be involved in the investigation, that is all that is desired.

Mr. MANN. If the gentleman will permit me, I think both the original resolution and possibly the amendment are subject to the point of order. If the gentleman had asked for all information the President had, that would be in order, but to ask for a statement of facts relating to a third subject is of itself asking for an opinion.

Mr. FITZGERALD. I think not. Volume 3 of Hinds's Precedents states the rule to be that a resolution of inquiry, to insure its privilege, shall call for facts rather than opinions.

Mr. MANN. Certainly; that is true.

Mr. FITZGERALD. That is all I ask.

Mr. MANN. Oh, no.

Mr. FITZGERALD. All I ask from the President is the facts.

Mr. MANN. That is not all the gentleman asked in his resolution.

Mr. FITZGERALD. That is all.

Mr. MANN. It is whether there were facts which should prevent an investigation. That is purely a matter of opinion. If the gentleman had called for all facts which the President

possessed, that would have been privileged, but to call for facts which should preclude something else is purely a matter of opinion. Not only that, but it is so much a matter of opinion that the opinions of no two gentlemen would coincide.

Mr. FITZGERALD. They might.

Mr. MANN. It would be an accident if they did.

Mr. FITZGERALD. Even the gentleman from Illinois and myself might be of the same opinion.

Mr. MANN. We might. We often are.

The SPEAKER. The Chair is prepared to rule. The President, in his annual message at the beginning of Congress, under the heading "Frauds in the collection of customs," said, among other things:

Criminal prosecutions are now proceeding against a number of government officers. The Treasury Department and the Department of Justice are exerting every effort to discover all the wrongdoers, including the officers and employees of the companies who may have been privy to the fraud. It would seem to me that an investigation of frauds by Congress at present, pending the probing by the Treasury Department and the Department of Justice, as proposed, might, by giving immunity and otherwise, prove an embarrassment in securing conviction of the guilty parties.

That was the December annual message. Now, the resolution introduced has already been read and, referring to the annual message, provides:

That the President be, and he is hereby, requested to inform the House what facts, if any, now exist which make inexpedient a thorough examination at this time by the House of Representatives of the frauds in the customs service, mentioned by the President in his annual message to the Congress at this session.

The substitute reported for this resolution is the same as the resolution, striking out the words "what facts which make it inexpedient" and inserting "what reasons which make it inexpedient," and so forth.

Mr. HILL. If such reasons still exist.

The SPEAKER. Oh, yes; both referring to the annual message. Now, the Chair thinks it very likely that the condition may or may not have changed since the sending of the annual message. The Chair, of course, is not informed, but thinks the annual message referred to a condition, to facts in esse, in general terms. The substitute asks an expression of opinion—it might fairly be so construed—as to the reasons that exist, and so forth. This rule has been strictly construed. If this resolution or substitute is not privileged it would go upon the calendar, to be disposed of in the future as business not privileged. If it be privileged, it can be disposed of at this time. The Chair has in mind a case in point, which the Chair will read, from Hinds's Precedents, volume 3, page 174:

On January 18, 1906, Mr. OSCAR W. GILLESPIE, of Texas, claimed the floor for a privileged motion in order to move to discharge the Committee on Interstate and Foreign Commerce from the further consideration of the following resolution, which had been referred to that committee more than a week previously:

"*Resolved*, That the Attorney-General of the United States be, and he is hereby, requested to forthwith report to the House of Representatives, for its information, whether there exists at this time, or heretofore within the last twelve months there has existed, a combination or arrangement between the Pennsylvania Railroad Company, the Pennsylvania Company, the Norfolk and Western Railway Company, the Baltimore and Ohio Railroad Company, the Philadelphia, Baltimore and Washington Railroad Company, and the Northern Central Railway Company, and the Chesapeake and Ohio Railway Company, or any two or more of said railway companies, in violation of the act passed July 2, 1890, and entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' or acts amendatory thereof; and the said Attorney-General is also requested to report to this House all the facts upon which he bases his conclusion."

Mr. SERENO E. PAYNE, of New York, made the point of order that the resolution was not privileged, as it asked for an opinion of the Attorney-General, as well as for facts.

After debate, the Speaker said:

"The House undoubtedly has power to call for facts. And under the rule, where a resolution privileged within the meaning of the rule is referred to a committee and is not reported within a certain time, it is in order to move to discharge the committee and bring the resolution before the House for consideration. But that rule applies to a resolution calling for facts and information."

And the Chair sustained the point of order as to the resolution being privileged upon the ground that it called for an opinion in substance from the Attorney-General, as well as the facts, and therefore this fact destroyed the privilege of the resolution. There are other decisions substantially similar which the Chair will not take the time to read. The Chair is inclined to sustain this point of order; perchance there may be reasons other than the facts. The Chair therefore sustains the point of order.

Mr. FITZGERALD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FITZGERALD. Is the original resolution before the House? The point of order was made only to the proposed amendment.

The SPEAKER. Apparently the original resolution does not accompany the papers. This is a substitute.

Mr. FITZGERALD. I move to discharge the committee from the further consideration of the House resolution 480.

The SPEAKER. That motion is in order. The question is on the motion of the gentleman from New York to discharge the committee from the further consideration of the following resolution——

Mr. FITZGERALD. Mr. Speaker, I am inclined to believe that this resolution must be before the House. The gentleman can hardly report out a substitute in the nature of an amendment without having the original paper here.

The SPEAKER. The language does not indicate that it was an amendment in the nature of a substitute. On the contrary, it is a substitute resolution in lieu of the original resolution, and the original resolution does not in fact seem to accompany the report.

Mr. MANN. Mr. Speaker, I wish at the proper time to reserve a point of order on the resolution, which has not been reported as yet.

The SPEAKER. Without objection, House resolution 480, several hundred of which have been printed, the printed copy of the resolution, will be treated as the resolution, if the gentleman has not the original.

Mr. HILL. Do I understand that the Chair rules that the original resolution is before the House for action?

The SPEAKER. No; the gentleman proposes to move to discharge the committee from its further consideration——

Mr. GOEBEL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER (continuing). And bring it before the House.

Mr. HILL. On the ground it is a privileged motion?

The SPEAKER. On the ground it is a privileged motion.

Mr. HILL. In view of the decision of the Chair that the resolution is not privileged, I make the point of order that it distinctly expresses an opinion which the substitute did not express.

The SPEAKER. As a matter of right the Clerk will read, although it is not the original; but the Chair sees no objection, if Members do not object, to the resolution as it is printed. The Clerk will read.

The Clerk read as follows:

House resolution 480.

Resolved, That the President be, and he is hereby, requested to inform the House what facts, if any, now exist which make inexpedient a thorough examination at this time by the House of Representatives of the frauds in the customs service, mentioned by the President in his annual message to the Congress at this session.

Mr. HILL. Mr. Speaker, does the Chair rule that the resolution is before the House? I make the point of order that the resolution is not privileged.

The SPEAKER. The gentleman from Connecticut makes the point of order that the resolution is not privileged. The Chair will hear the gentleman.

Mr. HILL. Mr. Speaker, the original resolution called for facts which make it "inexpedient" to do a certain thing. In whose opinion? What facts? The President has first to form an opinion as to whether these facts make it inexpedient that this should be done.

Clearly, in the light of the decision which has just been made by the Chair, an opinion is called for here, a construction of the facts, a determination as to whether those facts make a certain course inexpedient or not. Now, if the gentleman from New York is calling for certain facts and stops there, his resolution would be privileged——

Mr. FITZGERALD. Will the gentleman read the resolution in that shape?

Mr. HILL (reading):

Resolved, That the President be, and he is hereby, requested to inform the House what facts, if any, now exist which make it inexpedient.

Inexpedient in whose opinion?

Mr. FITZGERALD. The gentleman said if I had stopped at a certain place the resolution would have been privileged. Will the gentleman indicate how the resolution would have been——

Mr. HILL. Oh, the gentleman is inclined to hold me to an uncompleted description of what would be privileged.

Mr. FITZGERALD. Undoubtedly; I am very frank about it; I want the facts, and not an opinion, although I have great respect for the President's opinion.

Mr. HILL. But the gentleman from New York calls for an expression of opinion on the part of the President as to the validity of the facts, and their effectiveness to accomplish certain things so to prevent the accomplishment of certain things, and in the light of the decision of the Chair on the other resolution I desire to make the same point of order against his resolution.

I hold that this resolution is still more strongly subject to the point of order on this account than the one upon which the Chair has ruled. The resolution submitted by the committee did not call for an opinion; distinctly it did not. Now, Mr. Speaker, in the message of the President last December certain statements were made. The committee now ask if the reasons which he then gave for a certain course of action still existed. We did not ask for any opinion on the subject at all; none whatever. We simply asked if those reasons still existed, why such and such a course should not be pursued, but the gentleman from New York in his resolution demands that the President shall express an opinion in reference to certain facts which the gentleman from New York calls for, so that it seems to me, Mr. Speaker, if the decision of the Chair bears on the substitute resolution at all, it bears with added and double force on the original proposition.

Mr. FITZGERALD. There is a clear distinction, Mr. Speaker, between these two resolutions. The resolution does not ask for all the facts which have been disclosed by the investigations of customs frauds, but it requests the President to transmit a certain class of information, certain facts, which make it inexpedient——

Mr. HILL. In whose opinion?

Mr. FITZGERALD. I am not asking for anybody's opinion. I want the facts and I can form my own opinion without assistance either from the President or the gentleman from Connecticut. I am not asking for the President's opinion, and that is the distinction between the original resolution and the substitute offered by the gentleman.

His substitute would have forced from the President an expression of his opinion as to the advisability of this investigation. As I have already stated a number of times, while I have a great deal of respect for the opinion of any President of the United States, I do not desire to have it expressed in this connection in response to this resolution. I am perfectly frank about it. There has been pending in the Committee on Rules a resolution looking to a complete investigation of the customs frauds. The President, in his annual message, stated that the existence of certain facts might embarrass the administration in the prosecution of certain offenders. I want to know if those facts still exist; because it was the existence of those facts which would embarrass the administration which made inexpedient an investigation by the House, which has deterred the House from taking action till now.

Mr. HILL. I will take the gentleman's own word. The gentleman wants to know what they are and the opinion the President has in regard to them.

Mr. FITZGERALD. I do not want the opinion of the President at all. It is very apparent that certain facts might make an investigation advisable or inadvisable, expedient or inexpedient.

Mr. HILL. In whose opinion?

Mr. FITZGERALD. That is for the House to determine when it gets the facts. It would have been very easy to have drawn the resolution so as to ask the President whether any facts existed which, in his opinion, might make it embarrassing to his administration——

Mr. HILL. There is no embarrassment about it, Mr. Speaker, at all.

Mr. FITZGERALD (continuing). To have this investigation made. But that is not what is desired. The existence of certain facts might induce this House to order an investigation at once. The existence of certain other facts, if it be apparent that they do exist, might be embarrassing to those charged with the enforcement of the law and would prevent action.

The SPEAKER. The Chair is prepared to rule. This resolution refers to the message of the President in December last, and the Chair will again read the language in that message:

It would seem to me—

Says the message of the President—

that an investigation of the frauds by Congress at present, pending the probing by the Treasury Department and the Department of Justice, as proposed, might by giving immunity and otherwise prove an embarrassment in securing conviction of the guilty parties.

Referring to the same matter that this resolution refers to.

Mr. FITZGERALD. The resolution does not refer to the opinion of the President. It refers to a certain state of facts.

The SPEAKER. The Chair is prepared to rule. Now, the resolution asks the President to inform the House of the facts, if any now exist, which make inexpedient a thorough examination at this time by the House of Representatives of the frauds in the customs service mentioned by the President in his annual message to the Congress at this session. The President, in the annual message just read, said that it would be embarrassing in the administration of justice to disclose the hand of the Department of Justice and of the Executive, and that it might give immunity, perchance, as well as embarrass the administration. Now, the resolution wants to know whether the condition has passed that was referred to by the President in his annual message. It is that which the House calls for, and the Chair overrules the point of order.

The question is on the motion of the gentleman from New York [Mr. FITZGERALD].

Mr. HILL. Is that motion amendable?

Mr. GOEBEL rose.

The SPEAKER. The Chair will hear the gentleman from Ohio [Mr. GOEBEL].

Mr. GOEBEL. Mr. Speaker, assuming that the House votes to discharge the committee from the further consideration of this resolution, and under the ruling of the Chair that it is in order, would it be privileged and be before the House at this time?

The SPEAKER. Certainly, if the House discharges the committee.

Mr. GOEBEL. My next inquiry, Mr. Speaker, would be whether it would be in order to amend that resolution by offering a substitute at the proper time?

The SPEAKER. After it is before the House any germane amendment is in order, provided the previous question is not ordered and sustained.

The question is on the motion of the gentleman from New York [Mr. FITZGERALD].

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

The SPEAKER. The question is on agreeing to the resolution.

Mr. FITZGERALD. Mr. Speaker, I demand the previous question.

Mr. HILL. Is that resolution amendable?

Mr. PAYNE. The resolution is open for debate, I suppose.

Mr. FITZGERALD. Mr. Speaker——

The SPEAKER. The gentleman from New York [Mr. PAYNE] is recognized.

Mr. FITZGERALD. I think I am entitled to recognition.

The SPEAKER. Does the gentleman yield to his colleague from New York?

Mr. PAYNE. Mr. Speaker, I have the floor in my own right now.

Mr. FITZGERALD. I am entitled to recognition.

Mr. PAYNE. The gentleman stood there and called for a vote.

Mr. FITZGERALD. I did not. I attempted to demand the previous question and the Chair suggested the vote on the resolution.

The SPEAKER. For discussion, the gentleman from New York [Mr. FITZGERALD] is entitled to the floor, and otherwise, unless the gentleman from New York [Mr. PAYNE] proposes some motion of superior privilege. The Chair does not know what the gentleman rises for.

Mr. FITZGERALD. If the gentleman wants some time——

The SPEAKER. We will have to ascertain.

Mr. PAYNE. Well, Mr. Speaker, the Chair was putting the vote; the gentleman had yielded the floor when I asked to be recognized in my own right.

The SPEAKER. Did the gentleman, as a matter of fact—the Chair is not clear, although the record might show—did the gentleman yield the floor?

Mr. FITZGERALD. I will state exactly what the situation was: I demanded the previous question. Nobody attempted to secure recognition, and the Chair stated what the question was, and put it on the resolution.

The SPEAKER. No one had applied for recognition?

Mr. FITZGERALD. No one had applied for time; and I insist I am entitled to recognition if there is to be debate.

The SPEAKER. Did the gentleman demand the previous question?

Mr. FITZGERALD. I had demanded the previous question. The Chair did not attempt to put that motion; and I am entitled to have it put as a matter of right, other questions not having——

The SPEAKER. If the gentleman did demand the previous question—and the gentleman says he did, and the Chair has no doubt he is correct in his statement, the gentleman is entitled to it——

Mr. FITZGERALD. I had demanded it.

The SPEAKER. Did the gentleman say he demands the previous question?

Mr. FITZGERALD. I do; but I will withhold the demand if the gentleman wants to debate the resolution, and will yield to him such reasonable time as he may desire. If the Reporter's notes do not show——

The SPEAKER. The Chair takes the word of the gentleman.

The Chair had supposed, and was under the impression, that he overlooked the fact that the previous question was demanded; and as is the habit of the Chair, nothing being said seemingly by anybody, the Chair was proceeding to put the question when the gentleman from New York asked for recognition.

Mr. FITZGERALD. I am willing to yield the gentleman some time, but not willing that he should take the floor in his own right and without opportunity for response prevent discussion of this resolution.

The SPEAKER. Does the gentleman yield to the gentleman from New York?

Mr. FITZGERALD. I yield the gentleman five or ten minutes, if he wants it.

Mr. PAYNE. Well, Mr. Speaker, having obtained the floor in my own right, I did not care to take five or ten minutes from the gentleman; but I am unwilling to take the time of the House to vote down the previous question, as now made by my colleague from New York. I do not think I ought to take the time for that purpose.

I make no reflection on my colleague for introducing the resolution, but if I were the attorney of the sugar trust, I would try to get this resolution through the House. I would want to know what the Government proposed to do. I would want to know what facts there are that impels the Chief Executive of the United States to say in his message that he thinks it inexpedient to have an investigation of the sugar trust at the present time, or any fraud upon the revenue. I do not care if the conditions were reversed, and whoever the Executive might be, I would be unwilling by any vote to give any aid or comfort to those who are defrauding the United States of revenue. I am not in favor of the House going into an investigation which will disclose the facts that have come to the Executive, and have come to the Executive through examination, perhaps in the courts, perhaps in the grand jury room, perhaps by detectives, and compel the Executive or ask the Executive to give any facts or make them public, when we know that if these facts exist to-day the disclosure will go to the benefit of those people who have been trying to defraud the Government of its revenue. Therefore I think this resolution ought to be laid quietly at rest, and that the vote of every man in the House who is willing to sustain the Government in ferreting out these frauds and punishing the evil doers should be cast to put this resolution forever at rest.

Mr. HILL. Will the gentleman yield me five minutes?

Mr. FITZGERALD. I yield the gentleman five minutes.

Mr. HILL. Mr. Speaker, the President's message, sent to Congress in December, stated certain conditions why at that time an investigation of the sugar trust was not desirable, and why it was inexpedient. Since that time, Mr. Speaker, there has been recovered by this administration and put into the Treasury of the United States through due process of law nearly three and a half millions of money stolen by frauds in the customs. Since that time nearly a dozen men, I think more than a dozen, have found their way into the penitentiary, and the gates of the penitentiary are yawning for more of them. There is more money yet, under the procedure of the Department of Justice, to come into the Treasury of the United States that has been stolen from the customs service.

Now, is it wise, is it right, is it fair toward the administration that they should be called upon to state all the facts in the matter while these cases are still pending and while this money is being recovered? The committee tried to put the thing in such a shape that the report should call for the fact only as to whether the conditions that existed in December exist now. That was all. It did not express an opinion, in my judgment. Of course I bow to the decision of the Chair, but in the judgment of the committee it did not express an opinion, but simply called for information as to whether the conditions still exist that existed in December, and which have been justified by the success of the administration in the prosecution of the sugar frauds, not only against the sugar trust, but the sugar frauds generally.

Mr. RANDELL of Texas. Will the gentleman yield for a question?

Mr. HILL. Certainly.

Mr. RANDELL of Texas. These people who have been convicted, are any of them officers or stockholders of the company?

Mr. HILL. One of them, and he is now pleading immunity before the Supreme Court of the United States, which all the rest of them would do if you pass this resolution and it should result in an investigation by Congress before the court proceedings are carried out. That very man, the secretary of the company, is to-day pleading immunity.

Mr. RANDELL of Texas. How did he get immunity?

Mr. HILL. Simply because he furnished the books from which the Government made the investigation. Now, if you want to give immunity to them all, pass this resolution. If you want to say to them, "Come forward and confess and then you can go," that, in my opinion, will be the result of it. It means the stopping of these prosecutions, practically. It means the stopping of the recovery of the stolen money. It is up to you to do that.

This is not a partisan question. It is not a question between Republicans and Democrats. Both kinds are in states prison, and if they are guilty they ought to be; and this committee, of which I have the honor to be chairman, is the last one to cover up anything.

Not a member of that committee would hesitate for a moment to start an investigation over which he thought the committee would have jurisdiction, under the rules of this House, if it were wise to do so at the present time. Now, do you wish to call upon the administration to expose its case and show up all the facts in the matter, if such an exposition is incompatible with public interest? The committee simply ask for information as to whether the same reasons exist now that existed then. This resolution, as offered by the gentleman from New York, says, "show up the facts in the case and let us determine." I do not think we ought to do it.

Mr. BURKE of Pennsylvania. Will the gentleman yield for a question?

Mr. FITZGERALD. I want to use some time myself.

Mr. Speaker, I hardly expected that the gentleman from New York [Mr. PAYNE], my colleague, would attempt to take the floor to reflect upon me. Certainly nobody but himself could imagine that I was standing here in any respect at all related to or connected with the sugar trust, or occupying a position——

Mr. PAYNE. I made no such charge. I have no imagination of that kind against the gentleman. I fully exonerate him, and I intended to do so in what I said.

Mr. FITZGERALD. I do not need exoneration from my colleague. No facts ever existed which call for any exoneration.

Mr. PAYNE. Very well. Build up a straw man and then attack him.

Mr. FITZGERALD. No facts ever existed which justified the gentleman's mean insinuation, or his attempted exoneration. I do not need it from him.

Let me state the facts in connection with these frauds and this investigation. I represent a district in the Borough of Brooklyn, in the city of New York. The refineries and weighing establishments of the sugar trust, in which the sugar frauds were perpetrated, are not located in my district, but at the other end of the borough. Located within my own district is the great independent competitor of the sugar trust. Recently proceedings were brought which compelled them to pay large sums of money into the Treasury. When Congress convened last session there was great excitement throughout the country, and a demand that Congress probe the frauds in the customs service. The President of the United States, without disclosing the facts or attempting to give away the Government's case, communicated the fact that certain frauds existed; that certain prosecutions had been initiated; and, in the view of this demand for an investigation, stated if Congress were to investigate the frauds at that time it might not only result in immunity to the persons who were being pursued, but it might be embarrassing to the administration in the conduct of the prosecutions.

A great number of resolutions were introduced and referred to the Committee on Rules, seeking an investigation by Congress of these frauds. No Democratic member of that committee, in view of the President's recommendation, endeavored to have any action taken. Time passed along until a statement appeared in the press to the effect that with the indictment of the secretary of the American Sugar Refining Company the Government had obtained all of the indictments it had intended to obtain in these cases. That being the case, and a number of petty officials and petty employees of the Government having been ferreted out and indicted and prosecuted, and evidently no attempt having been made or being in sight to prosecute the rich and wealthy who have been guilty and participants in these frauds, I introduced what I believe to be a justifiable resolution, to the effect that the President be requested to inform the House whether any facts now exist which would make inexpedient at this time a thorough investigation of these customs frauds. Ask the President for all the facts disclosed? Oh, no; but whether any facts exist now which would make it inexpedient for Congress to take up the investigation.

Mr. SCOTT. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I prefer not to be interrupted for the present. If the President were to transmit to

the House a statement that it is a fact that if Congress at this time were to take up the investigation of these frauds it would embarrass the administration or it might result in immunity being given to certain persons, nobody on this side of the House, so far as I am aware, would desire to attempt to embarrass the administration in any way by pressing Congress to take action at this time. [Applause on the Democratic side.] What is there so frightful about it? Where is the danger of disclosing all the facts that might give immunity to the people who have never been touched? Where is the purpose of the sugar-trust attorney trying in this way to help his clients by bringing out this information, as suggested by my colleague from New York?

Mr. PAYNE. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. PAYNE. Is the gentleman's resolution whether there are any facts, or is it what facts exist?

Mr. FITZGERALD. What facts; and I credit the President of the United States with more intelligence than the members of his own party do than to imagine that he in response to such a resolution would transmit to the House of Representatives facts which would either embarrass his own administration or which would give help and comfort to men now under indictment or likely to be indicted.

Mr. HILL. Will the gentleman now permit an interruption? He stated that only minor employees had been convicted. Is it not a fact that the directors of the American Sugar Refining Company are under indictment at the present time and the case is pending in court?

Mr. FITZGERALD. Yes; but not in connection with any frauds, but in connection with a conspiracy to destroy a competitor. It has nothing at all to do with the investigation of the frauds upon the customs. It grows out of the case of a company in Pennsylvania, whereby there were certain transactions. I will not go into that now. The sugar-trust directors were indicted for conspiracy because they had, in violation of the Sherman antitrust law, eliminated a competitor; and let me say to the gentleman from Connecticut that the facts in that case were well known for several years by a Republican administration and no action taken upon them. I have here a paper to the effect that nineteen years ago a former Member of this House, Colonel Hepburn, of Iowa, made a report, when he was Solicitor of the Treasury, showing these extensive frauds in the customs service in the city of New York. Nobody has ever paid any attention to them apparently. I recall recently a statement which was credited to a recent Secretary of the Treasury, Mr. Gage, that when a certain official called his attention to what was going on in these sugar-weighing matters, he was told to go and tell Havemeyer to stop his fooling.

How long is that situation to continue, and what is there that would embarrass the gentleman's party, or anybody else, to have the President state now, after four months have elapsed, whether the same condition exists, whether the same facts exist, that would make inexpedient now a thorough investigation by the House of Representatives?

Mr. BURKE of Pennsylvania. Will the gentleman yield for a question?

Mr. FITZGERALD. Yes.

Mr. BURKE of Pennsylvania. Does the gentleman have any objection to an amendment of his resolution by striking out the words "what facts," in line 2, and inserting, after the word "any," the word "facts," so that it would read:

That the President be, and he is hereby, requested to inform the House if any facts now exist which make inexpedient—

And so forth?

Mr. FITZGERALD. That does not change the sense of the resolution. It may be a little more polished, a little better English, but it does not change the sense of the resolution; but if the gentleman from Pennsylvania will guarantee that his side will support this resolution——

Mr. BURKE of Pennsylvania. I am not guaranteeing anything as to other gentlemen's votes.

Mr. FITZGERALD. Without any more effort, why, for the purpose of getting any facts, if they do exist, I would gladly accept this amendment. I do not propose, however, to have the resolution butchered up until it is in such shape that no information can be had.

Now, Mr. Speaker, in order that there may not be any misunderstanding, let me state again——

Mr. FASSETT. Will the gentleman give way? I would like to make a suggestion, and that is, if we understand the gentleman's proposition, that if he would accept the amendment as read by the gentleman from Pennsylvania [Mr. BURKE], we do not understand there is any objection on this side of the House to passing the resolution in just those words.

Mr. BURKE of Pennsylvania. The gentleman apparently finds no objection to the language.

Mr. FITZGERALD. The gentleman can send his amendment over here. So there may not be any misunderstanding, this resolution was not designed to embarrass anybody, neither the President nor the Republican party, although the Secretary of the Treasury did state not many months ago in a speech in the city of New York that the conditions in the customs service there were disgraceful to the Republican party. This resolution was not designed to embarrass anybody, but it was to find out whether the investigation had reached such a point that there was any good reason why this House, the popular branch of the representative government of the country, should not make a full and fearless investigation, so as once for all to clean out these frauds or what inefficiency there might be in that service.

Mr. FASSETT. Will the gentleman answer the suggestion which I endeavored to make to him a moment ago, and that is, to strike out the words "what facts" after the word "House" and insert the word "facts" after the word "any," so as to read that he is requested to inform the House "if any facts now exist?"

Mr. FITZGERALD. Well, I will not accept that amendment, I will say to my colleague, and I will state why.

Mr. FASSETT. That is precisely what this side of the House understood the gentleman to say you wanted to have done; and we are perfectly willing to vote for that kind of inquiry to be made of the President.

Mr. FITZGERALD. I understand that, Mr. Speaker, but let me call attention to what would be the effect of the amendment. It would read:

That the President be, and he is hereby, requested to inform the House if any facts now exist which make it inexpedient—

And so forth.

And the President might transmit a message replying that facts did exist which now make it inexpedient. I want to know what facts and in what respect do facts exist that would grant immunity or would embarrass the administration in the prosecution of such frauds.

Mr. FASSETT. Will the gentleman permit an inquiry? It seems to me it is only due to him and to us that we have a perfect understanding of the precise difference of opinion between us. Does the gentleman want a full bill of particulars of all the facts which might exist and which make it inexpedient?

Mr. FITZGERALD. No; I do not, and if I did there would not be any misunderstanding of the resolution which I would introduce.

Mr. FASSETT. Would the gentleman insert in his resolution "what facts, provided it be not incompatible with the public interests?"

Mr. FITZGERALD. No; because the President might say it was incompatible with the public interests and not send anything, and I do not want him to do that either. I want him to say, if I can ever get it to him, whether facts or a condition now exist which would result in the granting of immunity or in an embarrassment of the administration in the pending or contemplated prosecutions if a new, independent investigation were initiated by Congress. I have sufficient confidence in the President to believe that he will not misunderstand what is wanted, and even if he does misunderstand that he would comply with the request and disclose facts which would embarrass him or which would grant immunity to anyone.

Mr. OLMSTED. Did I correctly understand the gentleman to answer to the gentleman from New York that you are not willing to put in the words, in line 2, after the word "House," "if not incompatible with the public interests," so it will read:

That the President be, and he is hereby, requested to inform the House, if not incompatible with the public interests—

And so forth.

Does not the gentleman accept that amendment?

Mr. FITZGERALD. I think not.

Mr. OLMSTED. The gentleman wants an opinion given, then, whether it is or is not incompatible with the public interests.

Mr. FITZGERALD. No; it was not incompatible with the public interests for the President last December to inform the House that facts existed which in his opinion would make it——

Mr. FASSETT. Mr. Speaker——

Mr. FITZGERALD. Let me finish my statement—which would make an investigation by Congress of these frauds embarrassing to the administration and perhaps grant immunity. There is nothing to prevent him, if that condition still exists, making the same reply, and if he makes that statement it will be satisfactory to me.

Mr. FASSETT. Will the gentleman give me a minute?

The SPEAKER. Does the gentleman yield to his colleague?

Mr. FITZGERALD. Yes; how much time have I, Mr. Speaker?

The SPEAKER. The gentleman is entitled to thirty minutes.

Mr. FASSETT. It seems to me, Mr. Speaker, that we are either working at cross purposes here or else the gentleman from New York wants something that he is not willing to admit he wants. If it is a mere inquiry addressed to the President that if there are any facts the disclosure of which would not be incompatible with the public interests, or which would make it inexpedient to go ahead with a congressional investigation, this House is willing to pass such a resolution.

But the gentleman refuses both modifications upon the resolution. He wants it his way, which would contemplate a full bill of particulars with or without immunity baths. He wants it his way, whether it would be compatible or incompatible with the public interests, and it seems to me that if the gentleman is sincere, as I have always found him to be, in that he wants merely an expression of presidential opinion as to whether there are facts which would prevent our taking up the investigation, we all ought to agree on that.

Mr. FITZGERALD. I do not want an expression of presidential opinion, and I have said it so many times that I hoped my colleague would have found it out by this time.

Mr. FASSETT. The gentleman should remember at least, in justice and fairness, that I desire merely to know his purpose. If he wants to know from the President whether there are facts which, in his opinion, are not inexpedient to disclose, we are willing to do that.

Mr. FITZGERALD. I will not discuss further the clear meaning of the resolution. I decline to yield further. The gentleman from Connecticut [Mr. HILL] conferred with the President before he attempted to patch up this resolution, and, having been unsuccessful, the gentleman proposes a proposition which is wholly ineffective and useless. I know something about Greeks when they come bearing gifts.

Mr. HILL. The gentleman has no authority for the statement that he has just made. It is incorrect, and the President has never seen the resolution as the committee presented it.

Mr. FITZGERALD. I think the gentleman does the President an injustice. I think he knows what is going on up here better than many men in the House. And I believe this resolution would come to his knowledge without the necessity of having it brought to his attention by the gentleman from Connecticut. I know that before he took up this resolution he took the matter up with the President.

I now yield to the gentleman from Ohio [Mr. GOEBEL] five minutes.

Mr. GOEBEL. Mr. Speaker, as has been stated, the President in his annual message to Congress said that the Department of Justice was investigating the so-called sugar frauds, and advised that no action be taken by the Congress with reference to an investigation until that department had completed its investigation and had taken action. He put it upon the ground that it was incompatible with the public interests and might embarrass the administration in its investigation. Those were good and sufficient reasons why we did not take up the question at that time.

Whenever such a request comes to Congress it has always been heeded, for we assume that any department that undertakes an investigation is better able to judge whether certain information ought to be given to the public at any particular time. Now, then, it is proposed by the resolution offered by the gentleman from New York, and, in spite of what the President has heretofore said, that he now state the facts upon which he thinks it is inexpedient that Congress make an investigation. How could he state facts to show that it is inexpedient at this time without disclosing facts that ought probably not to be disclosed at this time? I assume it is the intention of Congress to investigate the subject-matter at the proper time. It was the opinion of the Committee on Expenditures in the Treasury Department, who had this resolution under consideration, that we ought not to embarrass the President or question his good faith or lessen our confidence in him after stating to this House that it was incompatible with the public interest to make a disclosure to the House; the committee therefore adopted unanimously the substitute that was offered. That substitute provides this: "That he inform the House whether the conditions as stated in his annual message still exist."

Now, then, what more ought Congress to ask at this time? The House has the right to know whether the conditions to-day are the same as when he transmitted his annual message. If they are not, then we may go on with an examination; but if the conditions are the same, then we ought not to go on. The administration has at all times been in favor of an investigation, has honestly and conscientiously proceeded to investigate on its own volition, and has discovered frauds, has caused the perpetrators to be punished, and has restored to the Treasury millions of dollars, and is still continuing to do further good.

Now, then, is it fair at this time that we should call upon the President to disclose facts which may be injurious to the public good; or shall we continue to show our confidence in him, believing that he will continue to investigate these matters and bring the perpetrators to the bar of justice; or shall we say that we have no confidence in him, and now want the facts upon which he bases his statement that it is inexpedient to make an investigation?

The SPEAKER. The time of the gentleman has expired.

Mr. GOEBEL. Now, then, may I have a few minutes more?

Mr. FITZGERALD. I have promised all the time. I yield five minutes to the gentleman from Kansas.

Mr. COOPER of Wisconsin. Will the gentleman yield some time to me?

The SPEAKER. How much time does the gentleman yield?

Mr. FITZGERALD. Five minutes.

Mr. CAMPBELL. Mr. Speaker, at the time Congress assembled in December the public press was full of what was known as the sugar-trust frauds. I prepared a resolution calling upon Congress to investigate those frauds. The resolution was prepared some two or three days before Congress convened. I introduced it on the 6th day of December. It called for an investigation generally into the conditions of the customs service of the United States, and called for an inquiry into the alleged facts as to the frauds, and asked for information concerning the organization of the sugar-refining company and the facts as to its influence on the sugar trade of the United States, and then in terms asked for information as to whether it was violating the Sherman antitrust law in restraining trade and commerce and as to its conspiring to injure its competitors.

The resolution and the purpose to introduce it was called to the attention of the President and the Attorney-General. The President at once saw that the adoption of the resolution would interfere with the work then in progress by the Department of Justice. I had a conversation with the Attorney-General after the resolution was introduced, and he satisfied me that its adoption would interfere with the work of prosecuting successfully those who had been indicted and those whom the administration was seeking to indict. The resolution called for a searching and sweeping investigation, as will be seen by its provisions. I will read it:

Whereas it is charged by men in positions to have information on the matters they allege that the American Sugar Refining Company has been, and is, guilty of being a trust, or monopoly in restraint of trade; of violating the Sherman antitrust law; of controlling the prices of refined and raw sugar; of conspiring to ruin, and ruining its competitors, the independent refiners of sugar; of blacklisting grocers and merchants who use the product of independent sugar refineries; of taking rebates in violation of the interstate-commerce law; of using short-weight scales in the custom-houses of the United States; of bribing officials and employees in the customs service of the United States; of swindling and defrauding the United States by violating its tariff laws; of importing cheap contract labor in violation of the immigration laws of the United States; of procuring the violation of the civil-service laws and regulations of the United States by influencing appointments and removals in the customs service of the United States: Now, therefore,

Resolved by the House of Representatives (the Senate concurring), That a select committee of five Members of the House and three Members of the Senate be appointed by the Speaker of the House and by the Vice-President of the United States to investigate and inquire generally into the conditions of the customs service of the United States, and to investigate and inquire into the said alleged facts, and to obtain all possible information concerning the same as to the American Sugar Refining Company, and to inquire into the organization of the said American Sugar Refining Company and its relations to, and influence and effect on, the sugar industry of the United States, in so far as the said American Sugar Refining Company, by any combination or conspiracy, may control, regulate, monopolize, or restrain interstate or foreign commerce and trade in the refining and sale of sugar and in the control of the price of refined or unrefined sugar; of its alleged violation of the Sherman antitrust law; of its alleged conspiring to ruin its competitors; of its alleged blacklisting of grocers or merchants who handle the product of other sugar refineries; of its alleged violation of the interstate-commerce law; of its alleged use of short-weight scales in the custom-houses; of its alleged bribery of officials and employees of the customs service of the United States; of its alleged influence over appointments and removals of officials and employees in the customs service of the United States; of its alleged swindling and defrauding the United States by violating in any manner the tariff laws; of its alleged violation of the immigration laws by importing cheap contract labor.

Said committee or any subcommittee thereof shall be, and is, authorized to sit in Washington or elsewhere during the sessions of the House or Senate or during the recess of Congress, and shall be, and is, empowered to subpœna and examine witnesses under oath or affirmation, and to send for persons, books, papers, records, and other evidence that may be necessary to make the investigation and inquiry herein directed to be made full and complete, and the Speaker and the Vice-President shall have authority to sign, and the Clerk of either House to attest, subpœnas during the recess of Congress. All necessary expenses of such committee in making the investigations herein directed shall be paid out of the contingent fund of the House and Senate.

Within twenty-four hours after this resolution was introduced, indeed, before it was introduced, notice having been given in the public press that I proposed to introduce it, I began to receive information from New York and from Philadelphia and from others who said that they knew the facts and wanted the investigation ordered. They courted the fullest investigation, and assured me that if it was ordered they would appear with books and papers and everything that was necessary to advise the Congress and the country fully as to everything that had been done.

I believed them, and I am convinced now that they wished to give evidence so that they could plead immunity from prosecution. For these reasons I did not press the resolution for passage. What I wanted was to stop the fraudulent practices of the sugar trust. I want to see those connected with it successfully prosecuted for all the laws they have violated, and I am willing to leave the matter as to when a congressional investigation will not interfere with cases under prosecution or in contemplation for indictment to the President. When the Department of Justice is out of the way I shall press the resolution for passage.

Mr. FITZGERALD. How much time is there remaining?

The SPEAKER. Fifteen minutes.

Mr. FITZGERALD. I yield ten minutes to the gentleman from Illinois.

Mr. RAINEY. Mr. Speaker, no man in this House can afford to vote against this resolution. On the first day of this session of Congress the President sent to Congress his annual message, advising against an investigation of the sugar frauds for two reasons: First, an investigation by Congress might grant immunity; second, an investigation by Congress might prove an embarrassment.

Now, I want as briefly as I can to address my remarks first to the immunity part of the President's message, in order to show the absolute necessity for passing this resolution at the present time. The only provision granting any sort of immunity to a witness appearing before a congressional committee, or before either House, is contained in section 859 of the Revised Statutes, which reads as follows:

> No testimony given by a witness before either House, or before any committee of either House of Congress, shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege.

Now, there is nothing else in the statutes that would grant any immunity to a witness testifying before a committee of Congress. All that this statutory provision provides with respect to the witness testifying is that his testimony shall not be used against him in a criminal trial, and that surely does not grant him immunity.

Granting immunity, as the President seems to understand it here in his message, is an absolute legal impossibility; and in this connection I may call attention to the Counselman case, the leading case on this question, and to other cases. Of course I can not discuss this resolution in the time allowed to me, and I want later on to yield a part of my time. I ask now to extend my remarks in the RECORD.

The SPEAKER. Is there objection to the gentleman extending his remarks in the RECORD?

There was no objection.

Mr. RAINEY. Now, I want to say that in order not to embarrass the administration this resolution ought to be adopted so that what the President said in his message may not be misconstrued.

There are some singular circumstances and unfortunate conditions surrounding the investigation of the sugar trust at the present time. Without at present going into the details or the evidence, I might call attention to some things that the country might think would be embarrassing if there was an investigation by Congress at the present time of the sugar trust. We have not convicted anybody higher up. We have not indicted anybody higher up in the sugar-trust frauds. The secretary of the American Sugar Refining Company is simply an employee, and we have indicted four $18-a-week checkers and weighers, and the American Sugar Refining Company admit and produce their books and show that they have stolen at least $2,000,000 from the Treasury of the United States, and at the present time none of the men higher up are indicted.

Now, here are some of the things that might prove embarrassing, and the country might think they are embarrassing, unless the President is permitted further to explain the singular message he sent down here to Congress on the first day of this session.

In the first place, the Attorney-General of the United States is a sugar-trust attorney, and I make that statement notwithstanding the fact that, in violation of the rules of this House, he put in a statement denying it; but he has not denied——

Mr. FASSETT. Mr. Speaker——

Mr. RAINEY. I can not yield at present; but he has not denied that he obtained a part of the enormous fee paid to the firm of Strong & Cadwalader. In the month of November——

Mr. FASSETT. Mr. Speaker, will the gentleman allow me to ask him a question?

Mr. RAINEY. Not at present. If I have time later I will.

The SPEAKER. The gentleman declines to yield at present.

Mr. FASSETT. The gentleman made the statement that the present Attorney-General is now a sugar-trust attorney.

Mr. RAINEY. I did not say that.

Mr. FASSETT. The gentleman did not mean that, but he said it.

Mr. RAINEY. I did not mean it if I said it, because the present Attorney-General of the United States is not now a member of the firm of Strong & Cadwalader. He was a member of the firm of Strong & Cadwalader, as he admits in his biography, written by himself, in the Congressional Directory, until the 4th day of March, 1909; and for months prior to that time the firm of Strong & Cadwalader, one of the leading law firms in New York City, had in charge the most important suit ever brought against the American Sugar Refining Company, growing out of the wrecking of the Pennsylvania Sugar Refining Company in Philadelphia. The briefs in that $30,000,000 suit were prepared in the office of the firm of Strong & Cadwalader; and when George W. Wickersham, the present Attorney-General of the United States, the second member in rank in that firm, became the Attorney-General of the United States the firm changed, and they moved up from a position down toward the foot to his place the brother of the President of the United States, and the brother of the President of the United States is the attorney who appears for the American sugar trust in the most important suit ever brought against it. At the present time J. E. Parsons, who directed the infamies of the sugar trust for years, is under indictment and is pleading the statute of limitation; and with remarkable friendship the Attorney-General of the United States, although not after his appointment representing the American Sugar Refining Company——

Mr. PARSONS. Mr. Speaker——

Mr. RAINEY. I can not yield now—although not after his appointment representing the American Sugar Refining Company, in a letter which was published in the January Cosmopolitan, shows that he does not want any of them prosecuted on account of the wrecking of the Pennsylvania Refining Company in the city of Philadelphia. Since the first day of this year James M. Beck, an ex-Assistant Attorney-General of the United States, appears as general counsel for the sugar trust.

Therefore, the circumstances that may be embarrassing, the things that the country may think are embarrassing, unless the President is given an opportunity to further explain his message, are these: In the first place, the Attorney-General of the United States was, until his appointment, a sugar-trust attorney. In the second place, the brother of the President of the United States is now a sugar-trust attorney, and appeared of record twice, once in the circuit court of the southern district of New York and again in the circuit court of appeals, in this the most important suit ever brought against the company. A sugar-trust attorney is the Attorney-General of the United States; an ex-Assistant Attorney-General of the United States, familiar with Republican methods in that office, is the present general counsel of the sugar trust, and Mr. J. E. Parsons, the father of the ex-president of the Republican county committee of New York, is under indictment, and is pleading the statute of limitations in order to escape conviction in the courts, and is assisted materially by the Attorney-General of the United States.

Mr. BENNET of New York. Will the gentleman yield?

Mr. PARSONS rose.

Mr. RAINEY. I yield.

The SPEAKER. To which gentleman from New York does the gentleman yield?

Mr. RAINEY. I would be very glad to yield to the gentleman from New York [Mr. PARSONS].

Mr. BENNET of New York. Mr. Parsons, sr., is not pleading the statute of limitations.

Mr. RAINEY. Well, he had better plead it, if he is not doing it, and the Attorney-General of the United States asked him to plead it, or suggested that he do it.

Mr. STAFFORD. Will the gentleman yield?

Mr. RAINEY. No; I promised to yield two minutes of my time to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE of Pennsylvania rose.

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. RAINEY. I yield to the gentleman from New York [Mr. PARSONS] for a question.

Mr. PARSONS. Mr. Speaker, I merely wish to know from the gentleman whether he wants to state the facts. The gentleman alluded to, Mr. John E. Parsons, who, I am proud to say, is my father, and he stated that he was pleading the statute of limitations. He is not pleading the statute of limitations.

Mr. MANN. That is as near right as the gentleman usually gets.

Mr. PARSONS. If he has committed any crime, he will take his punishment like a man.

Mr. RAINEY. What has he pleaded—not guilty?

Mr. PARSONS. He has.

Mr. RAINEY. And the case will be tried upon its merits?

Mr. PARSONS. The case will be tried upon its merits.

Mr. RAINEY. In spite of the advice of the Attorney-General of the United States.

Mr. PARSONS. Somebody else pleaded the statute of limitations, someone who was not an officer of the sugar refining company, and the judge sustained the plea, and that now is on appeal to the Supreme Court of the United States. Now, may I make a further correction of the gentleman's statement?

Mr. RAINEY. I would be glad to have the gentleman do it.

Mr. PARSONS. Mr. Henry W. Taft is not now—I am quite sure I am correct—employed by the American Sugar Refining Company. He was employed in one litigation and that is the litigation to which the gentleman referred.

Mr. RAINEY. I can not yield any further. I am glad to have the gentleman correct any statement that I make. I said that he was employed in a great suit brought against the sugar trust. I will furnish the evidence of his employment.

Under this resolution there comes up now for consideration the most corrupt and rotten trust ever created by the protective tariff system, a trust which reaches out through political parties and corrupts men as no other law-defying corporation has ever been able to do. For fourteen years, through its almost absolute management and control of the Republican party, it has been able to accomplish all its purposes. It has been able to wreck great financial institutions; it has been able to shape tariff schedules; through tariff schedules framed to suit its purposes it has been able to steal indirectly from the people; and, by bribing Republican officials, it has been able to steal directly from the Treasury of the United States untold millions of dollars.

In connection with the consideration of this resolution it becomes necessary to discuss the message of the President of the United States sent to Congress at the opening of the present session. Over a year has passed since the President entered upon the discharge of the duties of his high office, and this, the most important state paper he has as yet sent to this body, has never, so far as I know, been seriously discussed on this floor. A message from the President is entitled to more attention than this particular message has received.

I want to start, if I can, a discussion of that part of the message which refers to the sugar trust and its crimes against the Government. It fell like a wet blanket on the Congress. As a result of it four or five resolutions, including one of my own, providing for a congressional investigation of the methods of the sugar trust sleep the sleep that knows no waking in the Committee on Rules of the House, and this committee will continue to be in the future, as it has been in the past, the graveyard of those meritorious measures which might, if reported out, prove detrimental to the progress of the Republican party.

At the present time there is a deficit in the Treasury, constantly growing larger. The question of providing sufficient revenue to carry on the Government is growing serious, but the sugar trust, by a system of false weights, has stolen millions from the Treasury, and its officials still go about in private yachts, posing as respectable citizens. City mail delivery is being held up in 25 or 30 cities in the country on account of lack of money, while thieves who have stolen millions from the Treasury spend this season of the year cruising in the Mediterranean or at fashionable Florida hotels watching automobiles break records along the beach, still representing themselves to be honest men. Old soldiers asking modest increases in their pensions, commensurate only with their advancing age and increasing infirmities, will not receive the relief they ought to have, this year or next year, for the reason that, under a Republican administration, the country is in debt and the men who have contributed millions to the Republican campaign fund are, under a Republican administration, permitted to now reimburse themselves by stealing from the Treasury of the United States.

I am aware that I am again rendering myself liable to the charge of being partisan, and I will probably be again excluded by the Republican majority from serving on the investigating committees of this House. When you discuss on this floor the attempted offenses of men high in the councils of the Republican party they answer by misrepresenting what you say and by charging you with partisanship. I will be able to get along fairly well, I think, under charges of that character. I can assure you you will never be able to truthfully say I have been corrupted by millionaire malefactors or intimidated by men who hold high executive positions in the Government. I am well aware that the offense of lèse majesté has been fully recognized here by insurgents and regulars alike on the other side of this Chamber, and I have been adjudged guilty of it, but I propose to again render myself liable to the same charge. In the early days of the Republic the old rule prevailed that a man in public life must be above suspicion; the rule now is that you must not suspect.

Congress is, first of all, charged with the protection of the Treasury of the United States. I undertake to say that this message of the President contains the most remarkable suggestion ever made in a similar communication by any Chief Executive. I do not think any President has before, in our history, under similar facts, advised against a congressional investigation. In this message the President advised against an investigation of the sugar frauds by Congress, as proposed, for the reason that "it might, by giving immunity and otherwise, prove an embarrassment in securing conviction of the guilty parties."

There is no danger of granting immunity to a witness testifying before a committee of Congress. The immunity laws of the United States are based upon the fifth amendment to the Constitution of the United States. Section 103 of the Revised Statutes of the United States provides that—

> No witness is privileged to refuse to testify as to any fact or produce any paper respecting which he shall be examined by either House of Congress or by any committee of either House upon the ground that his testimony as to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous.

Section 859 of the Revised Statutes, which contains the only immunity provision in the law applicable to witnesses testifying before committees of Congress, reads as follows:

> No testimony by a witness before either House or before any committee of either House of Congress shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony, but an official paper or record produced by him is not within the same privilege.

Section 102 of the Revised Statutes provides a penalty for refusal to answer questions pertinent to the question under inquiry when a matter is being investigated by either House or by a committee of either House. These are the only provisions in the law applicable to this subject, and I submit that there is no danger of granting immunity to witnesses appearing before a committee of Congress. The provision is that the testimony actually given by him shall not be used against him in a criminal proceeding. The original interstate-commerce act followed these sections, and simply provided that the testimony or evidence furnished by the witness could not be used against him, and attempted to compel witnesses employed by common carriers to give evidence touching the matters under investigation. Afterwards, in order to make the act effective, in 1893, the immunity provision was enlarged, so that the act provided that no person should be—

> prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which he gave testimony or produced evidence, documentary or otherwise, before said commission or in obedience to its subpœnas.

Afterwards, in 1903, the act creating a Bureau of Corporations extended to the commissioner the same power to compel corporations, companies, and combinations subject to its provisions to produce documentary evidence and to compel the attendance and testimony of witnesses. It also gave to the witnesses so testifying the same immunities imposed or conferred by the act to regulate commerce. I know of no other immunity provisions which can by any stretch of the imagination be applied to witnesses furnishing testimony for the Commissioner of the Bureau of Corporations, before the Interstate Commerce Commission, or before the committees of Congress, then the provisions to which I have just called attention. A very cursory examination of the interstate-commerce act and the amendments thereto and the act creating the Bureau of Corporations will demonstrate the fact that witnesses furnishing testimony before committees of the Congress can never under any circumstances claim the immunity provided for in these acts; and an examination of the immunity provisions as applied to testimony before the committees of Congress or before either House will show a marked difference in the character of the immunity that may be granted. Under the interstate-commerce act a witness

can be compelled to testify before the commission, but he can not be prosecuted or subjected to any penalty on account of his connection with the transaction, matter, or thing concerning which he testifies. The same rule, of course, applies to witnesses furnishing information for the Commissioner of Corporations. But this rule does not apply, and has never been made to apply, to witnesses testifying before committees of either House. The only privilege a witness so testifying is entitled to receive is that the testimony he actually gives shall not be used against him in any criminal case in any court.

I submit that, under the law as it stands at the present time, granting a witness immunity, as the President seems to understand it in the message I am discussing, is a legal impossibility. The mere fact that we can not use the testimony a witness gives before a committee of Congress in a criminal case against him does not grant to him immunity in any sense of the word. Under the federal statutes a witness could not be compelled to answer if brought before a committee of Congress, if his answer would tend to incriminate him. If this is the law, then I respectfully submit that the fears of the President in this particular are without foundation; and it is not possible that an investigation by Congress by giving immunity could in any way hinder the Department of Justice in securing conviction of the guilty parties, even if there was any prospect at the present time that the Department of Justice would succeed in securing the conviction of the real criminals in the sugar-trust frauds.

It therefore becomes important to know how an investigation by Congress could "otherwise" prove an embarrassment in securing a conviction. The President has never advised the Congress upon this point, and we are left to guess what might "otherwise prove embarrassing," in the event of a congressional investigation. After briefly examining the history of the sugar trust and discussing its methods, I propose to call attention to some facts that might prove exceedingly embarrassing if a congressional investigation was had at the present time and the facts with reference to the crimes of the sugar trust against the Government were made public.

The methods employed by the Standard Oil monopoly and the sugar trust are identical; in fact, the sugar trust throughout its career has attempted to follow the business methods which have made the Standard Oil organization the world's greatest corporation. The Standard Oil Company pretends not to be interested in the production of oil, but only in the refining of crude oils, and yet the evidence at the present time shows that this company reaches out even beyond the seas and is attempting to control the crude-oil production of the world far beyond the boundaries of the United States. The American Sugar Refining Company and the other corporations comprising the sugar trust pretend to be refiners of sugar, and yet they reach out to those sections of the world which produce sugar and to-day are successfully controlling the great sources of supply.

In 1890 the sugar trust commenced actively and earnestly to control the tariff schedules. At that time they had a powerful rival on the Pacific coast in the Spreckels refineries. These refineries controlled the raw-sugar supply of Hawaii. Under a reciprocity treaty raw sugar was admitted from Hawaii free. In order to crush the Spreckels companies it became necessary for the sugar trust to have free raw material, and the McKinley law of that year gave it to them. In order to get free raw material it became necessary to appease the sugar planters of Louisiana, as well as the beet-sugar producers of the Western States. At that time the beet-sugar industry was a possibility of the future. The sugar-trust magnates were able, by forming an alliance with the cane-growing sections of the South, to secure free raw sugar; and in order to do it a provision was inserted in the bill for a bounty of 2 cents per pound on beet and cane sugar. The provision was unconstitutional, so clearly unconstitutional that the wonder is they were able to get the support of the sugar-producing sections of the South. The trust knew it was unconstitutional, and the Supreme Court afterwards decided it to be unconstitutional; but the sugar trust was successful. As soon as it succeeded in getting free raw material it crushed the Spreckels companies, and in less than a year the American sugar trust had succeeded in acquiring control of all the Spreckels refineries. After this the bounty case was permitted to pass through the courts and the bounty provisions of the McKinley law were held to be unconstitutional, and the tariff act of 1894 repealed them.

In the investigation before the Senate committee in 1894, Mr. Henry O. Havemeyer, president of the sugar trust, was entirely frank in discussing the relations of his trust with the great political parties and their state campaign funds. He admitted that in the State of New York, where there was at that time a Democratic majority, supposed to be a safe majority, the trust made contributions to the Democratic party. In Massachusetts, where the Republican party was dominant, the trust made contributions to the Republican campaign fund. In other words, Mr. Havemeyer admitted in his testimony that the policy of the trust was to control in the States the dominant party. In this way the trust expected to influence Members of Congress. But immediately after the campaign of 1892 the sugar trust abandoned its contributions to state Democratic committees. The Senate in 1894, while it gave the sugar trust the tariff plank it apparently wanted, also gave to the trust an investigation that it did not want. The investigation resulted in nothing, except to disclose the methods of the trust. Some newspaper correspondents refused to answer questions, and were sustained in their refusal. The members of certain brokerage firms refused to testify as to speculative orders received by them, and, finally, the examination failed to reach definite results. But the sugar trust found at that time that it was not entirely safe to trust the Democratic party, and no more sugar-trust funds went to any Democratic committee. There always has been a joker in every sugar schedule, commencing with the tariff bill of 1890. Polariscope tests and Dutch standards are not readily understood. The McKinley bill of 1890 admitted sugar under 16 Dutch standard of color free and imposed a differential of five-tenths of 1 cent per pound on sugars above No. 16 Dutch standard in color; and this schedule made it possible for the sugar trust to enter upon its first great advance movement and to become one of the world's most oppressive trusts.

In 1894 the sugar trust found itself the complete master of the business of refining sugar in the United States, and it controlled absolutely the source of supply in Hawaii. Controlling that source of supply, it was quite willing to have imposed a tax of 40 per cent ad valorem on all sugars below 16 Dutch standard, provided the differential was preserved; sugar came in free from Hawaii. In the United States Senate they succeeded in getting the plank they wanted. In fact, it was stated at the time that representatives of the American Sugar Refining Company drew the plank which appeared in the Wilson bill. They cornered a considerable portion of the raw sugar supply of the world, brought it in free before the act went into effect, refined it, and sold it after the 27th day of August, 1894, at a price based upon the theory that they had paid a tax of 40 per cent ad valorem. No refined sugars came in, of course, at any time to interfere with the sale by the sugar trust of the refined article at prices fixed by the sugar trust.

Eighteen hundred and ninety-seven found the sugar trust in absolute control of the Republican party, as no party has ever been influenced and controlled by a trust before in all our history. In 1896 a campaign fund fabulous in amount had been raised by the managers of the Republican campaign for the purpose of defeating Mr. Bryan and all the Democratic ticket. The sugar trust led in the amount of its contributions, and the fund so raised has been variously estimated at from $10,000,000 to $20,000,000. The sugar trust had its own way again. The sugar-trust representatives made some money in 1894 by cornering a part of the raw sugar supply of the world before the act went into effect, but this year they were sure of their ground. They proposed to increase the tariff on raw sugar and to enormously increase it on refined sugars. Mr. Havemeyer and his associates got what they wanted. The Dingley law went into effect on the 24th day of July, 1897, but the sugar schedule of the act did not go into effect until the 1st day of January, 1898. This gave the sugar trust the opportunity it wanted. It was the old game of 1894 played this time on a most stupendous scale.

During the period intervening between the 24th day of July of that year and the 1st day of January, 1898, the trust created a sugar famine in the country. Long prior to July 24, 1897, representatives of the sugar trust commenced cornering the raw-sugar supply of the world. As soon as the act went into effect they commenced to rush it to this country, and all available vessels were chartered for that purpose. Ships loaded with raw sugar were brought from the sugar-producing sections of the world, hurriedly unloaded at the docks of the company, and sent back immediately for other cargoes. The 1st day of January, 1898, found the warehouses of the sugar trust full to bursting with the product brought in under the Wilson law. Such a famine had been created in sugar that throughout the country retail merchants were literally scraping the bottoms of barrels and casks. On the 1st day of January, 1898, the new tariff went into effect and the price of refined sugar was immediately increased. Everybody wanted sugar and the sugar trust had plenty of sugar for everybody, at an increased price. It is claimed that the American Sugar Refining Company cleaned up,

on account of this tariff alone, in a few weeks subsequent to the 1st day of January, 1898, the enormous sum of $25,000,000, and this does not include the profits to Mr. Havemeyer and his associates from the sale of sugar stocks, which were greatly increased in value.

In 1898 a new cloud appeared upon the horizon of the sugar trust; there was danger of the annexation of Cuba. Cuba is the greatest sugar-producing section of the world. Free sugar from Cuba would have meant that American capital seeking investment would have gone to Cuba, and refineries in Cuba would soon have destroyed the monopoly enjoyed by the American sugar trust. But at the psychological moment Congress came again to the relief of the sugar trust and pledged to the world the faith of the United States that Cuba would not be annexed. But the demand for reciprocity arrangements with Cuba was so strong it could not be overcome, and by the act of 1903 Cuban products were admitted into the United States at 20 per cent reduction from the regular rates. Reciprocity, of course, meant that Cuba must also admit United States products at 20 per cent reduction from the rates charged other commercial nations This made it immediately necessary for other nations, including Spain, to increase their tariffs against importations from Cuba. As a result the United States furnishes the only market in the world for the products of Cuba. Sugar is the principal exportation from the island, and there is only one customer in the United States for the raw sugar of Cuba. Cuba is therefore compelled to sell her raw sugar to the American Sugar Refining Company and its allied corporations, and they pay what they please. Out of Cuban importations alone the trust makes every year nearly $6,000,000 in profits. Following the example of the Standard Oil Company, the American Sugar Refining Company is reaching out and attempting to control the cane lands of Cuba. Already, through the National Refining Company, the American Sugar Refining Company has been able to control the cane lands of Cuba to such an extent that this one company controls now 20 per cent of the annual export of sugar from Cuba.

The sugar trust has entered upon the stormy arena of Cuban politics, and recently Gen. Mario G. Menocal became the sugar trust's candidate for President of Cuba. The sugar trust is not popular in Cuba, and the suspicion that General Menocal was really representing the American sugar trust resulted in his defeat. He was brought out by the sugar trust as a patriot and as a business man, ready to sacrifice himself for his country. He was defeated by the people because they believed him to be the sugar trust's candidate. But he made an excellent race, and the next time he becomes a candidate he will probably be elected. The American sugar trust is ready now for the annexation of Cuba. Whenever the candidate of the trust succeeds in becoming President of Cuba, we may expect to hear of an increasing demand both in this country and in Cuba for annexation. If the sugar trust is unable to secure the election of its candidate, it can at any time provoke a serious revolution. Revolutions are not difficult to start in Spanish-American countries. A Republican administration has had some experience in the revolution business on the Isthmus of Panama. Continued disturbances in the island of Cuba—the necessity of returning our troops there to preserve order—may speedily bring about the annexation of the island. And whenever that happens the real joker in the sugar schedule of the present Payne-Aldrich-Smoot tariff bill will become apparent to the beet-sugar interests of the West and to the cane growers of Louisiana. For many years these interests have been allied closely with the sugar trust. Ad valorem tariffs on raw sugars have been accepted as protecting the cane-sugar growers of the South and the beet-sugar producers of the North. Neither of these interests will be able to compete with raw sugar from Cuba. Already the sugar trust, reaching out through the beet-sugar sections of the country, has secured control of the beet-sugar-refining industry; in its advertisements of January 13 of this year, published in the newspapers, the sugar trust admitted its control of the beet-sugar-refining industry of the country. The sugar trust at the present time, with the assistance of the sugar producers of the South and the beet-sugar-producing sections of the North, has become the only possible purchaser in this country of the raw sugars produced within the boundaries of the United States. In Cuba there is no winter climate. Louisiana can not hope to compete in growing cane sugar with the island of Cuba. Democratic Members of Congress from Louisiana and the Senators from the State, and the Representatives of the beet-sugar-producing sections of the North have enthusiastically voted for tariff bills simply because they contained the sugar schedules they thought they wanted. After the annexation of Cuba the real danger into which they have been led will become apparent, and after that happens we will find cotton growing on the sugar-cane lands of Louisiana. The alliance between the Republican party, the Mormon Church, and the sugar trust will make itself apparent when throughout the North sugar refineries close, except those controlled by the Mormon Church; when on all the beet-sugar lands of the North, except those tributary to the Mormon refineries, we find farmers doing their best to raise, not sugar beets, but corn and wheat and other cereals.

I have gone thus far into the exploits of the sugar trust in order to show how it has been able to meet all emergencies—to control tariff bills, to get free raw material when it wanted free raw material, to preserve always the differential between refined sugar and raw sugar, to preserve always for itself in this country the business of refining sugar and, finally, to manipulate the Cuban situation to its own advantage.

The effort in the framing of the recent Payne-Aldrich-Smoot bill was to preserve the outrageously high sugar tariffs of the Dingley law; and, with the assistance of the Mormon Church, the Republican party, and some Democrats from the sugar-producing sections of the South, they were able to do it.

The Payne-Aldrich-Smoot tariff bill also provides for the admission, free of duty, of 300,000 tons of sugar each year from the Philippine Islands, and already, by questionable methods, aided, it is charged, by decisions from the office of the Attorney-General of the United States, the sugar trust is acquiring title to lands in the Philippine Islands in order to supply this amount each year. The trust now controls practically every source of supply of raw sugar, and is the only customer in this country for raw sugar. Its monopoly seems to be complete. It is true that section 5 of the present tariff law directs that preference to the right of free entry in the importation of Philippine sugar shall first be given to the producers of less than 500 tons in any fiscal year; then the producers of the lowest output in excess of 500 tons in any fiscal year. All sugar schedules are cunningly drawn, and section 5 is no exception to the rule. The Philippine grower of sugar must find his market in the United States. There is only one customer for his product in the United States. He must first sell to the sugar trust before he exports his product.

If the trust refuses to buy from producers of 500 tons or less in any fiscal year or from producers of the lowest output in excess of 500 tons in any fiscal year, then the sugar grown by the trust on its own lands in the Philippine Islands is the only sugar that can be brought into the United States from the Philippine Islands; and therefore the 300,000 tons of free sugar from the Philippine Islands will be provided by the trust itself, from sugar grown on its own lands. And even if at any time the trust fails to produce 300,000 tons of sugar per year, it controls absolutely the price the Philippine grower may expect for his product in the United States, and if the Philippine grower exports his product to the United States he must export it under an agreement to sell to the sugar trust at a price that may be fixed by the sugar trust. The sugar-trust representatives have been able to meet every emergency—to control tariffs, to get raw sugar when they wanted raw sugar, to get a tariff on raw sugar when they wanted a tariff.

I want to discuss now how the sugar-trust magnates are attempting to meet a particularly serious crisis which menaces their personal safety, and I want to show how they have been able so far to escape the penalties of the laws they have violated. And this brings us again to the advice sent by the President to Congress at the opening of the present session—the recommendation that there be no congressional investigation of the sugar trust at the present time, for the reason that it "might by giving immunity and otherwise prove an embarrassment."

I have already discussed the immunity possibility and have called attention to the law. With all due respect to the President of the United States, I insist that a congressional investigation can not give immunity to the witnesses examined before a committee of Congress. Under the law as it stands a witness can not be compelled to answer if his answer would incriminate him, and if he does answer, giving facts, his testimony can simply not be used against him in a criminal case. If we bring before a congressional committee a millionaire stockholder in the sugar trust, or a director of that concern, and he declines to answer upon the theory that his answer might incriminate him, the people of the country will then know who the man is who has been a party to the most stupendous theft ever perpetrated against the Government of the United States. Inasmuch as the President has not yet advised Congress as to the reasons why a congressional investigation might otherwise prove an embarrassment, I desire again and in more detail to call attention to some facts and circumstances that might be embarrassing if an investigation is had.

In the years 1907, 1908, and 1909 the men high up in the councils of the sugar trust found themselves confronting new kinds of difficulties. Their personal liberty was menaced by the fact that they had stolen from the Government untold millions of dollars. Not content with the indirect method of stealing from the people of the United States through the medium of tariff schedules, they had adopted a plan of smuggling raw sugar into the country by a system of false weights and by corrupting the government weighers.

On the 20th day of November, 1907, just as the campaign of Mr. Taft for the Presidency was opening up, just when it became evident that his nomination was a certainty, the discovery was made that on the great Williamsburg wharves 17 little government scale houses contained 17 holes made by sugar-trust employees and government officials. It was possible by inserting steel devices in these holes to manipulate the scales so that the Government was every day being defrauded of large sums of money. Some unimportant $18-a-week weighers were indicted, but in spite of the fact that the great news agencies paid but little attention to the discoveries on the Williamsburg wharves and to the colossal frauds perpetrated there by the sugar trust, the country demanded the punishment of the men who were the real beneficiaries. The sugar trust admitted that its employees had stolen from the Government at least $2,000,000, and they paid back into the Treasury of the United States a little over $2,000,000 in cash. In the course of the investigation to determine how much had been stolen from the Government, the astounding fact developed that the company kept an accurate record of the amount stolen during the period covered by the suit brought by the Government. The company voluntarily produced two books, one book showing the correct weights of the raw sugar imported, as indicated by the scales used by the owners of the cargoes of raw sugar sold to the sugar trust. On the Williamsburg wharves there were not 17 scales, but 34; 17 were government scales, 17 were used by the agents and representatives of the owners of the cargoes sold to the sugar trust. These 17 scales correctly recorded the weights of the sugar landed at the Williamsburg wharves. One book kept by the sugar trust showed the correct weights as indicated on these scales; the other book showed the weights as indicated by the government scales, manipulated by the government weighers and the sugar-trust employees. The difference in the weights represented the amount stolen from the Government during the period covered by the suit brought by the Government. The case could not have been clearer. Does any citizen of the United States believe that six or eight $18-a-week weighers and checkers were engaged in the business of stealing millions for the stockholders of the sugar trust without the knowledge and consent of the stockholders and directors of the sugar trust? The evidence showed that those employees and officials who actually manipulated the scales occasionally received a gratuity of a few dollars at a time. The sugar-trust records, so far as they have been made public, disclosed the fact that the trust knew how many millions of dollars it had stolen. The trust officials knew how many thousands of dollars were being stolen by them every day from the Government of the United States.

But the difficulties in which the sugar-trust directors found themselves within the last three years were not confined to the developments on the Williamsburg wharves. In 1903 Adolph Segal was engaged in the business of building in Philadelphia the Pennsylvania Sugar Refinery, the most complete refinery in the world; he was building it for the purpose of selling it out to the trust. Prior to that time he had been able in a smaller way to hold up the sugar trust for $1,000,000. Flushed with his success, he was building another sugar refinery. Already he had succeeded in investing $5,000,000 in the venture. The money was furnished by Frank K. Hipple, president of the Real Estate Trust Company and treasurer of the funds of the General Assembly of the Presbyterian Church in the United States. In 1903 Hipple had succeeded in emptying the vaults of the Real Estate Trust Company of all its funds; the money had been given to Segal. It became necessary to borrow the money from some source to complete the refinery and commence refining sugar, in order to compel the sugar trust to buy the refinery. But already there were whisperings in financial circles as to impending danger. Gustave E. Kissel, a financier of Philadelphia, finally agreed to loan to Segal, for the purpose of completing the refinery, $1,250,000. He compelled Segal to deposit 26,000 shares of stock with him as collateral; he also compelled an arrangement to be made by which he (Kissel) was to be one director and was to name three others. There were only seven directors in all. This was done. The arrangement was carried out, and at once John E. Parsons, the organizer of the sugar trust and its general counsel, appeared upon the scene as the legal adviser of Gustave E. Kissel. The directors so selected held a meeting and refused to permit the plant to run. The victory of the sugar trust was complete. The Real Estate Trust Company failed; Frank K. Hipple committed suicide. Even the sugar-trust directors were appalled at the success of their undertaking. They had again rendered themselves liable to the penal provisions of the laws. The evidence was complete.

In order now to fully comprehend the resourcefulness of the sugar trust and how it met the new and novel dangers developed by the discoveries on the Williamsburg wharves, the failure of the Pennsylvania Sugar Refinery, the failure of the Real Estate Trust Company of Philadelphia, and the suicide of Frank K. Hipple, it becomes necessary to refer to a great firm of lawyers in New York City, a highly respectable, old-established law firm. The firm of Strong & Cadwalader is one of those important New York City legal firms to which great corporations appeal for aid when they propose to violate the laws of the land or when they have violated the laws of the land. About this time this great firm became associated, with other prominent firms and attorneys, as attorneys for the American Sugar Refining Company. In 1908 the firm of Strong & Cadwalader was made up of the following lawyers, and I give their names in the order in which they appeared as members of the firm in that year: John L. Cadwalader, George W. Wickersham, George F. Butterworth, Henry W. Taft, Edward E. Sprague, Hugh A. Bayne, Noel Gale.

In 1909, after the inauguration of President Taft, the firm of Strong & Cadwalader was composed of the following lawyers; I give their names in the order in which they appeared in the firm in that year: John L. Cadwalader, Henry W. Taft, George F. Butterworth, Noel Gale, John Henry Hammond, Hugh A. Bayne.

It will be observed that after the inauguration of Mr. Taft as President of the United States George W. Wickersham was no longer a member of the firm, and Henry W. Taft had been moved up to second place in the firm. This situation was brought about by the fact that after the inauguration of President Taft George W. Wickersham became Attorney-General of the United States, and the brother of the President of the United States was promoted in the firm and took his place.

The difficulties of the Pennsylvania Sugar Refining Company were carried to the federal courts. The receiver brought suit against the American Sugar Refining Company, alleging actual damages to the amount of $10,000,000, and the suit was brought for $30,000,000, threefold damages, as provided for in section 7 of the Sherman antitrust act. The case came up on the 20th day of March, 1908, in the circuit court for the southern district of New York. You can find it reported in volume 160 of the Federal Reporter, at page 144. The name of Henry W. Taft appears as of counsel for the sugar trust. The defense of the sugar trust was prepared in the office of Strong & Cadwalader. A demurrer to the complaint was sustained by the court. The case was taken by the receiver to the circuit court of appeals for the second circuit, and on the 15th day of December, 1908, that court rendered an opinion reversing the decision of the circuit court and holding that there was error in dismissing the complaint. You will find the case reported in volume 166, Federal Reporter, page 254. The name of Henry W. Taft, of the firm of Strong & Cadwalader, appears signed to the brief as one of the attorneys for the sugar trust. This decision of the circuit court of appeals settled the case, and in the fall of 1909, just before a trial on the merits was about to be forced, the sugar trust settled by paying to the receiver $2,000,000.

This situation discloses the fact that in the hour of their greatest stress the managers of this most infamous of all corporations were as resourceful as ever. Matters had been so arranged that a sugar-trust lawyer became Attorney-General of the United States, and the brother of the President of the United States became openly one of the attorneys for the sugar trust.

I am aware of the fact that a few days ago the Attorney-General of the United States had read into the RECORD, in violation of the rules of this House, by the gentleman from New York [Mr. BENNET], a remarkable statement. The statement is published in the CONGRESSIONAL RECORD of this session as of the 28th day of March. In the letter the Attorney-General, referring to the charge that he was "the former attorney of the sugar trust," says:

> In order that such statements may not gain currency, I should like to state through you that I never was attorney for the sugar trust, * * * nor had any professional or business relation to it. The only possible foundation for such a statement lies in the fact that one of my partners was, some three years ago, retained as one of counsel for the American Sugar Refining Company in a single lawsuit brought against

it, and, pursuant to such retainer, he assisted in the defense of the company in that action, and on an appeal from a judgment in its favor. In that lawsuit I was neither consulted, nor did I render any service.

I respectfully submit that if the Attorney-General desires to deny his connection with the sugar trust he should make his denial more complete than this. At the time this service for the sugar trust was being rendered there were six members of the firm of Strong & Cadwalader, of which the present Attorney-General was one. The service rendered by the firm purports to have been rendered through another member of the firm, who appeared as counsel for the sugar trust, in this, the most important suit ever brought against the American Sugar Refining Company. It may be that the Attorney-General was not consulted in this suit, and it may be that he did not render any service in connection with it. But the Attorney-General has not yet stated how the enormous fee the firm of Strong & Cadwalader is reported to have received was divided. Did the Attorney-General refuse to accept any portion of it? The country would like to know. The defense of the American Sugar Refining Company in these cases was prepared in the office of Strong & Cadwalader. In addition to the six members of the firm at that time there were numerous assistants and clerks. The Attorney-General states that one of his partners was retained, and so forth. He neglected in his letter, however, to state that the partner to whom he refers, the member of the firm of Strong & Cadwalader who was active in the defense of the American Sugar Refining Company in these cases, was the brother of the President of the United States.

I submit that the Attorney-General ought not to seek to avoid even an inactive connection with this infamous trust by throwing the entire burden and the disgrace of such connection upon the brother of the President of the United States. This denial of active participation by the Attorney-General as counsel for the sugar trust should be considered in connection with the letter of the Attorney-General of the United States, written on the 27th day of June, 1909, to John S. Wise, United States district attorney for the southern district of New York. This remarkable letter, written in his own hand at midnight, was published in the Cosmopolitan Magazine for January of this year. The authenticity of the letter has never been denied by the Attorney-General. Will he deny it now? The letter is so important that it ought to be preserved in the columns of the CONGRESSIONAL RECORD, and I desire now to read it:

WASHINGTON, *June 27, 1909.*

MY DEAR WISE: Senator ROOT has sent me the proof of a petition signed by Bowers, Milburn & Guthrie in support of their contention that the statute of limitations has run in favor of Messrs. Parsons, Kissel, and Harned. If the only overt acts done to carry out the objects of the unlawful conspiracy were those referred to in the brief, I should think they were insufficient to save the bar of the statute. A strong effort will be made to-morrow to persuade the President to interfere in some way to prevent the indictments, but, aside from that, no indictments should be returned against anyone if there is no reasonable ground to believe they can be sustained—if, for instance, the offenses charged are clearly barred by the statute. I need hardly say this to you. What I want to impress upon you is that if you have any reasonable doubt in the matter you either have the grand jury ask the court for instructions or, if that is not feasible, that you advise the department of the specific charges on which you rely to save the statute before actually having the indictments brought in. You may telephone either to me or to Mr. Ellis, if I should be out of the department when you call, on this point.

Faithfully, yours, GEO. W. WICKERSHAM.

P. S.—As I am writing from my house and have no copy of this, will you kindly have your typewriter make and send me a copy?

The Parsons mentioned in the letter I have read is John E. Parsons, of the firm of Parsons, Closson & McIlvain, the organizer of the sugar trust and its general counsel until the 1st day of January of the present year. The wisdom of the sugar trust in applying in the hour of its greatest stress to the firm of Strong & Cadwalader is now apparent. There are facts in connection with this that might be embarrassing in the event of a congressional investigation.

In New York County the Republican central committee is, and has been for some years, a sugar-trust organization, getting its funds from the sugar trust, looking to sugar-trust attorneys for its presiding officers. The nomination of the Republican candidate for the Presidency in the last national campaign was brought about, first, by the activities of the President of the United States, at whose command 50,000 post-office officials throughout the country became active and the entire machinery of the Republican administration was set to work to bring about the nomination of Mr. Taft. Next in importance in the agencies contributing to his nomination and election was the sugar-trust-owned, sugar-trust-controlled Republican New York County central committee. To these great influences, by these great agencies, the action of the last Republican national convention was dictated. The activities of the New York County Republican committee to bring about the nomination of President Taft commenced almost as soon as the activities in that direction of President Roosevelt.

I desire now to read from the letter of resignation of HERBERT PARSONS as president of the New York County Republican committee. On the 20th day of January of this year Mr. PARSONS sent in his letter of resignation. I read from his letter:

When I first became president of the committee in December, 1905, there were four specific ends that I wished my administration to accomplish. One was that the committee should be substantially loyal to the national administration of Theodore Roosevelt. * * * The third was to do all I could for the nomination and election of William H. Taft as President of the United States.

On the 22d day of March, 1910, at a dinner in New York, given in honor of HERBERT PARSONS by the New York County Republican committee, President Taft was one of the speakers. He is reported as saying, in part:

This is HERBERT PARSONS's show, and I am here to speak about him. HERBERT PARSONS and I have been friends for a number of years. I took him to the Orient, and I brought him back because I knew he was too valuable to leave out there.

I think in this connection I might call attention to the fact that HERBERT PARSONS is a member of the firm of Parsons, Closson & McIlvain, who are sugar-trust attorneys; is the son of John E. Parsons, who organized the sugar trust, who directed its crimes for years, and who is now under indictment charged with wrecking the Real Estate Trust Company of Philadelphia; the same Parsons who retained the firm of Strong & Cadwalader as sugar-trust attorneys, and who now is able to exercise over the Attorney-General of the United States so much influence—the same Parsons who is at the head of the firm of Parsons, Closson & McIlvain. Of course HERBERT PARSONS was brought back from the Orient because he was too valuable to leave out there. It would be exceedingly unpleasant to disturb the friendship apparently existing between the Parsons—father and son—and the present administration, and I am quite willing to believe and to admit that a congressional investigation of the infamies of the sugar trust might be embarrassing.

On the 1st day of January of this year James M. Beck became general counsel for the sugar trust, and he is now acting in that capacity. James M. Beck was an Assistant Attorney-General of the United States for three years, his term of service commencing in the year 1900. He had charge of the Northern Securities case for the Government. The situation, therefore, in brief is a follows: Prominent stockholders and directors of the sugar trust are in grave danger, or at least they were not long ago; the doors of our penitentiaries were opening for many of them. They have, however, succeeded through their control of the Republican party in bringing about this most delightful arrangement. The Attorney-General of the United States was until his appointment as sugar-trust attorney familiar with the methods of the sugar trust, exhibiting even now a remarkable sympathy for its officials in their difficulties. The general counsel for the sugar trust is an ex-Assistant Attorney-General of the United States, loyal to the Republican party, familiar with the methods and with the secrets of the Attorney-General's office. The brother of the President of the United States is one of the attorneys for the sugar trust. J. E. Parsons, the father of the ex-president of the New York County Republican committee, is under indictment on account of his offense against the law in Philadelphia. And the President of the United States has advised against a congressional investigation of the sugar trust for the reason that it might prove embarrassing.

In order to show how many millions the American Sugar Refining Company had at issue when its representatives went to the firm of Strong & Cadwalader, in the hour of their distress, I want again to call attention to the fact that the suit brought by the Pennsylvania Sugar Refining Company was brought under section 7 of the antitrust act, and the suit was to recover threefold damages. The actual damages alleged were $10,000,000. The decision of the circuit court of appeals settled the law of the case; there was no question as to the facts. The trust was about to lose in this suit alone $30,000,000. The suit was settled for $2,000,000. The American Sugar Refining Company stood to lose over $100,000,000 on account of the frauds discovered at the Williamsburg wharves. It would be an exceedingly modest estimate to say that there passed over these wharves to the American Sugar Refining Company from 1901 to the date of the discovery of the fraudulent practices there over $100,000,000 worth of raw sugar. As a matter of fact, it might be nearer the truth to say that during that period of time there was landed at these wharves at least $150,000,000 worth of raw sugar. The books produced by the trust disclosed the fact that the fraudulent practices were applicable to every cargo of sugar delivered at the wharves. Under the law every pound of sugar, or the value thereof, was forfeited. It would be exceedingly conservative to say that on account of the conduct of the men higher up the trust could

have been compelled by an energetic administration anxious to protect the Treasury of the United States and willing to enforce its laws to pay to the United States something in excess of $100,000,000 on account of frauds practiced by the company at this port alone. But the trust was permitted to settle this suit for $2,135,486.32 on the 22d day of May, 1909. Therefore the American Sugar Refining Company has saved, on account of its splendid management, over $125,000,000, and none of the men higher up are as yet in any danger of going to the penitentiary. Is it any wonder that the report is abroad that the law firm of Strong & Cadwalader recently received from the American Sugar Refining Company one of the largest fees ever paid in the United States for legal services. It pays to employ a law firm able to do things.

The last of the frauds committed by the sugar trust occurred on the 20th day of November, 1907. The statute of limitations is running every day, and will soon become a complete bar against any criminal prosecution that may be brought. The Republican party is charged with the administration of affairs in this House. Two hundred and nineteen Republican Members sit on the other side of this Chamber, and since the message of the President of the United States was read in this House not one of them has lifted his voice against the sugar trust or in favor of an investigation by Congress. There is no statute of the United States under which immunity can be granted to any witness testifying before a committee of Congress, and there never has been a law that would produce that effect. The Counselman case (reported in 142 U. S., 547) settles that question conclusively. I do not desire to go further into the cases on the subject of immunity. The Counselman case construes the original provision of the interstate-commerce act, and the original provision was identical with the statute which controls the testimony of witnesses before committees of Congress. Granting a witness immunity, as suggested by the President, being a legal impossibility, the country is curious to know how a congressional investigation could otherwise prove embarrassing in securing convictions.

On the 10th day of February of this year Oliver Spitzer, a former dock superintendent of the American Sugar Refining Company's plant at Williamsburg, started to the Atlanta prison to serve a sentence of two years. He was convicted of a conspiracy to defraud by underweighing sugar. I desire to read his statement given out to the press just before he started for the federal prison. He said:

I started with the trust in 1880 as a boy, and by industry worked my way, step by step, until I became superintendent of docks at Williamsburg. It has been reported that I was receiving big pay from the trust. I got a salary of $55 a week. The expenses of this trial have cut into my savings and left me practically a ruined man.

In the alleged fraud prosecution the Government cried for a victim, and the sugar trust answered by sacrificing me and four $18-a-week checkers. None of us was guilty of any breach of the law, but somebody had to go to prison to save those "higher up."

They say I had knowledge of the alleged manipulation of the scales at the sugar docks. I don't think that I was in the scale house once during the last fifteen years. I had no occasion to enter them. As to the corset steel said to have been discovered in a hole in a set of scales, I know nothing about it, and, seemingly, no one else did, except Parr, who claims to have found it later.

The men higher up who got the benefit of the millions stolen still remain undisturbed, and the country is asked to be satisfied with the conviction of Spitzer, the indictment of the secretary of the sugar trust—himself simply an employee—and the conviction of four $18-a-week checkers.

I respectfully contend that the Republican majority in this House can not afford to longer delay a congressional investigation, and the millionaire malefactors who control the sugar trust and who are responsible for the perpetration of these gigantic frauds ought to be held up to the contempt of the country. In Pittsburg they have learned how to reach the men higher up. They simply propose immunity to the men whose conviction is not important, but who are only tools in the hands of the principal malefactors, and as a result minor city officials were a few days ago coming by scores in Pittsburg to the office of the prosecuting attorney and telling their stories, implicating the real criminals. And the time may not be far distant when men who pass in Pittsburg as respectable citizens will pay the penalty to which their criminal conduct has rendered them liable. The Attorney-General of the United States, however, commences his prosecutions and ends them with unimportant officials and $18-a-week checkers, and the real persons guilty of the most colossal fraud in the history of our Government are permitted to go about without punishment, without exposure, still posing as honest men, still willing and still able to contribute to the campaign funds of the Republican party.

The Republican party is entering upon a crisis in its career. We welcome to this side of the chamber another Democratic Member from the State of Massachusetts. The result in the De Armond district in Missouri and the tremendous Democratic gains there had a peculiar significance; but the result in the Fourteenth Congressional District of Massachusetts, when a change of over 20,000 votes was effected, is almost brutal in its expression of the changing tide of public opinion. From the cities and towns of Maine and other localities there comes the news of Democratic gains and Democratic victories; the air is already vibrant with the shouts of the victors. You need the sugar trust and its money as you never have needed it before; but the time has come for you to choose between millionaire malefactors who contribute to Republican committees the funds with which Republican campaigns are carried on, and your duty to the people of the United States.

You need not be afraid of giving immunity to any man, and even though it may be embarrassing, on account of the unfortunate combination of circumstances to which I have called attention, to bring before the bar of public opinion the real sugar-trust criminals, you refuse to do so at your peril. You can not cover up these crimes by sending to prison for short terms some $18-a-week checkers and threatening to dissolve the sugar trust through legal proceedings. The country demands an honest investigation by its Representatives here in Congress. You can continue, of course, to refuse it, but you refuse it at your peril.

APPENDIX.

I hereafter print an article appearing in the Cosmopolitan Magazine for January, 1910, by Charles P. Norcross, entitled "Tragedies of the sugar trust."

I also print an article which appeared in Hampton's Magazine for March, 1910, entitled "The annexation of Cuba by the sugar trust," by Judson C. Welliver.

I am indebted to both of these articles for valuable information on this subject.

I also conclude this appendix with an editorial appearing in the New York Sun of November 7, 1909.

TRAGEDIES OF THE SUGAR TRUST.

[By Charles P. Norcross.]

EDITOR'S NOTE.—The previous articles of this series have dealt with the American Sugar Refining Company as an enemy of the common good by reason of its corrupting influence upon Congress in securing tariff legislation favorable to it; as a pirate of business, jealous of and preying upon the successes of its competitors, which it bought out at its own terms or ruined; as a rebater, demanding its toll on every hand and using its dishonest gains to fight its rivals, and as a sneak thief, robbing the Government of petty pennies. In all these operations, however, the officers of the trust kept their skirts clear of indictable crime. But in the following installment, showing how these officers ruined a rival and drove another man to suicide by refusing him a chance to step back from his dishonor, it is related how the hand of the law was stretched out to check in its wreck-strewn career this corporation whose whole history is close written with records of petty, miserable business crime.

A gun fight had broken out in a notorious dive in a western mining town. An excited citizen rushed to the local sheriff and besought him to interfere to prevent a wholesale massacre. The sheriff refused to act as urged and sagely said:

"Anyone that gets killed within them walls is entitled to the penalty, and the world will be a sweeter place after the clean-up."

This little story is dragged in by the hair because it seems so wonderfully apropos of the dealings between the American Sugar Refining Company directorate and Adolph Segal, the Philadelphia plunger. There need be little sympathy for Segal. The sugar trust manifestly broke the law. Six of its directors and two agents were justly indicted, and a criminal conspiracy in restraint of trade was revealed, but there was great provocation. Almost any red-blooded man would have taken after Segal, with little regard for the law. Segal had once mulcted the company out of a million dollars through a scheme which has been characterized as commercial blackmail. So successful was that undertaking that he tried it again on a scale five times as big. When his hand was revealed in the second attempt the trust, unlawfully it is true, but with broadly human justification, completely ruined him, and incidentally landed itself at the bar of justice, where it now stands.

The story of Segal's dealings with the American Sugar Refining Company makes a lurid tale. With all its malefactions—its defrauding of the Government by false weighing, its throttling of the beet-sugar industry, its wholesale rebating, its corrupting of Congress, and its other illegal methods—never, until the Segal case arose, did a single officer of power and influence in the corporation feel the hand of the law laid on his shoulder. To be sure, the corporation had been indicted, heavy fines had been imposed, and the character of the trust had been besmirched almost beyond redemption, but the powerful men in the company had evaded the law. The deal with Segal was too open, however, to escape; the evidence was too conclusive; the minutes showed too acutely the activities of individuals for the responsible men in the company to escape, and when the Government had finished its investigation of the maze of transactions between Segal and the trust, down came eight indictments, and struggling in the net were six directors of the trust. The only one to escape was Horace Havemeyer, who entered the board after his father's death and did not participate in the conspiracy to ruin Segal.

On July 1 of the present year the federal grand jury, which had been investigating the affairs of Segal and the sugar trust in so far as they related to a loan made by the trust to Segal on December 30, 1903, handed down indictments against the corporation and eight individuals connected with it. The men indicted were: Washington B. Thomas, president; John E. Parsons, chief counsel; Arthur Donner, John Mayer, George H. Frazier, and Charles H. Senff, directors; Gustave E. Kissel,

agent for the trust; and Thomas B. Harned, counsel for Segal at the time the loan was made.

Back of these indictments lies a story of commercial piracy, unscrupulous reprisal, and disregard for all legal and moral obligations that is almost unparalleled. The ramifications are vast. A giant financial structure in Philadelphia, the Real Estate Trust Company, was dragged down to ruin; its president, considered one of the bulwarks of American finance, died by his own hand; Segal went into bankruptcy; and, as has been told, for the first time the real men in the sugar trust faced the bar of justice as defendants.

Adolph Segal, whose dealings with the trust caused this great financial upheaval, is one of the most interesting characters in America. One of his attorneys referred to him in a Philadelphia court room as "a steam engine in breeches." That characterization fits him more nearly than anything else. For years he operated on a cash capital so slender that it was necessary to lay it on a white background to get even a shadow. It is recounted that when he came to this country from Austria, where he was born, he threw dice with his landlord to see whether he should pay two years' rent or nothing for one year. He won. His career has been meteoric. Whether it was building a soap factory, a giant apartment house, a tannery, a hotel, or buying the famous old Elkins mansion in Philadelphia and making a social campaign that opened the eyes of Philadelphians and is said to have cost $3,000,000, his movements have always been spectacular. None of these things, however, are pertinent to the story except the dealings of Segal with the trust.

How Segal ever met Frank K. Hipple, president of the Real Estate Trust Company, and won his confidence to the point where Hipple practically gave him the keys to the company's vaults and allowed him to use the deposits as he saw fit must always remain a mystery, but in Hipple's hand, clutched tightly, when his self-slain body was found was the following note:

"I alone am to blame. Segal got all the money. I was fooled."

According to the generally accepted belief, Segal, relying on his great personal magnetism, his winning speech, his ability to build air castles, and his impressive way of presenting a case, visited Hipple in 1901. He went without any letters of introduction and stated his case with no circumlocution.

Segal is a rather undersized man, broad of shoulder, rotund as to trunk, with black waving hair, the eyes of a dreamer, and the soft, liquid voice of a singer. He speaks with just a trace of an accent, but he is one of the most alluring talkers that one is likely to encounter. At all events, equipped with nothing but an idea and nerve, he visited Mr. Hipple in his bank and made his proposition. "The sugar trust," he said, "is cornering the market. It is crushing all competition. It is buying all refineries that oppose it and dismantling them. I want $500,000. With that sum I will build a refinery and they must buy me out."

Hipple hesitated, but the cooing voice ran glibly on:

"And, besides, we could make your son treasurer of the company and insist on a salary of $20,000 a year for him. There would be a million to split."

"The risk is too great," said Hipple, but he was wavering. His son was the apple of his eye, and the chance seemed good. The respected president of the trust company, treasurer of the funds of the trustees of the general assembly of the Presbyterian Church in the United States, and the man who was considered one of the most conservative bankers in the country finally yielded. The money was advanced. The refinery was built. Segal's promise came true. The trust did meet the "strike," and there was a million to split.

After that Segal seemed to own Hipple. Hipple advanced him money on schemes that afterwards seemed of such a wildcat character that the directors rubbed their eyes in blank amazement when they were uncovered. Over $5,000,000 was found tied up in Segal's ventures, and no little part of it was in the new Pennsylvania Sugar Refinery, which Segal had built to sell to the trust.

This is the finest sugar refinery ever built in the world. That is one of the things about Segal. The man has a genius for perfection. He works out details with a thoroughness that is amazing, and he spares neither himself nor money to create the highest type of any work he has in hand. It is so of his hotel, of his private home, of the white-lead plant he put up in Chester, and everything he touches. Financiers will tell you that such exhaustive detail and decoration prove costly, and that Segal is not a good builder from the financiers' side, although he has no equal on the artistic and practical side. Segal has promoted over 30 enterprises. It is doubtful if 3 have proved successful. His Majestic Hotel, in Philadelphia, is almost barbaric in its splendor, and his personal suite rivals in splendor the royal apartments of European palaces.

The Camden factory had proved highly successful. The trust was easy prey. Hipple was fascinated by the adroitness and ability of Segal. Over $8,000,000 rested in the vaults of the Real Estate Trust Company. Segal cast wonderful colors on the screen. Hipple sat fascinated. Then the big Pennsylvania refinery was started with levies upon the millions of the trust company. But the work dragged. There were other ventures, none of which paid an immediate return. Even the vast resources of the trust company were inadequate to meet Segal's enormous drafts upon them. It was necessary to get the refinery running to utilize it either to make money or to perfect it as a menace to the trust so that it would be bought out. In the fall of 1903 Hipple had thrown up his hands. He could supply no more money; he had gone to the limit of falsification of books, juggling and embezzling trust funds. He had far outstripped even injudicious loans.

All the time the sugar trust had its eye on the Philadelphia giant. A gray old fox in the office of the trust was laying a trap to make the power of the giant refinery ineffective. Cunning spies had told John E. Parsons that Segal was at the end of his rope. The trust knew in a hazy way of the hold that Segal had on Hipple. It knew that the millions of the trust company were open to him, but it did not suspect the actual truth. When Segal sent up rockets of distress the gray old fox at the office of the American Sugar Refining Company was the first to know it. Segal was in the market to borrow money, and the new refinery was the collateral offered. The time was ripe for the coup d'état.

At that time Segal had an attorney named Thomas B. Harned. Harned was later indicted as guilty of a part in the conspiracy. He sold out his client to the trust. The gray old fox reached around for a tool. To hand came Gustave E. Kissel, impeccable, well connected in the financial world, suave, and, above all, close mouthed. Kissel undertook the contract as outlined to him. The net was being drawn fine. Kissel reached Harned, and through him let Segal know that under certain conditions certain sums would be advanced to him.

At the time these negotiations were opened the situation at the refinery was peculiar. Twenty-six thousand shares of the stock of the concern had been placed in Hipple's hands as trustee, to be voted as directed by a committee of stockholders to be appointed later. Therefore, when Segal opened negotiations with Kissel, Hipple had in his possession a majority of the stock of the refinery, and he was abjectly Segal's tool.

The letters that passed between Segal, Kissel, and others relating to the loan are models of business perspicacity. There is never a hint of the real principal behind the loan. It was not until long afterwards that Segal suddenly awoke to the fact that he had been trapped. He must have been singularly stupid, for if ever a loan was made under more peculiar conditions there is no public record of it. These conditions are outlined in the following paragraph:

"The borrower agrees that he will so arrange that the absolute voting power of the 26,000 shares of stock of the Pennsylvania Sugar Refining Company shall be in the lender; that the lender shall have the right to use such voting power as may be suitable to aid or effectuate the purposes hereof; and as the control thereby given is a material part of the consideration for the said note, the borrower further agrees that he will so arrange that of the seven directors of the Pennsylvania Sugar Refining Company, four to be nominated by the lender, of whom one shall be Kissel, shall be put in place of four of the present directors; that they or their substitutes, to be nominated by the lender, shall be directors so long as any part of the loan shall remain unpaid; that the control and possession of the property of the Pennsylvania Sugar Refining Company shall be in such a way so effectually subject to the control of the board of directors that so long as the note, or any part thereof, remains unpaid the refinery of the Pennsylvania Sugar Refining Company shall only be run or operated or do business as shall be directed by said board."

Kissel, it is noted, was to be one of the seven directors of the corporation, and he was to name three others, so that he would have a majority of the board under his control. The plant could then be run or shut down, just as Kissel elected, and Kissel was taking his orders from H. O. Havemeyer.

Supplemental to the extract printed above is an interesting memorandum of the items to be considered in the agreement under which the loan was made. This memorandum is in addition to the agreement attached to the note, the extract from which has been given.

MEMORANDUM RE SEGAL LOAN.

1. Agreement to be made and exchanged.
2. Stock note to be signed and securities to be turned over.
3. Mr. Hipple must give a certificate or other paper that he holds the 26,000 shares subject to the control of the lender, and that he will not accept directions from the proposed committee, or does accept notice from the majority of the stockholders that they will not appoint or consent to the appointment of the committee.

(Add to item 3:)

Let the Construction Company notify Mr. Hipple that inasmuch as no names for a committee have been agreed to in the pooling agreement of July 1, 1903, the Construction Company, as owner of 26,000 shares (a majority of the stock of the Pennsylvania Sugar Refining Company), notifies Mr. Hipple, as the depositary of the stock, that it elects to treat the agreement as not complete, and that Mr. Hipple will be so good as to act accordingly, accepting no directions from a committee, should names for a committee be proposed, and accepting this as a notice that the Construction Company, as the holder of a majority of the stock, will not, until this notice is countermanded in writing by the Construction Company or its assigns, participate in the appointment of such a committee or consent to the appointment. Let Mr. Hipple acknowledge the receipt of this communication by a letter or certificate in which he shall say that he has received it; that he will act in accordance with it, and that he holds the 26,000 shares of stock of the Construction Company subject to this notice, to any right, if any, under the pooling agreement, and subject, as thus stated, to the ownership and control of the Construction Company and its assigns. Then let the Construction Company transfer this certificate, with trust certificates, if trust certificates are to be issued, to Mr. Kissel, under the terms of the Segal agreement.

A note from the president of the company, addressed to Mr. Kissel, in substance or effect as follows, will answer:

"Mr. GUSTAVE KISSEL.

"DEAR SIR: Referring to the resolution of the directors of the Pennsylvania Refining Company, passed this day, with reference to the starting of the refinery, I wish to say that I recognize the authority of that resolution, and will act in conformity with it, subject to any change that may hereafter be made by a majority of the board of directors."

4. If the stock is in the name of the Construction Company, it must give an irrevocable proxy, and should assent to whatever is the arrangement with Mr. Hipple.
5. The changes in the board to be arranged as proposed.
6. The insurance policies to be procured and turned over as arranged.
7. The $200,000 to be deposited in the U. S. M. & T. Co. under the terms of the agreement.
8. The lender should be satisfied that the executive officers will obey the orders of the directors in respect to the running of the refinery.
9. The resolution of the directors may be in this form:

"Whereas to start the refinery at the present time would involve an outlay of a large sum of money, which would need to be provided, and for which the time is inopportune:

"*Resolved*, That the refinery do not run, and that no proceedings looking to the beginning of operations be taken until the further order of the board."

Some of the items in this memorandum may need explaining. Items Nos. 1 and 2 refer, respectively, to the note of loan and the formalities of turning over the stock as collateral. Item No. 3 compelled Hipple to relinquish whatever rights he might have as trustee of the stock and to pledge himself to ignore any instructions from the stockholders or a committee. Item No. 4 is explained by the fact that some of the stock stood in the name of the construction company that built the plant, and a waiver of its rights was necessary. Items 5 and 6 are routine. Item No. 7 explains an agreement for the deposit of a certain sum. The loan was not made in a lump. It was split into varying sums, and the $200,000 is one of the payments. Item No. 8 binds the executive officers. And then came the joker. The resolution the directors were to pass was drafted. This resolution shut down the plant, and here the sugar trust attained the end it was after. The addition to item No. 3 was simply to make more certain the elimination of the pool or trusteed stock and to place it absolutely without the reach of the stockholders. Even a letter from the president of the company

turning over the whole plant to Kissel was attached. It was a complete clean up.

The loan was made December 30, 1903. Segal had $1,250,000, and Kissel had the whole proposition sewed up. Now, take the minutes of the meeting of the executive committee of the American Sugar Refining Company held December 28, two days before the actual transfer of obligations:

"Meeting executive committee, held at 117 Wall street, New York, on Monday, December 28, 1903, at 11 o'clock a. m. Present: H. O. Havemeyer, W. B. Thomas, Lowell M. Palmer, and Arthur Donner.

"The president was authorized to execute the contract with Gustave E. Kissel as approved by Counsel John E. Parsons."

And there you are. The whole scheme was cooked up in the office of the American Sugar Refining Company. John E. Parsons approved.

The sugar trust advanced the money to Kissel, who in turn paid it over to Segal.

Segal's awakening came a few days later. He wanted to open the plant and operate it. The directorate—that is, the Kissel-controlled directorate—were obdurate. The only way that Segal could get money to repay the loan was to make the plant a going concern. Kissel would not permit the plant to run. Then the lenders began to press Segal for payment, with the idea of forcing the stock to an auction sale. John E. Parsons suddenly appeared as counsel for Kissel. Segal's eyes were opened. He saw the trap he was in.

This revelation, probably more than any other, broke the heart of Hipple. He had hoped against hope. He had seen the former deal with the Camden refinery go through easily. The million cleaned up was so quickly paid that he thought it could be duplicated on a bigger scale. He was waiting, waiting for the coup. He thought, once in the field and running, the refinery could be speedily sold to the trust, or, failing that, would have an earning capacity which would make its stock valuable and allow him to realize on the investment by stock sales.

Segal, as soon as he found the trap he was in, tried desperately to raise money to liquidate the loan and get started. His financial reputation, however, was shaky. Grave whisperings about the status of the Real Estate Trust Company were going around. Hipple had no further resources. Pathetic letters went from Segal to Parsons, asking for time and a change in arrangements. The answer was always the same—"Pay or we foreclose." While this situation was most acute, Hipple suddenly took his own life, and the great trust company fell with a crash. Segal was thrown into the spot light. He failed. Everything was tied up, and the sugar-trust agents sat back appalled at their own handiwork.

When the Real Estate Trust Company toppled to its fall, practically cleaned out, Philadelphia could not have been more surprised had City Hall, a mountain of masonry, toppled into crowded Broad street. It was considered impregnable. Then came a strong man to sift the rotten wreck to the bottom. He was George H. Earle, a fighter and a man of wonderful sagacity and penetration. He found the Segal deal in the wreck, and he started to probe it.

So clear cut was the evidence that he started a suit on behalf of the Pennsylvania Sugar Refining Company to recover enormous damages. Not only that, he placed before the Attorney-General in Washington all the facts relating to the transaction. Events moved swiftly. The Government had no interest in the civil side of the transaction, and Earle and his associates were left to recover their own damages; but the evidence supplied a case for the Government to indict Kissel and Harned for a conspiracy in restraint of trade. Evidence was taken before the grand jury in New York by John S. Wise, United States district attorney for the southern district of New York. Books were subpœnaed duces tecum. The indictments were all drawn and ready to be handed down when there was a sudden interruption of the proceedings.

Enter ELIHU ROOT, formerly Secretary of War and Secretary of State and at present Senator from New York. Whenever any covert and furtive corporation work is afoot it is always well to try to locate ROOT. He may not be guilty, but there is a great possibility that he is. It has been pointed out how he instigated the great movement in Cuba to repeal the tariff on Cuban sugars. This would help the trust alone and cripple the beet-sugar men. In the hour of need, therefore, the sugar trust turned to ROOT. He was not able to prevent the indictments from being handed down, but he did succeed in warding off the law for a time at least.

John S. Wise and his assistants had the indictments all ready for public announcement. Parsons, Kissel, and others had been pleading the statute of limitations. They insisted that the loan was made at a period antedating the law's jurisdiction. While Wise was deliberating this question he received a letter from the Attorney-General of the United States. This letter was written in his own hand at the dead of a Sunday night by the Attorney-General and sent to Mr. Wise. It read as follows:

WASHINGTON, *June 27, 1909.*

MY DEAR WISE: Senator ROOT has sent me the proof of a petition signed by Bowers, Milburn & Guthrie, in support of their contention that the statute of limitations has run in favor of Messrs. Parsons, Kissel, and Harned. If the only overt acts done to carry out the objects of the unlawful conspiracy were those referred to in the brief, I should think they were insufficient to save the bar of the statute. A strong effort will be made to-morrow to persuade the President to interfere in some way to prevent the indictments; but, aside from that, no indictments should be returned against anyone if there is no reasonable ground to believe they can be sustained—if, for instance, the offenses charged are clearly barred by the statute. I need hardly say this to you. What I want to impress upon you is that if you have any reasonable doubt in the matter, you either have the grand jury ask the court for instructions, or if that is not feasible, that you advise the department of the specific charges on which you rely to save the statute before actually having the indictments brought in. You may telephone either to me or to Mr. Ellis, if I should be out of the department when you call, on this point.

Faithfully, yours, GEO. W. WICKERSHAM.

P. S.—As I am writing from my house and have no copy of this, will you kindly have your typewriter make and send me a copy?

Mr. Milburn, counsel for the trust, had turned to his natural ally, Mr. ROOT. A strong effort will be made to-morrow to persuade the President to interfere in some way to prevent the indictments.

It is a fact that the next day ELIHU ROOT visited the White House. Did he urge the President to interfere? You must judge. If he did, his influence did not run strong enough. The President sustained the Department of Justice that the offense was a continuing one as long as the refinery remained closed under the provision of the loan agreement, and that the statute of limitations would not hold. Down came the indictments, and to the bar of justice came Mr. John E. Parsons and his associates. There they are now desperately invoking the statute of limitations, whose mantle, according to one interpretation of the law, has already been thrown protectingly around two of the offenders, Harned and Kissel.

In the meantime, terrified and panic stricken, the trust rushed to Philadelphia and settled the civil suit. It cost them over $2,000,000, but it was the only way out.

So endeth the first lesson. Rather many lessons, for one thing after another has piled upon the trust until it seems that there is nothing further that can develop. It is probable that with the adjudication of the case against the directors and their associates, Kissel and Harned, the score will be clean. As has been said earlier in this article, the men facing the bar of justice to-day can hardly be blamed for their actions, further than runs censure for supine acquiescence in criminal deeds instigated and carried into effect by a superior, always excepting John E. Parsons. Thomas, Donner, Senff, and others were mere puppets of Havemeyer. Parsons is something more. He has the cunning brain to plan, the merciless ferocity to execute, and the atrophied conscience that never leaves a pang of remorse. For years he has posed as the leader of the bar, creaking with respectability, oozing oleaginous philanthropy, a lesson and a pattern for all to follow. In his old age he stands at the bar stripped of his honors, pitilessly exposed as a jackal of commerce and law whose name will be anathema. Havemeyer has gone to his grave, the good he did buried with him, the evil to live on. The others are of little moment. But the trust itself? That is hard to say. It has been purified by fire. Whether it will stay purged remains to be seen. Its lesson has certainly been salutary enough.

THE ANNEXATION OF CUBA BY THE SUGAR TRUST.

[By Judson C. Welliver, author of "ALDRICH, Boss of the Senate," "The Mormon Church and the Sugar Trust," etc.]

EDITORIAL NOTE.—In a secondary way it frequently happens that a magazine helps along the cause of good government by making public the hidden wickedness of rich and powerful men. Seldom, however, does it fall to the lot of a magazine to help primarily in giving direct evidence upon which the Government of the United States may base a suit against an iniquitous corporation. Yet exactly this has been accomplished by Hampton's.

The remarkable story of the sugar trust's control of the beet-sugar industry of the United States was given to the world for the first time in the January number of this magazine. That exposure caused a sensation from one end of the country to the other. Denials, denunciations, and an unusual output of epithet came from the interests involved in the exposure of the tripartite alliance of the sugar trust, the Mormon Church, and beet sugar for the control of the sugar tariff and of the politics of a group of Western States.

As a direct result of our presentation of these facts, the sugar monopoly is to-day under investigation by the Federal Department of Justice, the purpose being to wrench from the trust its domination of the beet-sugar industry, by a procedure under the Sherman antitrust law. We are authorized to make this announcement. Henry A. Wise, United States district attorney for the southern district of New York, is in the midst of preparations for the institution of a case against the trust.

The Department of Justice has already secured complete official evidence supporting the charges made by Hampton's. The minutes of the trust directors and other documentary information gathered by members of our staff during our own investigation, have been turned over to Mr. Wise, and he has supplemented and verified them by investigation of the records of the big combine.

The discovery of the trust's beet-sugar monopoly was especially gratifying to the federal legal authorities, because the sugar trust, having once been held by the Supreme Court to involve no violation of the Sherman Act, must be attacked from a new direction if it is to be brought within the operation of that act. The trust's control of beet sugar thus becomes its weakness. Its monopoly of the manufacture and marketing of imported sugar has been held to be no violation of the antitrust law, but its conquest and control of beet sugar is quite another matter, for which the trust can again be brought to bar.

Thus Hampton's exposé furnishes the means, not only of freeing the beet-sugar interest and setting it up as an independent and legitimate business, but also of fixing a new hold on the refining monopoly itself. Never before in the history of journalistic enterprise have such big and prompt results been secured from an exposure of this kind.

SUGAR TRUST ACKNOWLEDGES CONTROL OF BEET SUGAR.

An unprecedented series of developments has followed Hampton's disclosure of the beet-sugar situation, one of which was the remarkable change of front by the trust in its annual report to its stockholders, published in the advertising columns of the newspapers on January 13. That statement represents a wide departure from the previous policy of the trust. Instead of trying to cover up and minimize its interest in beet sugar, the trust frankly included in this widely published report a list of beet-sugar companies in which it is a stockholder. No such information had ever before been given out by the trust. It was a confession of all that had been charged and that had been persistently denied.

The change of front, however, must not be taken to indicate a purpose of engaging frankness in dealing with the public. The trust published the facts, with a pleasant assumption of candor, only after they had been given to the public by Hampton's and then verified by District Attorney Wise on investigation of the trust's books.

The trust bosses placed their beet-sugar minions in a very unpleasant position by publishing this report. Immediately upon the appearance of Hampton's the trust's beet-sugar allies issued sweeping denials of the truth of our articles. Everything from pathos to profanity was adduced for emphasis. The trust-owned concerns could not find terms vicious enough to express their feelings about the outrage that Hampton's had done them.

Thus Mr. Charles B. Warren, president of the Michigan Sugar Company, perhaps the biggest trust concern of the entire beet-sugar group, in the course of a long interview in the Detroit Journal, denounced Hampton's story and paid his respects to its author:

"Judson C. Welliver is a paid employee of the Spreckels Sugar Company, which wants free raw sugar to break down the American beet-sugar industry; and in order to get a hearing, he raises a cry of wolf against the trust; whereas, in fact, the business of the Spreckels Sugar Company is of the same nature as that of the trust, and the author knows that anything that helps the Spreckels company will eventually help the trust."

Here is the last paragraph from the annual report of the American Sugar Refining Company (the trust), published January 13:

"The beet-sugar companies in which the American Sugar Refining Company is interested are the following: Alameda Sugar Company, California; Spreckels Sugar Company, California; Utah-Idaho Sugar Company, Utah; Amalgamated Sugar Company, Utah; Lewiston Sugar Company, Utah; Great Western Sugar Company, Colorado; Michigan Sugar Company, Michigan; Iowa Sugar Company, Iowa; Carver County Sugar Company, Minnesota; Menominee River Sugar Company, Michigan; Continental Sugar Company, Ohio."

Of course, when Mr. Warren indulged his reckless denunciation of Mr. Welliver as a paid employee of a refiner he did not know his bosses in New York would be forced so soon to tell the truth, even though it placed him in such an uncomfortable position. Unfortunately for Mr. Warren's situation, the trust management saw that Hampton's had so completely broken down its old procedure of bluster and deceit that it would no longer serve a useful purpose. The trust confessed, and Mr. Warren, with his mendacious libel on Mr. Welliver, was left to make such explanation as might seem appropriate to a gentleman of his versatile talents.

Mr. Welliver has a record of journalistic service and conscientious effort in behalf of better conditions in politics and business, which places him beyond the need of defense against such attacks as that of Mr. Warren. As correspondent and editor in Washington he maintained such relations with President Roosevelt that the latter sent him on a special mission to Europe to study certain important problems there with the hope of getting illumination for the way to a realization of the Roosevelt programme. Mr. Welliver did that work just as thoroughly and accurately as he has done the work involved in his investigation of the sugar trust.

Mr. Welliver was the pioneer in the fight against the trust, which has become an affair of national moment. More than a year ago—long before the stench of sugar-trust corruption was in the nostrils of the whole Nation—Mr. Welliver began his campaign.

As one of the editors of a Washington newspaper he assailed the trust in a series of powerful articles. The material he brought to bear in that great newspaper fight is reflected in the pages of the CONGRESSIONAL RECORD during the tariff session. It provided the ammunition, the leadership, and the inspiration for the antitrust Senators who made the contest against the Aldrich-Smoot sugar-trust Mormon-Church sugar schedule. That fight brought the trust nearer to defeat than it has ever found itself in a tariff-making bout. On the critical roll call a change of four more votes would have rejected the trust schedule.

DENIALS FROM BEET-SUGAR COMPANIES.

The German-American Sugar Company, of Bay City, Mich., Mr. Carman N. Smith, of the Owosso Sugar Company, of Owosso, Mich., and Mr. James Davidson, of the Mount Clemens Sugar Company, of Mount Clemens, Mich., write the editor of Hampton's that the trust holds no interest in their companies, as charged by Mr. Welliver.

Very good. There have been so many denials which have been undenied later that the beet-sugar situation is momentarily rather foggy. Hampton's thoroughly sympathizes with any innocent beet-sugar company which is suspected of connection with the trust, and gladly gives space to record the denials of the German-American, the Owosso, and the Mount Clemens.

The Department of Justice is moving promptly in its investigation, and when this is completed we will be in a fair way to understand the precise status of each beet-sugar concern.

However, the Menominee River Sugar Company, another Michigan beet-sugar concern, also wrote Hampton's indignantly denying its connection with the trust. Unfortunately, in the trust's report published on January 13, the Menominee Sugar Company is given "as one of the beet-sugar companies in which the American Refining Company is interested." The bosses of the trust apparently have no hesitancy in placing their subsidiary associates in a most unpleasant position.

MR. WELLIVER'S PRESENT ARTICLE.

Some weeks ago the newspapers presented the information that the sugar trust had "reformed." It was said that various old members of the organization had resigned. The inference was plain that a new crew had taken charge and that the old practices were things of the past.

Mr. Welliver's article this month shows that the reform is far from complete. The trust is still persisting in its old policy of "misrepresentation," to use a very charitable word, and Mr. Welliver herewith gives it another opportunity for another burst of frankness such as that relative to beet sugar.

On January 12, 1910, the American Sugar Refining Company (the trust) held its annual meeting. The next day the trust published in its annual report, over the signature of Secretary Charles R. Heike, the following:

"This company has no interest whatever, either directly or indirectly, in Cuba, Porto Rico, Hawaii, the Philippine Islands, or in any foreign country; it does not share in the advantages that owners of sugar plantations in these countries may have in sending sugar to this market."

Let us see whether that statement is as truthful as the new and uplifted management of the trust evidently desires its pronouncement to be regarded. Down near the end of this report occurs the following:

"The company also own one-quarter of the capital stock of the National Sugar Refining Company * * *."

Now, the National Sugar Refining Company was organized by Henry O. Havemeyer, was dominated by him throughout his lifetime, and is universally recognized as a subsidiary of the trust. Its business methods are so entirely identical with those of the trust that, following the recent discovery of the trust's frauds against the customs at New York, the National Sugar Refining Company was found to have been defrauding the Government by similar methods. The trust paid back to the Government a vast sum, and immediately thereafter the National was forced into negotiation with the Government prosecutors for the purpose of making like restitution on account of similar frauds against the customs.

James H. Post was made president of the National Sugar Refining Company by Henry O. Havemeyer in the earliest period of the National's existence, and has continued president from that time to this. The National is known throughout the sugar trade and in financial quarters as a subsidiary of the trust. The relationship has been denied from time to time, but the statement in the trust's own report of January 13, 1910, that it owns one-quarter of the capital stock of the National puts an end to all possibility of further denials. The National is a confessed subsidiary of the trust.

It is largely through the National group that the trust interests in Cuba have been developed and are now held. Mr. Post and his associates in the directory of the National Company are put forward as officers, directors, and engineers of the trust properties and corporations in Cuba.

This is not the only evidence of trust ownership in vast Cuban properties. On the day the trust issued the statement admitting its interest in the National it elected a new board of directors. In this board appears Edwin F. Atkins, of Boston, as one of the new and "reform" directors. Mr. Atkins is another link between the trust and the Cuban producing interests. This is proved by the fact that on November 17, 1908, Edwin F. Atkins appeared before the House of Representatives Committee on Ways and Means, which was drafting the Payne-Aldrich tariff measure, and there represented the Agrarian League of Cuba and the Economic League of Business Organizations, also of Cuba. Mr. Atkins proceeded to explain that he held large sugar manufacturing interests in Cuba and was naturally concerned about the tariff. Yet to-day he is a member of the trust's board of directors.

Mr. Atkins's appearance before the Ways and Means Committee illustrates to perfection how the trust's interest in Cuba has given the trust power to select the people who shall appear as spokesmen for Cuba and to put in their mouths the arguments they shall use in connection with tariff making. Readers who recall our exposition of the trust's methods of compelling officers of beet-sugar companies to appear as representatives of the beet-sugar industry, when in reality representing the trust, will have no difficulty observing the parallel between the trust's control of beet sugar and its annexation of the sugar industry of Cuba.

The truth is that the sugar trust under Havemeyer began years ago systematically to gather up interests in Cuba.

It organized first a West Virginia corporation, whose especial function was to invest trust money in Cuba.

Later the Cuba-American Sugar Company of New Jersey was formed as a holding company for trust interests, and to-day owns a string of the finest sugar properties in the island, supervised and managed through the National Sugar Refining group. The trust ownership of one-fourth the stock of the National demonstrates how misleading is its statement that "this company has no interest whatever, either directly or indirectly, in Cuba, Porto Rico, Hawaii, the Philippine Islands, or in any foreign country."

The purpose of the present article is to explain the origin and development of these trust interests in Cuba, to show how they fortify the trust monopoly of the American market, and to explain how the trust controls legislation affecting sugar, to the detriment of the American consumer, the American beet-sugar manufacturer, and the Cuban sugar producer.

ONE OF HAVEMEYER'S BIGGEST OPERATIONS.

The United States drove Spain out of Cuba in the name of humanity.

The sugar trust has annexed Cuba to its domain in the name of the almighty dollar and by the aid of the tariff.

Nowhere in the business career of Henry O. Havemeyer are the bigness and force of the man better displayed than in his Cuban campaign. In 1898 he saw Cuba menacing the very existence of his trust. When he died, a few years later, he left the trust in such effective control of Cuba that it was able to run its chief Cuban representative for President of the Cuban Republic!

Havemeyer was the sort of big business man that the country needs to study just at this juncture. He considered government an adjunct to business. Its real purpose, in his mind, was to serve business. He utilized government favor to make money, and used the money to corrupt government into giving him more favors that would make still more money with which further to corrupt government.

Havemeyer refused to recognize the impossible. He saw that the tariff could be the means of making profits for him. He went into politics and bought, with princely campaign contributions, the privilege of writing the sugar schedules of the tariff.

He saw that beet sugar possessed a vast political power which he needed. He went to war with beet sugar, conquered it, annexed it, and put it forward as a mercenary to fight his battles.

He found Cuba knocking at the door of the American Union, and he knew its admission would mean disaster to him. He kept Cuba out, and then proceeded to subjugate it as he had subjugated beet sugar.

Havemeyer had one ambition—to be the world's king of sugar. He must control political parties and national administrations. He must be a power in international affairs. He must dictate the relations of this country to Cuba, and he knew no more effective way than to control both the Washington and the Habana governments.

He was, with all his determination and force and courage, a man of the stone age. He knew nothing of the delicate arts of diplomacy. He believed that anything worth having was worth buying, and that anything could be bought if you put the bid high enough. He knew no other way of getting what he wanted—things or men.

A low and brutal conception, indeed. But it was good enough to serve his purposes, to win his battles. No other man in our country has been so bold and unscrupulous in adherence to that theory. His management of tariff legislation at Washington, his handling of relations with Cuba, his establishment of a dominating financial and political interest in Cuba, present him in phases of which thus far we have seen little. But the analysis of these activities demonstrates at last merely the uniformity of his reliance on corruption as a means to gain his ends. He knew no other weapon. That he could achieve so many and varied purposes with that one instrument is the most depressing thought in connection with the story which is now to be developed.

If Cuba had been annexed to the United States following the war of 1898, and if the Constitution's guaranty of unrestricted trade among the various parts of the country had been extended to her, that would have been the deathblow to the trust. For the trust's life depends on maintaining a tariff adjusted delicately and skillfully to the purpose of keeping out all refined sugars and giving the trust special privileges in the importation of raw sugars.

The trust did not want Cuba given free trade with the United States. To that extent its interest was identical with the interest of the beet-sugar industry. But the trust did want the Cuban tariff so adjusted as to give the trust a large advantage in importing raw sugar from Cuba. In this the trust and the beet-sugar interests separated.

Therefore it became necessary for the trust to seize the beet-sugar industry, put trust arguments into the mouths of men who pretended to speak solely for beet sugar as a home industry, and send them to Washington to fix the Cuban tariff. Congress fell into the trap, some of the legislators knowingly and willingly, some of them innocently. The beet-sugar lobby pretended to be innocent of trust control. It protested hostility to the trust. And thus protesting, it got just what the trust wanted in the Cuban reciprocity arrangement of 1903.

Under that arrangement, Cuban products were admitted to the United States at 20 per cent reduction from regular tariff rates. The trust got raw sugar from Cuba at a duty of about 1.33 cents per pound, whereas the full duty would have averaged about 1.65 cents. The difference, one-third of a cent, was in theory intended to benefit the Cuban planter by giving him that much more for his sugar. In actual operation, however, the trust has absorbed most of that one-third of a cent, taking it out in enlarged profits.

We are bringing in over 1,250,000 tons of sugar a year from Cuba. That means 2,500,000,000 pounds. The trust's grab is about one-fifth cent per pound on that amount, or an annual addition of over $5,500,000 a year to its profits.

If any reader is innocent enough to ask what the American consumer got out of it, he must be told once more that the consumer never gets anything that the trust can keep from him. The Cuban reciprocity arrangement ought to have helped the American consumer and the Cuban planter. Instead, it helped the trust to the big slice, the Cuban to the thin one, and the consumer to nothing.

SUGAR TRUST MANIPULATION OF CONGRESS.

The tariff and Cuba are necessarily parts of the same story of sugar-trust manipulation of Congress, a story reflecting the perfection of corrupt methods. It shows how Congress is induced to serve special interests instead of the people. It is the narrative of a succession of marvelous grabs of almost uncounted millions by the trust, through the connivance of some and the ignorance of other elements in Congress.

Long before the war with Spain the sugar tariff had been regularly dictated by the trust. The people were misled in 1890 to believe they had won a great victory by getting raw sugar placed on the free list, when in fact the necessities of the trust at that particular period made it especially important that raw sugar be free. The greatest competitor of the trust at that time was Spreckels. He was in control of most of the raw sugar from Hawaii, which was given free admission at American ports under a reciprocity treaty. Therefore it became necessary for the trust temporarily to get all raw sugar admitted free, in order to place itself on an equality with Spreckels. It got just that in the McKinley bill of 1890. Getting that, it destroyed Spreckels's advantage, and in less than a year thereafter had subdued Spreckels and secured control of his refineries.

This business of the trust's manipulation of the tariff is one of the rottenest in the whole history of legislation in this country. Take the McKinley Act, giving the trust free raw sugar simply because the trust needed it in order to crush out competition. It was not possible for the trust's friends to muster votes enough to carry free importation of raw sugar until they had promised a bounty of 1½ cents per pound on sugar of domestic production. Free raw sugar, it was feared, would kill the beet and the Louisiana cane production. So the bounty was given as the price of free sugar for the trust.

Now, when that bounty was given, every lawyer in Congress knew the Supreme Court was almost certain to hold it unconstitutional. Nobody knew it better than the sugar trust lawyers. But that was not the point with them. They knew it would require two or three years for a case to get to decision by the Supreme Court. Meanwhile the trust would be getting its free raw sugar and using it to kill off Spreckels. He would be comfortably dead by the time the bounty could be finally adjudicated.

And so it turned out. From the day Spreckels saw his competitor getting free sugar, he lost his nerve. He presently sold out to the trust and left it in complete control. Then the bounty case was pushed through the courts, and sure enough the bounty was held unconstitutional. The court said it was a plan of taking money from one class of people to give to another class, and was wrong.

Too bad the court can not apply that same reasoning against the trust! Our laws have taken hundreds of millions away from the people to give to the sugar trust. The thing is going on right now, with the American public paying about $100,000,000 a year more for sugar than it ought, in order that the trust may have its bloated profits on watered stocks with which to corrupt the customs, Congress, the railroads, and political parties.

So the trust got free sugar when it was needed and killed its last competition. Then it got ready for a new manipulation. It would cause the tariff to be restored, and it would profit hugely by this operation.

HAVEMEYER'S POINT OF VIEW.

To many of us, the Congress of the United States seems an impressive, dignified thing—a ponderous institution that is too big for one man to manipulate. Mr. Havemeyer towered above us common people as a giant among pygmies—no, that comparison is not expressive. Mr. Havemeyer was bigger than all the rest of us combined. He regarded Congress as a manufacturer would look upon one department of his shop; or, perhaps, as an Irish section boss regards his half dozen Italian laborers.

You and I cast our little ballots for the Congressman nominated by our bosses, and we think we are American citizens exercising our right to govern ourselves. Our Congressman seems a very important man—to us. And our Senator—well, he is one of the biggest things in our State.

The Havemeyer view of our heroes is from another focal point. Usually they are of such tiny size that the Havemeyer type of boss can not see them as individuals; he can visualize them only in groups.

The man whom you and I have sent to Washington to represent us—to look out for our interests, to secure legislation that will enable us to live better and more comfortably—these men Havemeyer handles as if they were little wooden manikins. (Havemeyer is dead now, but fear not! Others have carefuly learned the game he taught them.)

There is no matter of party politics involved in this; I wish there was, for then we could vote for the party which opposes the Havemeyer type of business-political boss. As matters stand, Republicans and Democrats are tarred with the same stick, or sweetened from the same barrel, as you choose to put it. Your Congressman may be an earnest Democrat at home, and mine may be a dyed-in-the-wool Republican, but at Washington both of them vote as the Havemeyers tell them to vote.

So when Havemeyer wanted a tariff on sugar he arranged with Congress for it. When he wanted no tariff, an obedient Congress responded to his wish. Then, later, when he decided that he had enjoyed no tariff long enough, he instructed Congress to make another tariff law, and Congress promptly obeyed.

Let us see if history does not bear out my statements.

The campaign of 1892 resulted in Mr. Cleveland's election. It was certain, long in advance, that if Cleveland won there would be tariff revision. The sugar trust did not care about tariff revision in general, if it could only make the sugar schedule to suit itself. That was the really important thing.

The trust, to make assurance doubly sure, contributed liberally to both campaign funds that year. The contribution to the Democratic fund has always been popularly placed at $500,000. That contribution was the price of the privilege of "fixing" the sugar schedule to suit the trust if the Democrats should win. The big contribution to the Republican fund was payment in advance for the same privilege if the Republicans should win. You may observe that Mr. Havemeyer was thoroughly nonpartisan.

Well, the Democrats won, and Congress met to revise the tariff. It soon came out that powerful forces were insisting on a duty on sugar. The trust wanted it just as high as possible. There was a tremendous roar of protest from the country, but the big Democratic politicians, who had raised the campaign fund, stood by the trust, and in the end they won. A duty of 40 per cent ad valorem was imposed, and the wicked Dutch standard of color was retained in the law.

SENATORS' PROFITS IN SUGAR-STOCK SPECULATION.

It was a scandalous affair, and the whole country knew it. The newspapers printed startling stories of Senators dealing in sugar stocks and making big profits overnight while the bill was before the Senate. Henry O. Havemeyer, head of the trust, and a fine entourage of lobbyists and manipulators made headquarters at the Arlington Hotel in Washington. The sugar schedule was the pivot of the whole situation. Senator Gorman, chairman of the Democratic national committee, flatly declared there could be no legislation unless the sugar schedule was "right," which meant unless it was satisfactory to the trust.

The scandals became so serious that at length the Senate was actually forced to investigate itself. The charge was made that Senators friendly to the trust were making big money speculating in trust stocks. Senator LODGE introduced a resolution demanding the investigation. A committee was appointed, with LODGE as chairman. It took testimony which filled over 1,000 pages and examined every member of the Senate.

Matthew Stanley Quay said flatly that he had dealt in sugar stocks and had made some money in them; and people who did not approve it might disapprove if they wanted to!

Senator John R. McPherson, of New Jersey, was confronted with a telegram bearing his name ordering a purchase of sugar stocks for his account. He told a most edifying story of writing the telegram, deciding later not to send it, and of how his butler carelessly discovered it on the desk and sent it, much to the embarrassment of the Senator! Pressed for details as to the financial results of the transaction, the Senator admitted that he had come out something to the good; but he really was disgusted with the butler for it!

There was a New York broker in the Havemeyer menage at the Arlington Hotel during that busy season, whose business was receiving and placing orders for sugar securities—so it was alleged. This broker—E. H. Chapman by name—was summoned and declined to produce his books to show his transactions. Two Washington newspaper men, John S. Shriver and Elisha J. Edwards, who had printed articles charging scandalous things in the relations of the sugar lobby to statesmen, were examined, and refused to tell their sources of information. Henry Havemeyer was likewise recalcitrant; he would answer no questions that might involve himself or public men.

Proceedings were brought for contempt against these unwilling witnesses. Havemeyer and the newspaper men were held by the supreme court of the District of Columbia to be within their rights in refusing to testify, and were set free. Chapman was held guilty of contempt and went to jail, where he served two months; but he did not tell anything.

And that was the net result of a very solemn-looking effort to get at the inwardness of the most scandal-fogged tariff performance that Washington ever saw! The trust got the tariff "fixed" as it wanted; a few Senators admitted dealing in trust stocks; a broker was locked up for a short time; and President Cleveland, declaring it was "perfidy and dishonor," refused to sign the tariff act, which became law without his signature.

Out of all that scandal, the sugar trust made profits of millions, by rushing in vast stores of sugar while it was still free of duty, to be refined and sold with the tariff added after the new law was in effect. That is the trust method. Will the common person—the mere consumer—be able to guess who paid the increased price which made up those millions for the trust?

HAVEMEYER'S $25,000,000 PROFIT ON THE DINGLEY BILL.

So much for the revision of 1893. It was a good thing for the trust, but it was not a circumstance, when it comes to loot, in comparison with the results attained in 1897, when the Dingley law was passed. The story of the 1897 revision, and of how "Harry" Havemeyer cleaned up an easy $25,000,000 at the expense of the Government and the consumers, is still the bright peculiar classic of trust manipulation of the tariff.

It is perfectly easy to understand what "Harry" did to the tariff, and did with the tariff, of 1897. Precisely how he did it—what arguments he found potent to induce Senators and Representatives, supposed to represent the people, to betray that duty and vote $25,000,000 into the sugar trust's coffers, besides an annual increase of from $40,000,000 to $50,000,000 in the sugar tax on the consuming public, it is not so easy to tell. But here are a few things which are reasonably certain:

Marcus A. Hanna raised in 1896 the biggest campaign fund ever used in the country.

The sugar trust was one of the very biggest contributors, popularly believed the biggest contributor, to the Republican fund.

And "Mark" Hanna was a "square man."

The Dingley revision came right on the heels of the campaign of 1896. It found a duty of 40 per cent ad valorem on sugar. There was just one excuse for increasing it: Havemeyer wanted it increased.

To "pull off" an increase of the duty, and to be certain months in advance that he could do it, was the Havemeyer game in 1897. I can not tell the story better than in the words of a man in the sugar trade who told it to me.

"Havemeyer, following his experience in 1893," said my analyst of the Dingley-bill enterprise in tariff piracy, "never doubted that anything he wanted could be got from Congress. Why should he doubt it? He had not yet failed, and the job of 1893 had been a wonder.

"So he decided early that the tariff should be very much higher. Months before anybody else in the sugar business believed there would be an increase in the duty, Havemeyer knew it well enough to bet millions on it.

"The old tariff of 40 per cent ad valorem worked out at about four-fifths of a cent per pound. Havemeyer was determined to have this at least doubled, and furthermore, to increase the refiner's differential—that is, to make the duty on refined sugar so much higher than on raw

that he would be able to add a good percentage to his charge for refining.

"It was Havemeyer's plan to import all the sugar he could get hold of, at the old four-fifths cent rate, hold it till after the duty had been doubled, and then sell it, adding the increased duty to his price. It was the game of 1893 over again, but on a very bigger scale."

HAVEMEYER'S ADVANCE KNOWLEDGE ENABLES HIM TO CORNER THE SUGAR SUPPLY.

To do it required secrecy. If he should begin rushing in a vast volume of sugar before the tariff schedule was agreed upon, the public would see through the game and there would be such a protest as would make it impossible to get the raise. He must, therefore, keep secret the fact that he was cornering the world's raw-sugar supply until the tariff rate was fixed beyond recall.

Before anybody else knew there was going to be an increase, "Harry" had his agents in Cuba and all over the world quietly buying up all the sugar they could get and storing it. But he stopped bringing into the country any more than was absolutely needed to meet current demands of the market. The rest he held abroad. The only fact that was recognized in the trade was that Havemeyer seemed to be taking as little sugar as possible, apparently expecting a reduction in the duty.

Thus Havemeyer got the sugar supply surrounded before the truth developed that the duty was to go up, not down. Then he got Congress to provide that the new sugar schedule should not take effect till January 1, 1898, giving him half a year to rush into the country the immense amount he had bought at the old and lower rate of duty. But as soon as it was comfortably in, the higher duty would take effect, the trust could raise its price to the extent of the increase, and sell its immense holdings on the basis of the new duty.

He worked it thoroughly, systematically. He "skinned" the whole country of sugar during the later months of 1897. Every grocer was forced to scrape the bottom of bins and barrels to supply his trade. Havemeyer had quit selling, save in small quantities. He inaugurated something marvelously like a sugar famine. He was waiting for the new schedule to force the price up.

And all this time, with the country grocers, the city retailers, and the jobbers all clamoring for sugar, this magnificent gambler was bringing in, at four-fifths cent duty, the immense stocks he had quietly bought abroad, refining it—and holding it back.

The string of sugar ships which poured into New York during those months of sugar shortage was wonderful to see. They were rushed in from Cuba, Java, Porto Rico, Guiana, everywhere, unloaded in haste, and hurried back for more. Ships were specially chartered for the business; every detail had been attended to. Congress was adjourned, and there was no chance of the speculation being interfered with.

So January 1, 1898, found everybody wanting sugar, and the trust ready to supply it—at the new and higher price.

Let me figure it out for you. Havemeyer, by that turn, brought something like 800,000 tons of sugar in at the old duty of about 80 cents per hundred pounds, which he afterwards sold as if he had paid $1.68½ per hundred pounds, the average duty on raw sugars under the Dingley Act. That is, he made nine-tenths of a cent per pound off the tariff change; and if you give him credit for other manipulation, in bearing the West Indian sugar market, it was easily a cent a pound. Then he helped it some more by stripping this country of sugar at the close of 1897, and forcing the American price up. Altogether, nobody in the trade at that time doubted that Havemeyer made for the trust $25,000,000 out of the turn, and in addition he made millions for his personal account by dealings in sugar stocks, at which he was a past master.

There is the cynical, matter-of-fact way in which it is told by a man who knows the moves in that sort of a play as well as you know the way to your place of business. It was not at all remarkable, in the view of the blasé old sugar trader who told it to me. He had seen it done too many times. He knew that that sort of thing was the vocation of the sugar trust, its purpose in existence, its everyday business policy.

THE DANGER OF ANNEXATION OF CUBA.

The tariff of 1897 was passed when already there were threatenings of war with Spain, Cuba being the cause. Cuba is the greatest sugar territory in the world. It could supply the world with sugar, and not be closely cultivated. If there should be war, Havemeyer realized it would assuredly end in Cuba being wrested from Spain, American capital would pour into the island, which would become part of the United States. There would no longer be a tariff barrier to keep its sugar out. The enterprise of Americans would soon discover the fact that they could make more money on their sugar by refining it themselves, and sending the refined article to the United States, than by selling it raw to the trust for refining.

And that would spell ruin to the trust. Cuba must be kept out of the United States. If war could not be prevented, there must be assurance that Cuba would not be annexed.

And so Congress, right at the moment when the country was plunging into war, passed a resolution which pledged to the world the faith of the United States that Cuba was not to be annexed!

It was a fine, altruistic assurance to the world that we would not engage in a mere war of conquest. No, indeed; the great Republic's heart bled for the woes of a neighboring people. They were to be freed from the yoke of the oppressor, and set up as an independent nation!

Noble thought! Thrice noble, when you figure out that that resolution was the thing that kept Cuba out of the Union, and saved the sugar trust from the ruin which unrestricted importation of Cuban sugars, raw and refined alike, would have brought to it!

So the sugar trust won the first round. Cuba could not be annexed because the Nation's faith had been pledged to the world—and the trust—not to annex.

WHY WE DID NOT OPEN OUR MARKETS TO CUBA.

But it was a ticklish business. Public opinion, after the war, was insistent on giving Cuba a "square deal." The people of the United States needed Cuba's cheap sugar. Cuba needed the market of the United States. We were bound to help Cuba better her material condition. Even if we were pledged not to annex, we could still give Cuba the great boon of free trade with the United States—open wide to her sugars the greatest sugar market in the world. It would help Cuba and help us, so why not?

Why not, indeed, save that the trust was not prepared for that turn!

And just as we did not annex, so likewise we did not open our market to Cuban sugar. Havemeyer and his allies in Congress and in the beet-sugar business fought off the Cuban menace, and succeeded in preventing any important concession to Cuba. True, in time Roosevelt wrenched from a reluctant Senate the confirmation of a treaty which permitted Cuban products to come into the United States at 20 per cent reduction from Dingley rates. But it did not give Cuban refined sugar any comparative advantage; as the old differential was retained, it merely allowed Cuban raw sugar to come in cheaper. And the sugar trust reaped the benefit.

This arrangement was satisfactory enough for the trust; but its permanency could not be relied upon. Cuba might fall as an independent nation and finally have to be taken into the Union. Cuba is liable at any time to disturbances that will force its annexation. Annexation would give its sugar free admission at our ports; and that would ruin the trust unless the trust was itself intrenched in Cuba, and a big enough producer of sugar to dictate terms to all the others.

As soon as he realized this, Havemeyer acted. His representatives began buying sugar lands and estates in the island and loaning money to planters. To-day, a single corporation with about $13,000,000 capital extant owns a string of splendid Cuban sugar estates. This is the Cuban-American Sugar Company, a New Jersey corporation, practically a holding company for trust interests in Cuba. Here is what Moody's Manual of Railroads and Corporation Securities (1909) says about this company:

"Cuban-American Sugar Company, incorporated 1906, in New Jersey, as a holding company. Owns the entire capital stock (except shares necessary to qualify directors) of the following:

"The Chaparra Sugar Company, the Tinguaro Sugar Company, the Cuban Sugar Refining Company, the Unidad Sugar Company, and the Mercedita Sugar Company. Also over 95 per cent of the bonds and stock of Colonial Sugar Company. Estimated annual capacity of production, 150,000 tons of raw and 60,000 tons of refined sugar.

"Capital stock, authorized, $10,000,000, 7 per cent cumulative preferred, and $10,000,000 common; outstanding, $6,295,000 preferred and $6,496,100 common; par, $100. Dividends on the preferred stock have been paid as follows: July 1, 1907, 3½ per cent; June 1, 1908, 7 per cent; August 10, 1909, 1¾ per cent, covering the period to July 1, 1908, up to October 1, 1909, 8¾ per cent of accumulated dividends remained unpaid. Authorized bonded debt, $10,000,000."

It is possible to make a fairly accurate estimate of the Cuba sugar properties which are dominated by the refining interest of this country. Here is a list of the largest estates:

	Acres in cane.	Cane land owned.	Tons sugar produced.
Chaparra Sugar Co	35,000	200,000	70,000
Colonial Sugar Co	6,500	55,000	13,000
Cuban Sugar Refining Co	7,500	8,000	15,000
Mercedita Sugar Co	4,500	5,800	9,000
Tinguaro Sugar Co	11,000	18,000	22,000
Unidad Sugar Co	7,000	----------	14,000
Guantanamo Sugar Co. (three estates owned)	17,000	55,000	35,000
San Manuel Estate	8,000	60,000	9,000
Unidad Sugar Co	6,000	----------	13,000
Cape Cruz Sugar Co	6,000	----------	13,000
Nipe Bay Sugar Co	22,000	127,000	50,000
Niquero Sugar Co	5,000	----------	10,000
Brooks & Co. (Romelie estate)	4,500	----------	9,000
Francesco Sugar Co	6,000	----------	15,000
Total	146,000	528,800	207,000

The 297,000 tons listed in the foregoing is recognized as directly controlled by the refiners. It is about 20 per cent of the annual export. It dominates the whole Cuban situation because Cuban sugar has only one market. It must come to the United States. This for the reason that, when Cuba secured a concession from the regular rates of the United States tariff, it subjected itself to the countervailing or discriminating tariffs of European countries and Canada. In order to get into the United States at less than our regular duties, Cuba agreed to let products of the United States into Cuba at a like reduction from the regular Cuban tariff.

That gives the United States an advantage in Cuban markets, as against European countries. The European countries retaliate by raising their duties as against Cuba. This discrimination drives Cuba entirely out of Europe and compels her to sell her sugar in the United States. Cuba must sell in the sugar trust's market, and at its price.

Sugar is the great industry of Cuba. It brings the money, employs the people, overshadows the whole industrial fabric. Cuba prospers when sugar prospers, and is depressed when sugar is depressed. Credits, land values, employment, everything depends on sugar.

Have I exaggerated, then, in charging that the sugar trust has for all practical purposes annexed Cuba? It has done everything but give the word to Congress. Cuba will come into the Union when the sugar trust gives the order.

Through its great chain of estates, the sugar trust is far and away the most important and extensive grower of sugar in the island. Its estates now produce somewhere from one-sixth to one-third of the total Cuban output, and its vast holdings of undeveloped land would enable it to increase that production indefinitely, so as to maintain control of the situation, in case changes of tariff relations should make it necessary.

THE TRUST'S POLITICAL ACTIVITIES IN CUBA.

With this survey of the trust's magnificent properties in the island, we are ready to turn to the consideration of the political power it has built about these properties. This brings into our story Mario G. Menocal, creator and manager of the Chaparra sugar estate, one of the ablest men in Latin-America, late candidate for President of the Cuban Republic, and possible President at any time in the future when the trust shall have riveted its hold on the politics of the island.

The Chaparra estate is one of the wonders of the Tropics, and it is the monument of Menocal. He bought the land for it, mostly virgin jungle, cleared it, built the railroads to open it, put it under cultivation, and runs it with a fairly military organization.

Menocal's story is the whole story of the sugar trust's purposes in Cuba. He was a general in the insurgent armies in the revolution which forced American intervention. The trust took him up when it set about to develop a chain of estates in the island. In the years since the Spanish-American war, Menocal has held firmly his grip on the affections of his old fighting comrades, the Radicals of present-day

Cuba. At the same time his business success and his association with the great American interests in the island have secured for him the confidence of the capitalistic and conservative classes.

MENOCAL'S CANDIDACY FOR CUBAN PRESIDENCY.

Without doubt Menocal is one of the ablest Cubans in the island. He would do credit to any executive position. He is educated, able, experienced, wealthy, successful. The sugar trust became convinced that he was just the right man with whom to carry to a fine fruition its magnificent scheme for the complete control, the formal annexation, of Cuba to its industrial empire.

It would elect Menocal President of Cuba!

The project was carefully set on foot. The uprising of August, 1906, was carefully planned and financed; mark you, I am not saying who planned and financed it, but nobody intimate with Cuban affairs has ever questioned that there was a good deal of outside inspiration.

That uprising soon developed such grave symptoms that the United States was forced to interfere. Troops were sent to the island, Charles E. Magoon was made governor, and Washington took charge of the administration.

Under American control order was restored, and in due time it was announced that the Cubans would be allowed to have an election, choose a new government, and resume control of their affairs.

That was the moment for the Menocal boom to be sprung. He was brought out as the business man "willing to sacrifice himself for his country." He was presented as a splendid patriot who had fought and bled for independence. And he had, too, for the matter of that. He was the man who would "inspire confidence abroad."

So Menocal was duly nominated by the Conservative party. General Gomez, the old revolutionary leader, who had been more prominent in the world's eye, but was hardly better known in Cuba than Menocal, was the candidate of the Radicals.

It looked like an easy matter for the trust candidate. His sugar connection was kept in the background by his supporters, but the opposition soon brought it forward.

The cry that went up against sugar trust domination was presently the one issue of the campaign. The Cubans do not love Americans, especially the American trusts that are exploiting them. The island rang with denunciation of the trust's scheme to get control of the government.

Menocal was a good fighter, and, true to his obligations as a sugar-trust candidate, he opened a fine campaign fund. He denied all charges most indignantly. He declared that if elected he would be President strictly on his own account, and not ask the aid or consent of any trust on earth. He appealed eloquently and feelingly to his old comrades in arms to believe that he would not betray his country to the hated American monopoly.

But it was of no use. The fear and hatred of the sugar trust overbore everything else. The people had seen ten years of sugar-trust methods in their island. Menocal was overwhelmingly defeated. The "best people" of Cuba lost control of their Government. But the "people" retained it. The trust had failed.

Unless all signs fail it will try for the presidency again. With Cuba so important a factor in its scheme of things, it will never be satisfied till it controls Cuban politics.

It has seemed worth while to tell this story of trust expansion, industrial, financial, and political, in Cuba, because it is such an illumination of the world-reaching ambitions of this combination. If the trust could control at Habana and at Washington, it would have its monopoly insured against whatever might happen. It has controlled at Washington ever since it was organized. It has made tariffs to suit itself. It has bought its way to mastery under Republican and Democratic administrations alike.

In the light of this plain story of sugar-trust exploitation of Cuba, need I refer again to that statement in the annual report that "this company has no interest whatever, either directly or indirectly, in Cuba * * *?"

WILL THE TRUST NOW MAKE ANOTHER CONFESSION?

We have seen the trust forced to admit its beet-sugar power, and we have seen it, in the same breath, put out a flat denial of interest in Cuba. Will it now, in the fact of this exposition of its Cuban situation, confess the truth as to Cuba also?

The sugar tariff led the trust into invasion of Cuba, just as the tariff led it to seize beet sugar, to debauch the customs, to destroy competition in refining, to invade American politics, to buy political favor with huge campaign contributions, and to corrupt legislation.

Always the tariff. We have seen the methods of handling tariff measures for the trust. We have studied the relation of the tariff to Cuba and to beet sugar.

But we have not yet told the great story of how the sugar-trust-Mormon-Church alliance made the sugar schedule of the tariff act of 1909. That is the culminating chapter in the whole tale of chicanery and intrigue, of dishonest manipulation and unholy alliance.

That story—the story of the real critical contest over the tariff act of last year—is reserved for our next installment.

It will be the graphic portrayal of one of the greatest legislative contests of recent years. It will expose for the first time the wonderful "joker" which, concealed in the phraseology of a schedule for a generation, confounded all attack and all analysis. It will tell how at last the truth was made as clear as sunlight. And it will then show the trick by which the sugar Senators won their desperately close battle to save the great trust. It will tell who fought for the trust and who against. It will be the up-to-the-minute view of the tremendous power the sugar combine was able to exert in Congress even at the very moment when its corruption and its defiance of all law were known to the whole world.

[From the New York Sun, Sunday, Nov. 7, 1909.]

THE CANCER OF A REPUBLICAN ADMINISTRATION.

The sugar trust, which is the most corrupt and rotten trust in existence, has achieved its repulsive eminence under the direct patronage and protection of Republican administration.

A Republican administration protects it to-day. HERBERT PARSONS, placed at the head of the Republican organization here as the direct representative of a Republican administration, represents the interests of the sugar trust. His father, John E. Parsons, is under indictment for the colossal frauds of which the sugar trust has been guilty. HERBERT PARSONS administers the Republican organization of New York to suit the convenience and the vicissitudes of the American Sugar Refining Company. Even a municipal election in this town can not escape the baleful sway of this vilest of corporations manifesting itself in the person of HERBERT PARSONS.

A Republican administration at Washington, in return for money and for other valuable considerations, sheltered the sugar trust from the consequence of its crimes, sheltered it so effectually that its directors escape the penitentiary only by the interposition of the statute of limitations. HERBERT PARSONS is at the head here of the Republican organization to perpetuate and to enforce this relation with the sugar trust. It is his only reason for having the political place he occupies. The whole political weight and force of the Republican political machine (of which the New York custom-house is an integral part) is now concentrated on the defense of the sugar trust, on commuting the penalties which it can not wholly evade, and affording it the opportunity to settle with the United States Treasury by disgorging $2,000,000 when it had stolen $30,000,000.

The men in Washington who deliberately debauched and betrayed the United States and prostituted the functions of the Government in order to secure immunity for the sugar trust are just as deserving of the penitentiary as John E. Parsons and his fellow-directors, if they are convicted.

A pertinent contemporary problem is: Which first instigated the crime of false weighing, the employees of the United States Treasury or the dishonest importers? Equally pertinent is the inquiry: Which side took the initiative in the criminal relations established between the sugar trust and the Republican administration at Washington?

How pitiable and despicable appears the petty pursuit of William Loeb's thieves and the cheeseparers when viewed in the light of the magisterial blackmail and extortion practiced at the very top with the enthusiastic indifference of a nation!

The late E. H. Harriman, he was in a tree, like Zaccheus, when he was called down.

Mr. FITZGERALD. How much time is remaining?

The SPEAKER. There is five minutes remaining.

Mr. FITZGERALD. I yield four minutes to the gentleman from New York [Mr. PARSONS].

Mr. PARSONS. I am quite sure, Mr. Speaker, I am correct in saying Mr. Henry W. Taft is not now in the employ of the American Sugar Refining Company. He was employed in one litigation brought by the Pennsylvania Sugar Refining Company, and its receiver. There were two suits. Mr. Taft is one of the best trial lawyers in New York. He was first retained in that litigation, I think, about four years ago, three or four years, and he took part in the trial of a suit in chancery in New Jersey, where the defense was successful, and also in a trial in a suit in the federal court in New York, which was compromised finally. Those were both civil litigations. He has had nothing to do with the criminal prosecutions which are now pending. The clients that he represented in the civil litigation have all been indicted by the Government, and through the efforts of the Attorney-General, who formerly was his partner. I think I have made all the statement that I care to. If anybody wishes to ask me any questions, I would be very glad to answer them. I yield back the balance of my time.

Mr. FITZGERALD. How much time have I remaining?

The SPEAKER. The gentleman has three minutes remaining.

Mr. FITZGERALD. I yield two minutes to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP. Mr. Speaker, on the first day of this session I introduced a resolution directing an investigation by Congress of the frauds committed by the American Sugar Refining Company—the sugar trust—against the Government at the New York custom-house and elsewhere. My resolution called for a thorough and sweeping investigation, not only on the subject of defrauding the Government by false weights, but also as to the conduct of its business in restraint of trade and preventing competition by its rivals, through combinations and other illegal methods. It was a well-known fact at the time this resolution was introduced that certain employees had been indicted in the federal court for their felonious conduct in the perpetration of these frauds; it was also well known at that time that the company had been indicted for defrauding the Government out of revenues and had been fined $135,000, and had paid the fine; it was also well known at that time that the sugar trust had confessed to defrauding the Government out of more than $2,000,000 by short weights at the New York custom-house and had paid that sum into the Public Treasury; and it is pretty well known now that this same company has defrauded the Government out of a sum which there is good reason to believe will reach the enormous sum of $30,000,000, and still increasing as the facts develop.

This resolution was referred by the Speaker to the Committee on Rules, that "cavern of oblivion" where so many important public measures are consigned to everlasting repose. The committee has refused to act on the resolution, giving as an ostensible excuse therefor that the President in his annual message had advised against a congressional investigation, for guilty parties might secure immunity by such a procedure. It is now more than five months since the introduction of the resolution, and the five employees who were then under indictment have been tried, convicted, and are now all in prison serving their

punishment, and we hear little more of the case. No others have been indicted, much less tried and punished, and still the party in power declares an investigation might furnish immunity to parties higher up. When is it expected the proper time will be here to unearth and expose these scandals and the real fellows who committed them? Will it be after the statute of limitations has run and furnish a means of escape through this avenue? Is an investigation deferred now because we are just entering a great campaign and the exposures such an investigation would necessarily disclose would jeopardize the hopes of Republican success at the polls or endanger party success on account of the dishonesty it will expose in public office? Will it offend the great sugar-trust magnates and cause them to withhold support and campaign contributions?

The public expects and demands that these frauds and all who have been connected with and concerned in them be made public, and the guilty parties be brought to justice and punished.

Hear what one of the convicted employees says as he entered his penal service lamenting his fate.

I read an article from the Philadelphia Inquirer on the subject:

[From the Philadelphia Inquirer.]

A "GOAT" OF THE SUGAR TRUST.

There is something just a little bit pathetic in the complaint of Oliver Spitzer, former dock superintendent of the American Sugar Refining Company, that he has been made the "goat" of the trust. After he had faced the judge to receive his sentence he told how he had worked his way up gradually in the employ of the company to his position of superintendent, a place which paid him $55 a week. "Now, on the threshold of prison, I am practically a ruined man," he exclaimed. "The trust has ruined me. It deserted me in my hour of trial. That is my return for my industry and devoted service." And he added that he had been made a victim to save those "higher up."

No doubt that is true. Petitions were sent to the judge urging clemency, but the court demanded two years in the penitentiary at Atlanta as the penalty for his crime, that of cheating the Government by false weights. The court held that if Mr. Spitzer had desired clemency he should have told all he knew in order that men "higher up" might have been brought to account.

In his prison cell Mr. Spitzer will have time to ponder over the query whether it pays in the long run to protect men "higher up," who have no thought except to save themselves and are perfectly willing to sacrifice their tools.

He was the tool of the sugar trust, and knows who the real culprits are in this high-handed, felonious plunder of the Public Treasury. He was not alone. He was an employee, on a small salary, and not the real beneficiary of his unlawful conduct. This great fraud could not have been carried on for years, producing millions for the employers, without knowledge on their part of its perpetration. It swelled their receipts enormously, increased their fat dividends, advanced the price of their stock, and added to their already abnormally large profits. They knew it and aided and abetted it. They were the real parties in the commission of the crime, and should be punished.

Here I again read an editorial from the Philadelphia Inquirer on the subject of their complicity in this matter:

[From the Philadelphia Inquirer.]

THE MYSTERY OF THE SUGAR FRAUDS.

So it seems that the sugar trust is not alone in waxing fat at the expense of the Government. Because of underweights and undervaluations the trust has paid $2,135,000 into the Treasury of the United States. But while the rascality at the trust's wharves was in progress, the great independent concern of the Arbuckles was benefiting through underweights, and it has settled up with Uncle Sam to the tune of $695,573. Finally, we have the National Sugar Refining Company under investigation and with a prospect of stepping up to the captain's office and paying over a goodly amount.

There is something decidedly entertaining in the manner in which Mr. Post, president of the American company, discusses the discoveries of the Government's agents. So far as Mr. Post knows, neither he nor the treasurer of the company nor any other official has ever paid out one cent to procure underweights. Indeed, "the executive officials of this company," he says, "have no cognizance of the fraud said to have been perpetrated with enormous benefits to our concern. What subordinates may have done is another matter. I do not know anything about that."

And herein lies the absorbing mystery of these sugar frauds. With one voice the higher officials of all the companies involved in practicing systematic fraud extending over several years lift their eyes unto heaven and plead innocence and ignorance.

But while they are thus pleading, we wish that they might be a little more explicit. Here is the question which none of them has answered satisfactorily: What interest could subordinates have in cheating the Government out of its just dues when the profits of their crimes went to the companies exclusively?

If subordinates were not paid for their underhand work, then we must presume that they cheated for the very love of cheating, for they could not possibly benefit financially if men "higher up" did not appreciate what they were doing and did not know, in fact, what was being done.

Such devotion to the interests of stockholders on the part of subordinates is quite unheard of. The problem is too much for us. We give it up.

But perhaps the Government will not feel like giving it up until it probes around a bit longer.

It is apparent to everyone that the officers had full knowledge of the illegitimate conduct and were parties to it and participated in the profitable results.

The commission of these great frauds was not confined to the American Sugar Refining Company alone. Others took part in robbing the Government of its revenues and looting the Public Treasury in the same manner.

Arbuckle Brothers have confessed and paid back into the Treasury $695,000. How much more they owe is not known, but this large amount they admit, and have paid it over to the Government.

I read an account of their complicity in this public robbery from a New York dispatch:

[From the New York Press.]

NEW YORK, *December 15.*

Arbuckle Brothers, generally credited with being the largest independent rivals of the American Sugar Refining Company, have acknowledged that from 1898 to 1907 they, too, failed to pay to the Government all the money due as customs charges on imported sugar.

In settlement of all civil claims against them the Arbuckles have offered, and the Treasury Department, with the concurrence of the Attorney-General, has accepted payment of $695,573. But criminal prosecution of those responsible will in no wise be hampered or conditioned by this acceptance.

The Government has now received the following voluntary restitutions and fines from importers of raw sugars:

The American Sugar Refining Company (voluntary), $2,000,000.

The American Sugar Refining Company (fine imposed by the court), $135,000.

Arbuckle Brothers (voluntary), $695,573.

Total recovered, $2,830,573.

To-day's announcement of new irregularities in the sugar industry, ramifying into quarters never suspected by the public, was made during a recess of the criminal trial of six employees of the American Sugar Refining Company.

CASE PENDING BEFORE JURY.

Messrs. Stimson and Dennison, special counsel for the Government, then gave out a statement in part as follows:

"In June last we commenced an investigation as to the weights on which duties were paid on sugar landed on the docks of the sugar refinery of Messrs. Arbuckle Brothers, in the port of New York. The members of that firm voluntarily gave us access to their books, and a thorough investigation was made of those books and of the custom-house records.

"As a result a shortage was reported to the members of the firm, and as soon as they had verified the Government's figures they voluntarily offered to pay this sum, without suit, into the Treasury of the United States Government."

And still another confesses its iniquity in this nefarious business, this graft and public plunder. The National Sugar Refining Company voluntarily admits its participation in crime and pays over $604,304.37. I here again read from a New York dispatch:

$604,304 IN SUGAR DUTY—NATIONAL COMPANY'S REFUND MAKES $3,434,877 COLLECTED—OFFICIAL STATEMENT SAYS ACCEPTANCE OF THE MONEY DOES NOT PREVENT CRIMINAL PROSECUTION.

[Special to the Washington Post.]

NEW YORK, *February 9, 1910.*

The National Sugar Refining Company, the $20,000,000 corporation in which the sugar trust holds stock, has paid into the United States Treasury $604,304.37, which the Government has proved to the satisfaction of the National was owed in duties on underweighed sugar imported by that company between 1898 and 1907.

The official announcement of the refund, as stated by Henry L. Stimson and Winfred T. Denison, the Government's special counsel in the customs cases involving the underweighing of sugar, says:

"This payment has been accepted by the Secretary of the Treasury, with the concurrence of the Attorney-General and on the recommendation of the Solicitor of the Treasury and the special counsel for the Government. This settlement in no wise affects the criminal prosecution of any individuals who may be shown to have been responsible for any criminal frauds."

James R. Post, president of the National Sugar Refining Company, refused to-day to discuss the situation in which his company found itself, nor would he say anything in explanation of the statement made by him last December that the stealing from the Government had been done, if done at all, without the knowledge or consent of any of the officials of the National Company.

The $604,304.37 turned into the Treasury by the National brings the total of payments made by the various sugar companies for short-weighed sugar importations and in one case a fine for short weighing up to, in round figures, $3,434,877. The American Sugar Refining Company refunded $2,000,000, and was fined $135,000, and Arbuckle Brothers made a refund of $695,573.

These amounts are confessed and paid into the Treasury. How much more is yet due? They have only admitted such as they could not deny. Now, five little employees have been convicted, the tools by which the fellows "higher up," the beneficiaries of this illegitimate work, who profited thereby, are all free and so far unmolested. While their tools languish in prison these big fellows go unwhipped of justice, and yet it is said an investigation might furnish to some immunity from punishment. It seems proper diligence is not used in this matter or prosecutions would be conducted which would bring the big fellows to justice. Is the Government sufficiently active in pressing this matter? In this connection it is proper to call attention to the fact that the Government has been investigating the matter for quite a while, and apparently with much caution—more, some fear, than bodes well for a speedy administration of justice.

And here in this connection I read the celebrated letter of the United States Attorney-General, which speaks for itself:

WASHINGTON, *Sunday, June 27, 1909.*

MY DEAR WISE: Senator ROOT has sent me the proof of a petition signed by Bowers, Milburn & Guthrie in support of their contention that the statute of limitations has run in favor of Messrs. Parsons, Kissel, and Harned. If the only overt acts done to carry out the objects of the unlawful conspiracy were those referred to in the brief, I should think they were insufficient to save the bar of the statute.

A strong effort will be made to-morrow to persuade the President to interfere in some way to prevent the indictments, but, aside from that, no indictments should be returned against anyone if there is no reasonable ground to believe they can be sustained; if, for instance, the offenses charged are clearly barred by the statute. I need hardly say this to you.

What I want to impress upon you is that if you have any reasonable doubt in the matter, you either have the grand jury ask the court for instructions or, if that is not feasible, that you advise the department of the specific charges on which you rely to save the statute before actually having the indictments brought in. You may telephone either to me or to Mr. Ellis, if I should be out of the department when you call, on this point.

GEORGE W. WICKERSHAM.

P. S.—As I am writing from my house and have no copy of this, will you kindly have your typewriter make and send me a copy?

Now, Mr. Speaker, this letter reflects but little commendatory of diligent action in this matter and is not calculated to inspire great confidence in support of a vigorous prosecution. Too much solicitude is manifested in it regarding the statute of limitations, a matter which should concern the defense rather than the prosecution.

What is true at New York regarding these frauds is true at New Orleans is now charged, and the public demands an investigation and the whole truth made known to the world.

But, sir, another phase of the sugar-trust manipulation deserves attention by investigation—the sale of the friar lands to the sugar trust. A resolution for this purpose has by a strict party vote just been tabled. It indicates the course of the Republican party on these important matters of public concern. No public message regarding this investigation from the White House intervened. These sugar frauds when sifted promise to surpass the great Belknap frauds of 1876, which shocked the Nation at their bold high-handed conduct and criminal plunder of the public revenues.

In the organic act creating the Philippine government it was provided that no person, company, or corporation could purchase over 2,500 acres of the government lands. The holdings of any one person, company, or corporation could not exceed this number of acres—a wise and wholesome provision under conditions existing there.

The Government purchased the friar lands, consisting of 390,000 acres, at $18 per acre. The sugar trust looked upon these lands with covetous eyes and selfish desires, because of their richness, cheap labor, and opportunities for cheap production. In the recent tariff legislation it first secured a provision that 300,000 tons of raw sugar should be admitted annually from the Philippine Islands free of duty. Securing this great concession, amounting to about $12,000,000 a year as a gift, it then negotiates with and purchases from the Government 55,000 acres of the best of the sugar lands contained in the friar possessions, as rich and productive for sugar production as there is in the world, for the paltry sum of $6 per acre—one-third of what the Government gave for them and about one-twelfth of their actual value. This deal was consummated within about four months after the approval of the law regulating the admission of that vast tonnage of Philippine raw sugar free of duty.

The War Department made the deal and the Attorney-General of the United States, the legal adviser of the Government, gave an opinion confirming the action and sustaining the title thus acquired by the sugar trust—an opinion which has been criticised as unsound by every disinterested eminent lawyer who has reviewed it and the statute upon which it is based. The basis upon which the opinion proceeds in disposing of this great body of the public domain for this insignificant price is that the friar lands were acquired after the organic act was passed, and for this reason the limitation of 2,500 acres did not apply—a new rule of statutory construction which no doubt is a revelation to lawyers, courts, and laymen. It should be properly named the "Wickersham rule of limitations."

Instead of protecting the public rights and the public property, both are thus frittered away to the "special interests" for their enrichment and to enable them to plunder the public and extort greater profits from the helpless consumers of the country.

In view of the well-known facts, the indisputable evidence, in both of these important matters of great public concern, there can be no good reason, I submit, for deferring an investigation by Congress longer and thoroughly sifting both of them. To deny it will arouse public opinion and create the belief that those responsible are covering up the real conditions, the enormity of the wrongs committed, and shielding the real culprits.

Let it be made now and let it be made in earnest, so that the public will have confidence in the result.

A resolution introduced by Mr. MARTIN of Colorado to investigate this questionable transaction has been voted down by the Republican majority in this House, and the investigation of this sale has been denied. The searchlight of truth should be turned on and the facts connected with it be given to the public in order that the whole truth may be known. This sale was made in violation of the plain provisions of the statute and against the best interests of the people, and the sugar barons should be made to restore these lands to the Government and the sale declared rescinded. By it they not only realize annually a net sum of $12,000,000 because of the product being admitted free of duty, but they have cleared an immense fortune in the purchase of these lands on account of the low price paid for them.

On account of existing conditions in those islands, raw sugar can be produced and loaded on board of ships for 60 cents per hundred pounds; the transportation charge from the islands to New York is 24 cents per hundred pounds; so that the sugar trust can produce raw sugar there on its valuable possessions thus acquired and deliver the same at New York at a total cost of 84 cents per hundred pounds.

The sugar trust has been the recipient of very valuable consideration at the hands of the Republican party, much to the detriment of the people of this country.

For the last twelve years under the Dingley law, and it remains practically unchanged in the Payne law, by virtue of the tariff alone it has realized a net profit which it has never earned, and which it could not have collected had it not been for the tariff on sugar of 2 cents a pound on every pound of sugar consumed in the United States, which has amounted for each year of the entire twelve to $143,000,000, and for the entire twelve years, $1,716,000,000. This is the sum the consumers of sugar have paid as tribute to the sugar trust because of the tariff on sugar, and this sum they would not have had to pay if there had been no tariff on sugar. This is the amount the sugar trust has been able to extort from the people by virtue of the tariff alone. By aid of the tariff, on one hand, it plundered the people, and by dishonesty, on the other, it defrauded the Government by false weights out of millions of revenue.

No crowd of bandits ever plundered or pillaged their victims more mercilessly than have the sugar barons the people and the Government during their reign under the legislation of the Republican party. Thirty million dollars is an enormous sum to embezzle from the Government by false weights. This revenue the Government needs, and the people expect it, to be recovered and the felons who have defrauded the Government promptly and severely punished. The five clerks who are now in prison for the commission of these frauds are not the only ones; the real felons in this matter, the men who managed and conducted the business affairs of these sugar companies are the real culprits and the parties who should be punished for these high offenses, and a searching investigation will disclose the facts, will turn on the light, restore the stolen revenues to the Public Treasury, punish the real offenders who profited by these frauds and vindicate justice. Let the guilty be brought to justice, full and complete exposure made, full and adequate restitution furnished for every wrong done in this matter. The public demands nothing more and will be satisfied with nothing less. [Applause.]

Mr. HILL. Mr. Speaker, a parliamentary inquiry——

Mr. FITZGERALD. Mr. Speaker, I move the previous question.

Mr. HILL. The resolution is now pending before the House——

Mr. PARSONS. Will the gentleman from New York yield me another minute?

Mr. FITZGERALD. Mr. Speaker, have I any time remaining? The gentleman from New York wants a moment.

The SPEAKER. The gentleman has one minute remaining.

Mr. FITZGERALD. I will give the gentleman from New York half a minute, as I will have to move the previous question in that time.

Mr. PARSONS. Mr. Speaker, it seems to be not well known that in the one case that was tried in regard to these sugar frauds that the directors of the American Sugar Refining Company voluntarily went on the stand and submitted themselves to cross-examination, and they argued that as they——

Mr. RAINEY. Will the gentleman permit a question?

Mr. FITZGERALD. He can not in the time he has——

Mr. PARSONS (continuing). They claimed that as they knew nothing about the frauds, no penalty could be imposed

upon the company. The judge ruled that it made no difference whether they knew anything about the frauds or not; that if the man on the dock knew about the frauds a penalty could be imposed upon the company.

Mr. HILL. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HILL. If the previous question is voted down, will the resolution then be open to amendment?

The SPEAKER. The gentleman understands——

Mr. HILL. It is a fair question, and I would like an answer.

The SPEAKER. The Chair would recognize the gentleman from Connecticut for a moment. What the gentleman from Connecticut would do the Chair does not know.

Mr. MADDEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MADDEN. If the previous question is voted down, would the resolution of the gentleman from New York be subject to amendment if the amendment did not change the privileged character of the resolution?

The SPEAKER. It occurs to the Chair that every Member of the House understands what the rule is. The proposition is subject to an amendment unless there is some motion made and carried to interfere with it. Then a motion for the previous question would bring the House to a direct vote without amendment. The question is on ordering the previous question.

The question was taken, and the Chair announced the noes seemed to have it.

On a division (demanded by Mr. FITZGERALD) there were—ayes 95, noes 121.

Mr. FITZGERALD. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 149, answered "present" 19, not voting 117, as follows:

YEAS—104.

Adair	Dickinson	Humphreys, Miss.	Rauch
Adamson	Dickson, Miss.	James	Richardson
Alexander, Mo.	Dies	Jamieson	Riordan
Anderson	Dixon, Ind.	Johnson, Ky	Robinson
Barnhart	Driscoll, D. A.	Jones	Roddenbery
Bartlett, Ga.	Edwards, Ga.	Keliher	Rothermel
Beall, Tex.	Floyd, Ark.	Kitchin	Sabath
Boehne	Foster, Ill.	Korbly	Shackleford
Booher	Gallagher	Lloyd	Sharp
Borland	Garner, Tex.	McDermott	Sheppard
Brantley	Garrett	McHenry	Sherwood
Burgess	Gillespie	Macon	Sims
Byrd	Glass	Maguire, Nebr.	Slayden
Byrns	Godwin	Martin, Colo.	Smith, Tex.
Candler	Gordon	Moon, Tenn.	Sparkman
Carlin	Graham, Ill.	Moore, Tex.	Stanley
Clark, Fla.	Gregg	Morrison	Stephens, Tex.
Clark, Mo.	Hardy	Nicholls	Talbott
Collier	Harrison	O'Connell	Thomas, Ky.
Conry	Hay	Oldfield	Thomas, N. C.
Cox, Ind.	Helm	Padgett	Tou Velle
Cox, Ohio	Henry, Tex.	Page	Turnbull
Cravens	Houston	Palmer, A. M.	Watkins
Cullop	Howard	Peters	Webb
Dent	Hughes, Ga.	Rainey	Weisse
Denver	Hull, Tenn.	Randell, Tex.	Wickliffe

NAYS—149.

Allen	Fish	Küstermann	Poindexter
Andrus	Focht	Langham	Pratt
Anthony	Fordney	Langley	Pray
Austin	Foss, Ill.	Law	Prince
Bates	Fuller	Lawrence	Reeder
Bennet, N. Y.	Gardner, Mich.	Lenroot	Reynolds
Bingham	Gardner, N. J.	Lindbergh	Scott
Boutell	Gillett	Loudenslager	Sheffield
Burke, Pa.	Goebel	Lowden	Slemp
Burke, S. Dak.	Good	Lundin	Smith, Cal.
Butler	Graff	McCall	Smith, Iowa
Calder	Griest	McCreary	Smith, Mich.
Campbell	Gronna	McCredie	Southwick
Cary	Guernsey	McKinley, Ill.	Sperry
Cassidy	Hamer	McKinney	Stafford
Chapman	Hamilton	McLachlan, Cal.	Steenerson
Cole	Hanna	McLaughlin, Mich.	Sterling
Cook	Haugen	Madden	Stevens, Minn.
Cooper, Pa.	Hawley	Madison	Sturgiss
Cooper, Wis.	Hayes	Mann	Sulloway
Cowles	Heald	Martin, S. Dak.	Swasey
Creager	Henry, Conn.	Miller, Kans.	Taylor, Ohio
Crow	Hill	Millington	Tener
Crumpacker	Hinshaw	Morgan, Mo.	Thistlewood
Davidson	Howell, Utah	Morgan, Okla.	Tilson
Davis	Howland	Morse	Tirrell
Dawson	Hubbard, Iowa	Murdock	Townsend
Denby	Huff	Murphy	Volstead
Diekema	Humphrey, Wash.	Needham	Wanger
Dodds	Johnson, Ohio	Norris	Washburn
Draper	Joyce	Nye	Weeks
Driscoll, M. E.	Keifer	Olcott	Wheeler
Dwight	Kendall	Olmsted	Wiley
Edwards, Ky.	Kennedy, Iowa	Palmer, H. W.	Woods, Iowa
Ellis	Kinkaid, Nebr.	Parker	Young, Mich.
Elvins	Knapp	Payne	
Englebright	Knowland	Pickett	
Fassett	Kronmiller	Plumley	

ANSWERED "PRESENT"—19.

Aiken	Foss, Mass.	Hardwick	Parsons
Burleson	Goulden	Kahn	Russell
Clayton	Graham, Pa.	Kennedy, Ohio	Sherley
Fitzgerald	Grant	Lamb	Sisson
Fornes	Greene	McMorran	

NOT VOTING—117.

Alexander, N. Y.	Ellerbe	Hull, Iowa	Pujo
Ames	Esch	Johnson, S. C.	Ransdell, La.
Ansberry	Estopinal	Kinkead, N. J.	Reid
Ashbrook	Fairchild	Kopp	Rhinock
Barchfeld	Ferris	Lafean	Roberts
Barclay	Finley	Latta	Rodenberg
Barnard	Flood, Va.	Lee	Rucker, Colo.
Bartholdt	Foelker	Legare	Rucker, Mo.
Bartlett, Nev.	Foster, Vt.	Lever	Saunders
Bell, Ga.	Foulkrod	Lindsay	Simmons
Bennett, Ky.	Fowler	Livingston	Small
Bowers	Gaines	Longworth	Snapp
Bradley	Gardner, Mass.	Loud	Spight
Broussard	Garner, Pa.	McGuire, Okla.	Sulzer
Brownlow	Gill, Md.	McKinlay, Cal.	Tawney
Burleigh	Gill, Mo.	Malby	Taylor, Ala.
Burnett	Gilmore	Maynard	Taylor, Colo.
Calderhead	Goldfogle	Mays	Thomas, Ohio
Cantrill	Hamill	Miller, Minn.	Underwood
Capron	Hamlin	Mondell	Vreeland
Carter	Hammond	Moon, Pa.	Wallace
Cline	Heflin	Moore, Pa.	Willett
Cocks, N. Y.	Higgins	Morehead	Wilson, Ill.
Coudrey	Hitchcock	Moss	Wilson, Pa.
Covington	Hobson	Moxley	Wood, N. J.
Craig	Hollingsworth	Mudd	Woodyard
Currier	Howell, N. J.	Nelson	Young, N. Y.
Dalzell	Hubbard, W. Va.	Patterson	
Douglas	Hughes, N. J.	Pearre	
Durey	Hughes, W. Va.	Pou	

So the demand for the previous question was rejected.

The Clerk announced the following additional pairs:

For the remainder of the session:

Mr. MOREHEAD with Mr. POU.

Until further notice:

Mr. DOUGLAS with Mr. TAYLOR of Colorado.

Mr. WILSON of Illinois with Mr. SPIGHT.

Mr. THOMAS of Ohio with Mr. SAUNDERS.

Mr. PEARRE with Mr. MAYNARD.

Mr. MOXLEY with Mr. LIVINGSTON.

Mr. MCMORRAN with Mr. PUJO.

Mr. MONDELL with Mr. LATTA.

Mr. MILLER of Minnesota with Mr. HOBSON.

Mr. LOUD with Mr. FLOOD of Virginia.

Mr. HULL of Iowa with Mr. FERRIS.

Mr. FAIRCHILD with Mr. CRAIG.

Mr. COUDREY with Mr. COVINGTON.

Mr. ALEXANDER of New York with Mr. FOSS of Massachusetts.

Mr. WOODYARD with Mr. HARDWICK.

Mr. KAHN with Mr. CARTER.

Until Monday, April 18, 1910:

Mr. MOON of Pennsylvania with Mr. SISSON.

For the balance of the day:

Mr. MUDD with Mr. REID.

Mr. FOWLER with Mr. ELLERBE.

Mr. KOPP with Mr. ANSBERRY.

Mr. GAINES with Mr. RUCKER of Missouri.

Mr. LONGWORTH with Mr. GARRETT.

Mr. LAFEAN with Mr. LEE.

Upon this vote:

Mr. NELSON with Mr. BURLESON.

Mr. SISSON. Mr. Speaker, I would like to know if the gentleman from Pennsylvania [Mr. MOON] voted.

The SPEAKER. He did not.

Mr. SISSON. Then, I desire to change my vote of "aye" to "present."

The name of the gentleman from Mississippi [Mr. SISSON] was called, and he voted "present."

Mr. FITZGERALD. Mr. Speaker, I am paired with the gentleman from Pennsylvania [Mr. DALZELL]. I voted "aye," but desire to vote "present."

The name of the gentleman from New York [Mr. FITZGERALD] was called, and he voted "present."

The result of the vote was announced as above recorded.

Mr. HILL. Mr. Speaker, I offer the following amendment to the resolution.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert in line 2 after the word "House," "if not incompatible with the public interests."

Mr. HILL. Mr. Speaker, I yield five minutes to the gentleman from Pennsylvania [Mr. BURKE], and then I shall ask for the previous question on the amendment and the resolution.

Mr. BURKE of Pennsylvania. Mr. Speaker, the amendment offered by the gentleman from Connecticut has to do with the good faith that exists between the two great departments of

this Government. The proposition advanced in the original resolution of the gentleman from New York [Mr. FITZGERALD] would, if it had been successfully voted through the House, have compelled the President of the United States to make public every vital secret relating to these prosecutions now in the hands of the prosecuting officers of this Government.

There could only be one possible result, which would be by no means or in any manner beneficial to the Government, but would be of great interest and benefit to those on the other side of the case. The charge is made upon the floor that the Judicial Department had done nothing whatever, virtually, to prosecute the men higher up; and in the same breath declarations were made that men of the very highest standing in the community in New York have been indicted, a contradiction in itself, which should cause the original charge to fall flat. Now, on the 7th day of December the President of the United States——

Mr. FITZGERALD. Does the gentleman refer to me personally as making a statement of that kind?

Mr. BURKE of Pennsylvania. The gentleman from New York did not make that statement, but it was made——

Mr. RAINEY. Does the gentleman mean that I made that statement?

Mr. BURKE of Pennsylvania. The gentleman from Illinois made that statement.

Mr. RAINEY. As growing out of the customs frauds? I said, on the contrary, that no man prominently connected with the sugar trust had been indicted, but simply the $18 a week employees.

Mr. FITZGERALD. The gentleman does not understand that the indictments grew out of the charge that the American Sugar Refining Company has been guilty of conspiracy in the extermination of its rival, the Pennsylvania Sugar Refining Company, and that that had anything whatever to do with the customs frauds, which is the subject-matter of this resolution.

Mr. BURKE of Pennsylvania. I recognize the gentleman's ability to indulge in special pleading; but the purpose of his resolution apparently is, in the light of the debate, to bring into question the policy of the administration in the prosecution of the men involved in these frauds, and I say in answer to the charge that one of the leading gentlemen on the other side, at the time it was made, indicated the fact that men of the very highest standing had already been indicted, and indicted by the Federal Government.

Mr. FITZGERALD. The gentleman is entirely mistaken. The gentleman does not understand that the resolution is based upon some existing facts.

Mr. BURKE of Pennsylvania. The fact in this case is that on the 7th day of December the president of the United States asked the Congress to withhold its investigation, or suggested the propriety of withholding its investigation, in view of the fact that the proper department of the Government was then and there engaged in an investigation involving prosecuting the men involved. Now, we recognized that it was due the President, and in recognition of our own duty under the circumstances, and we concluded that Congress should withhold any action in that behalf, because Congress was willing to take the word of the President on the 7th day of December. Now, when the resolution offered by the gentleman from New York was under consideration, I suggested that we add to it an amendment, that the President should report to Congress whether or not there were any facts that make it improper or unwise for Congress to indulge in a public investigation at this time; and the gentleman from New York declined to accept that amendment. Now, what was the purpose? The purpose of the original resolution was to ascertain from the President whether, in his judgment, it was wise at this time to interfere by a public investigation with the work now being done by the executive department. Then, in complying with it, there could be but one result.

The President would make that known, I take it, in a categorical answer to Congress, and it would be perfectly proper for him to do so; and if we were willing to take his word on the 7th of December, that it was inexpedient to make that investigation then, I for one am willing to take his word to-morrow, if he makes the statement that it is unwise and inexpedient because of existing facts and the work being done by the Department of Justice.

Mr. FITZGERALD. The gentleman will take the President's word for that five years from now as he does now.

Mr. BURKE of Pennsylvania. I am always willing to take the word of the President of the United States in this case, as I would have been willing to take the word of a President of the United States if he was elected by the Democratic party. I am not one of those who are willing to stand on this floor, when honest public men are being impeached throughout the country, and justify myself to be regarded as one of those in this Congress who indulge in implied impeachments of other departments of the Government, when we should do all in our power to sustain their dignity and increase the confidence in which they are held by the American people. [Applause.]

Mr. HILL. I move the previous question on the amendment and resolution to its passage.

The SPEAKER. The gentleman from Connecticut demands the previous question on the resolution and amendment to final passage.

The question was taken, and the previous question was ordered.

The SPEAKER. The question is on the amendment.

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

The resolution, as amended, was agreed to.

On motion of Mr. HILL, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

MINORITY VIEWS.

Mr. LAMB. Mr. Speaker, I ask unanimous consent to file the minority views (Report No. 969, pt. 2) of the Committee on Agriculture on the bill H. R. 24073.

The SPEAKER. The gentleman from Virginia asks unanimous consent to file the minority views on the bill H. R. 24073, the title of which the Clerk will read.

The Clerk read as follows:

A bill (H. R. 24073) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

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

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 1381. An act to provide for the construction of a revenue cutter of the first class for service in the waters of Key West, Fla.; and

S. 1751. An act to amend an act entitled "An act creating the Mesa Verde National Park," approved June 29, 1906.

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. 3020. An act for the relief of Serapio Romero, late postmaster at Las Vegas, N. Mex.;

S. 7360. An act to give consent of Congress to the building of a bridge by the cities of Marinette, Wis., and Menominee, Mich., over the Menominee River;

S. 5844. An act to authorize the extension of Underwood street NW.;

S. 5843. An act to authorize the extension of Van Buren street NW.;

S. 5379. An act for the erection of a statue of Maj. Gen. Nathanael Greene upon the Guilford battle ground in North Carolina;

S. 3671. An act providing for the promotion of Chief Boatswain Patrick Deery, United States Navy; and

S. 3196. An act to authorize the sale of the Fort Walla Walla Military Reservation.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 21580. An act 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.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 4108. An act to refund certain tonnage taxes and light dues levied on the steamship *Montara*, without register.

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. 3196. An act to authorize the sale of the Fort Walla Walla Military Reservation—to the Committee on Military Affairs.

S. 3671. An act providing for the promotion of Chief Boatswain Patrick Deery, United States Navy—to the Committee on Naval Affairs.

S. 5379. An act for the erection of a statue of Maj. Gen. Nathanael Greene upon the Guilford battle ground, in North Carolina—to the Committee on the Library.

S. 5843. An act to authorize the extension of Van Buren street NW.—to the Committee on the District of Columbia.

S. 5844. An act to authorize the extension of Underwood street NW.—to the Committee on the District of Columbia.

S. 7360. An act to give the consent of Congress to the building of a bridge by the cities of Marinette, Wis., and Menominee, Mich., over the Menominee River—to the Committee on Interstate and Foreign Commerce.

S. 3020. An act for the relief of Serapio Romero, late postmaster at Las Vegas, N. Mex.—to the Committee on Claims.

ECONOMICAL USE OF MEATS IN THE HOME.

Mr. COOPER of Pennsylvania. Mr. Speaker, by direction of the Committee on Printing, I offer the following privileged resolution:

The joint resolution (H. J. Res. 191) to provide for the printing as a House document 1,000,000 copies of Farmers' Bulletin No. 391 (Report No. 1020) was read, as follows:

House joint resolution 191.

Resolved, etc., That there be printed as a House document 1,000,000 copies of Farmers' Bulletin No. 391, entitled "Economical Use of Meats in the Home," 700,000 copies thereof for the use of the House of Representatives and 300,000 copies thereof for the use of the Senate.

Mr. COOPER of Pennsylvania. Mr. Speaker, this provides for the printing as a House document of 1,000,000 copies of what is commonly known as the Agricultural Cook Book. There has been such a great demand upon the Agricultural Department for this bulletin that that department can not furnish it. Members of the Senate and the House have asked for practically the whole of their quota of 15,000 of this document. In order that everybody may have a chance to get a proper number of copies, it has been requested by a number of Members, and also, I understand, is favored by the Agricultural Department, that we have this printed and distributed through the folding room in sufficient number to enable every Member to get a proper quota.

Mr. MANN. Will the gentleman inform us how much it will cost?

Mr. COOPER of Pennsylvania. Yes; the Public Printer has estimated that this will cost a little over $10,000 for 1,000,000 copies, or $5,400 for 500,000 copies, a little more than a penny a copy.

Mr. BARTLETT of Georgia. These copies will go to the folding room, I believe?

Mr. COOPER of Pennsylvania. Yes.

The question being taken, the joint resolution was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

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

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. BELL of Georgia for an additional ten days, on account of sickness in his family.

RAILROAD BILL.

Mr. MANN. 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 H. R. 17536, the railroad 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 bill (H. R. 17536) to create an interstate-commerce court and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes, with Mr. BENNET of New York in the chair.

Mr. MANN. Mr. Chairman, when the committee rose day before yesterday I was discussing the amendments proposed in the bill to section 15 of the existing interstate-commerce act, which is section 9 of the pending bill.

Under the existing law, where a railroad rate is changed, the railroad company files its schedule of rates with the Interstate Commerce Commission and posts its schedule in its railway stations. The rate can not go into effect until the day mentioned, which must be at least thirty days after the schedule is filed with the commission. After that rate is filed with the commission and has gone into effect any person may file a complaint with the Interstate Commerce Commission, alleging that the rate is unjust or unreasonable, and the commission, after hearing, may enter an order determining what shall be the maximum rate in the case mentioned to be thereafter observed by the railroad company.

The process now provided by law for obtaining a determination on the part of the commission in reference to a rate is confined to a rate which is already in existence. We have provided in the bill that the commission itself, upon its own initiative, may commence or order an investigation and hearing before itself. We come now to a proposition in the bill to give to the Interstate Commerce Commission control over a proposed rate which has not yet gone into existence. Under the existing law with a rate in existence and if a complaint is filed, the commission commences a hearing upon the complaint, and during the pendency of the proceedings the rate which is complained of remains in force. If the commission shall enter an order in the case and the railroad company appeals to the court to set aside the order, and an injunction is issued against the order being enforced, the existing rate remains in force. The court may not issue an injunction restraining the going into effect of the order, in which case pending the proceedings in the court the railroad company would be obliged to obey the order of the commission fixing the maximum rate.

But under existing law there is no method by which you can prevent the proposed new rate continuing in force while the commission is investigating the subject as to whether the rate ought to remain in force.

It has been claimed that that gives an advantage to the railroad company. On the other hand, it has been said that it is only an apparent advantage, because the presumption must be that the rate in force is a proper rate until the finding is made to the contrary. We have therefore provided in the bill that where the schedule of rates is filed with the commission proposing to change an existing rate, the commission shall have authority to suspend the taking effect of that rate; and we provide that when there shall be filed with the commission a schedule stating a new rate or classification or regulation or practice, the commission, either upon complaint or upon its own initiative and without answer or formal pleading, but after giving reasonable notice to the railroad company, may enter upon a hearing concerning the propriety of the proposed rate, classification, regulation, or practice, and pending the hearing, upon it filing an order and delivering a copy to the carrier affected thereby with a statement in writing of its reasons for such suspension, it may suspend the operation of the proposed rate, classification, regulation, or practice for a period of one hundred and twenty days beyond the time when it otherwise would have gone into effect.

As the bill was originally prepared and introduced it provided for a suspension of sixty days. I think possibly the bill as originally discussed provided an unlimited suspension, but as introduced it provided a suspension of sixty days.

The Interstate Commerce Commission which appeared before our committee stated that in the opinion of the commission it was desirable to have the suspension for one hundred and twenty days, practically four months' time, and we have recommended in the bill which we have presented to the House one hundred and twenty days' suspension.

Mr. RICHARDSON. Will the gentleman yield?

Mr. MANN. I will yield to the gentleman from Alabama.

Mr. RICHARDSON. Mr. Chairman, in order to make my question intelligible——

Mr. MANN. The gentleman's questions are always intelligible.

Mr. RICHARDSON. I thank the gentleman. I will have to recite certain facts. The present Hepburn law, the existing rate law, requires the common carriers, before they can advance the rate at all, to give thirty days' notice to the commission. Is it not true that the effect of this provision that the gentleman is now commenting upon which gives the Interstate Commerce Commission the power to suspend the rate before it goes into effect—is not that taking from the common carriers power to initiate a rate?

Mr. MANN. Well, to a certain extent it undoubtedly is.

Mr. RICHARDSON. One further question: Is it not true that the entire policy prevailing in the adoption of the Hepburn railroad law was earnestly opposed to taking from common carriers the right to initiate a rate?

Mr. MANN. Is that all of the gentleman's question?

Mr. RICHARDSON. Is not that true?

Mr. MANN. I prefer to answer it in my own way. If the gentleman has another question, I will answer both at the same time.

Mr. RICHARDSON. I have no other at present.

Mr. MANN. Mr. Chairman, I think the gentleman and I probably do not quite agree on terms. I do not think there is anybody that can initiate a railroad rate in the United States in the sense of making rates without comparison with existing rates. Railroad rates are established throughout the United States. No one, not even railroad officials or the interstate-commerce officials, ever make or propose a change of rates without comparison with an existing rate. Even if it be upon a

new article it will be by comparison with the rate upon some other article. It is not desirable to have Congress or the Interstate Commerce Commission start upon an elaborate scheme of making railroad rates in the sense of initiating rates, nor is it possible that Congress should do it or the railroad officials should do it. The railroad company finds a rate which it thinks is too high or too low in comparison with other rates between other points or in comparison with rates on other articles. You compare rates between points, and you compare rates upon different classes of freight. There is competition between the railroad companies to secure a certain amount of freight. They propose to raise or lower a rate, but that is not initiating a rate; that is changing a rate, in precisely the same manner that it is changed when the commission after hearing makes the order prescribing a maximum rate.

Mr. RICHARDSON. Will the gentleman yield?

Mr. MANN. Yes, sir.

Mr. RICHARDSON. I will ask one further question upon the subject. It is admitted that the Interstate Commerce Commission has no power now to initiate anything in the world except an investigation into whether a rate is reasonable or not. It can use its own initiative in that respect, but it can not initiate of itself and by its own option and of its own free will a rate for a railroad. Then, when this provision in this bill suspends the rate that is proposed to be put into effect by the railroad, is not that putting the railroad in the position that it has to appeal to the commission to put a rate into effect which it has not initiated?

Mr. MANN. Well, the gentleman and I do not agree upon what the present law provides. In the remarks which I had occasion to make upon the floor of this House at the time the Hepburn bill was passed, and which I have not seen since, and of which I have a very good recollection, and to this extent I think my memory of them would be correct, I said that in my opinion the Interstate Commerce Commission could initiate before itself proceedings under the provisions of that law, and change all of the rates on all of the roads between any points in the United States, and I have no doubt that that was the case, but they have not done it. It never was expected they would do it, and it is not likely they ever will.

Mr. HARDWICK. Will the gentleman yield?

Mr. MANN. In a moment. Under the conditions which prevail now and which are likely to prevail in the future, it seems to me there will be no desire on the part of the Government to start in and change all the rates in the United States upon some basis which no one now would believe in and as to which probably the time will never come when a majority will believe in.

Mr. HARDWICK. I want to call the gentleman's attention to this fact in connection with the legislation on the Hepburn bill. The gentleman doubtless recalls that when the language that was included in the act of 1887 on the subject of initiating a rate was left out of this particular section of the Hepburn bill, I offered on the floor an amendment to put that language back, and that amendment was voted down, largely by votes of gentlemen on that side of the Chamber, although some of the gentlemen on this side of the Chamber voted against it also.

Mr. MANN. I do not recollect what language was left out. I do not recollect that the gentleman offered an amendment, but I have no doubt that he did. We voted down perhaps 50 amendments and I do not remember what they were. There was nothing left out of the Hepburn law that affected that question, in my judgment, and while I presume the gentleman will say that we have adopted his theory by the bill that we bring in, specifically giving the Interstate Commerce Commission the power to initiate rates, I think they have that power under the existing law, specifically and in express language.

Mr. HARDWICK. If the gentleman thinks that, then why the necessity for this language being employed in this bill?

Mr. MANN. Oh, I do not care to discuss that. People differ about these things.

Mr. HARDWICK. Then the gentleman thinks there is a doubt about it?

Mr. MANN. I said that some people doubt it.

Mr. HARDWICK. The gentleman does not doubt it himself?

Mr. MANN. No.

Mr. BARTLETT of Georgia. Mr. Chairman, if the gentleman will permit, the gentleman will remember that in the debate on the Hepburn bill in 1906 that question was raised on the floor, and that then the chairman of the Committee on Interstate and Foreign Commerce, Mr. Hepburn, who had long served in the House and as the chairman of that committee, in reply stated that it was his opinion also that under section 13 of the original act the commission did have that power then. I remember that I was of the same opinion then as I am now, that the commission under section 13 of the original act did have that power, and without undertaking to go into the detail of the matter the commission, when before this committee at these hearings and other hearings, did not dispute that they had that power. They simply were reluctant about exercising it without fuller authority.

Mr. MANN. I think the gentleman is correct. It never has been decided that the commission did not have the power. I do not wish to digress but for a moment from the discussion in which we are engaged——

Mr. BARTLETT of Georgia. I do not want to divert the gentleman, but it is best to keep the history of the matter right, and while the committee, or some members of the committee, are of the opinion—I am one of them, for I agree with the gentleman—that they had the power under the original act, yet this is a mere expression of legislative interpretation of the original act.

Mr. MANN. I think so.

Mr. HARDWICK. Just one moment, if the gentleman will permit me; I want to get the history correct. Section 13, to which my colleague [Mr. BARTLETT of Georgia] referred, did not refer to the rate-making power at all, but the practices and regulations, if I am correct in my recollection of it.

Mr. MANN. Section 15 of the act is the section which gives the commission the authority to prescribe the maximum rate. If the gentleman will just pardon me for a moment I want to make a statement in reference to this which will be consecutive and explain that situation, although I do not think it is necessary. Section 15, as I say, is the section under which the commission obtains its authority to make an order prescribing a maximum rate as a just and reasonable rate, but the authority of the commission to act at all under section 15 is dependent upon authority to file a complaint before it, given by section 13. Now, section 13 provides—I am discussing it for the benefit of my friends from Georgia at their earnest solicitation.

Mr. BARTLETT of Georgia. I beg the gentleman's pardon, I did not want to take up his time, but was merely trying to convince my friend here——

Mr. MANN. Section 13 gives authority to file a complaint before the commission under which it might act. Section 13 contains this language in the existing law:

> Said commission shall, etc., and may institute any inquiry of its own motion in the same manner and to the same effect as though complaint had been made.

Mr. HARDWICK. Yes, but——

Mr. MANN. If the gentleman will permit me to make a consecutive statement for three minutes only, I will yield.

Mr. HARDWICK. I will not interrupt the gentleman again if he is quite that insistent.

Mr. MANN. And the gentleman ought to permit me to do so——

Mr. HARDWICK. I did not intend to interrupt the gentleman, but I thought he had finished his sentence.

Mr. MANN. I understand, and I hope the gentleman will not be offended by possibly an earnest manner which is not intended to be anything but good natured.

Mr. HARDWICK. All right.

Mr. MANN. Section 13 apparently, when it gives the commission authority to institute and inquire of its own motion in the same manner and to the same effect as though complaint had been made, would seem to give the commission the same power to act of its own motion as though the complaint had been made, because that is the express language of the section.

However, that was in the former act and that provision was not amended by the Hepburn Act, and the Hepburn law amended section 15, which is the section under which the commission acts upon complaint as filed under section 13. Section 15 of the Hepburn law says:

> That the commission is authorized and empowered, and it shall be its duty, whenever, after a full hearing upon a complaint made as provided in section 13 of this act.

And it has been contended that because the language was used "after full hearing upon a complaint made as provided under section 13 of this act," that it only provided when a complaint was actually filed and did not authorize the commission to enter an order upon its own inquiry where it instituted proceedings upon its own inquiry, although the section says that it shall proceed in the same manner and to the same effect upon its own initiative as though complaint had been made. It is a fine-haired proposition which never has appealed to me, but whether it had the power no one knows. The commission has never attempted to exercise the power, but the power has never been denied to the commission. The commission has doubt in reference to it, and in this bill we have cleared up the doubt by making it expressly provide that the commission shall have the

power to enter an order upon its own initiative where it makes an inquiry upon its own initiative whether complaint is actually made or not. Now I yield to the gentleman from Georgia.

Mr. HARDWICK. I just wanted to say, Mr. Chairman, that at the time this bill was pending opposition was made to this particular amendment to remove all doubt on that subject——

Mr. MANN. That is last year's bird nest.

Mr. HARDWICK. I do not know whether it is or not; it is a matter of public record.

Mr. MANN. It may be a matter of public pride to the gentleman, I do not blame him. If it is true that he submitted an amendment at that time he ought not to complain now that we are doing——

Mr. HARDWICK. Not at all, I am not complaining; I am not complaining about anything, for that matter, but I take exception to the gentleman's statement that the Hepburn bill as originally passed carried with it this power. Anybody discussing that question, seeing the vote that was taken on this floor in connection with this very section of the Hepburn Act, in which the House declined to give the commission that power, would be bound to decide otherwise.

Mr. MANN. I do not think that a court or anybody is bound by all the amendments that are voted down in the House.

Mr. RICHARDSON. I desire to ask my colleague, the chairman of the committee, this question: Is it not true that under the provision of the ninth section of this bill that you are discussing now, which gives the Interstate Commerce Commission authority to suspend rates that are proposed to be increased by the common carrier, that the authority of the Interstate Commerce Commission, by reason of that provision, is enlarged more than it is in any other feature of this bill relating to a rate?

Mr. MANN. That is a matter of comparison. I think not. Possibly, relating to rates, that is true. I think the power of the commission is enlarged in this bill in other respects much more than in respect to this. However, that is purely a matter of comparison and judgment.

Mr. RICHARDSON. It is a comparison of a fact, a statement in this bill, as I understand it, and I am just asking my colleague that question.

Mr. MANN. I understood the gentleman was asking me for my opinion.

Mr. RICHARDSON. No; I am asking you if the Interstate Commerce Commission, by reason of the authority given in this bill to suspend that rate under these circumstances, has not received an enlarged authority and a greater authority than it gets from any other provision in this bill relative to a rate?

Mr. MANN. If the gentleman wants my opinion I possibly would say no. The gentleman asked me a question of fact, and I think the fact is a matter of opinion. Whether it be greater or less makes no difference. Here is the proposition: We do propose by the bill to give to the commission power to suspend a proposed rate where the railroad files its schedule of rates. And why is that? If the rate is in existence and complaint is made as to that rate, the rate remains in existence until the complaint is heard and the order entered by the commission. We might change that by legislative authority, and our decision would stand if the courts did not interfere. Very little complaint is made in reference to that except as to the long extended delay in having orders entered, but there is the fair presumption that, if a rate has been in existence for a long period of time, it is not too low, at least. With the power of the railroad companies to file a new schedule of rates at any time and put them in force in thirty days after filing the rate, there is at least a reasonable presumption that the rates which have remained in force for any considerable period of time are not too low, in the opinion of the railroad company.

And when the railroad company then files this schedule of rates proposing to increase the rates, we say it is a reasonable presumption that the rate which has existed, possibly for a long time—but whether for long or short, the one in existence—is a fair rate, and should remain in force until the commission has had an opportunity to give some investigation to the subject. That seems to be fair to the railroad company and fair to the shipper.

Now, we make another provision in reference to through routes in the bill. Under the existing law the commission may establish a through route between two points and make a joint rate between the two points when that may be necessary to give effect to any provision of this act, provided no reasonable or satisfactory through route exists. Take a case which will come to the mind of anyone, and there are thousands of such cases, namely, the lines that run between Chicago and New York, or between Chicago and San Francisco, or between Chicago and Portland, where there are two intermediate points, and one line does not connect the points, or where there are two points and one line does connect them, but there are other lines which may make the connections.

Take the case of Chicago to Portland, where a line runs practically direct from Chicago to Portland, and there are other lines which may make the connection from Chicago to Portland. Under the existing law, if one through line is established by the railroad company, the commission has no power to establish a through route over a portion of that railroad in conjunction with another line. Now, it seems to be perfectly fair that, if it is desirable to have railroad companies make routes at all, through routes should be established independent of whether some one else has made a through route. Shippers may desire to route their freight over a road which has not established a joint or through route in the joint tariff. There may be many reasons why it is to the interest of the public to have more than one route. The question of competition is one of those reasons; but there are many reasons why it is to the interest of the public and the shipper that two railroad companies which connect, and, between the two, connect two different points, may be required by the commission to establish a through route and a joint rate between them.

We endeavor to accomplish that in the bill by striking out of the existing law the words "provided no reasonable or satisfactory through route exists," and made some other slight changes in the provisions of the existing paragraph.

Then we come to a very interesting question which has caused more or less discussion and excited considerable interest on the part of those who are affected. The interstate-commerce law applies to railroads and to railroads and water lines under a joint management and control, but does not apply to water carriers that do not have any joint management with railroads. However, where the railroad companies and water lines, although of independent management, by themselves make a through route, the Interstate Commerce Commission properly holds that the water carrier, to that extent, has subjected itself to the control of the commission. But in the existing law the commission has no power to make a through route if an existing reasonable through route is provided.

But when we strike out of the law the provision in reference to the reasonable and satisfactory through route being in existence and authorize the commission to make through routes, regardless of whether any through routes are in existence or not, we immediately provide power on the part of the commission to make many through routes which will affect water carriers. The water carriers have been considerably exercised over the matter. They do not wish to have their local trade controlled by the Interstate Commerce Commission. The regular water-carrying line is, of course, compelled to compete with the tramp steamer. It is practically impossible, and I think no one would favor having the tramp steamer file its schedule of rates thirty days in advance of the time of taking effect, because that would prevent tramp steamers doing any business at all. It is not desirable, for the same reason, so far as we have been led to believe, to require regular water lines to file a schedule of its rates on what is called its port-to-port business on its local traffic. While we have left in the bill the language bringing the water carriers under the control of the commission, in making through routes within the discretion of the commission, we have attempted and have provided that the provisions of the interstate-commerce law shall not apply to a water carrier so far as its port-to-port business is concerned; that is, the traffic originating and ending on a line of any carrier when transported wholly by water.

Then, another interesting question arose in relation to the water carrier. For many years, I do not know how long back, in common law, or admiralty law, the liability of a vessel owner for loss at sea is limited; and it is limited in our country by statute. Although much of the reason that formerly applied to the limitation of liability for the loss of a vessel and its cargo is obsolete as applied to the regular water carriers which have regular steamship lines in constant operation, still that law still applies unless changed by the interstate-commerce law. By the so-called Carmack amendment to the Hepburn law it was provided that the initial carrier should be liable for damages for the loss of freight when shipped over several lines to its destination. Just how far that affects the liability of the water carrier where the water carrier is the initial carrier has not yet been determined, nor have we in committee undertaken to determine it. But we have provided in the bill that the limitation of liability of the water carrier as now provided by law shall not be affected by the passage of this bill. In other words, we do not change the existing liability of water carriers, whatever that may be. That is not satisfactory to the water carriers; but very naturally, like everyone else, they would seek to be absolutely certain that their liability for loss is limited.

There was long consideration of the question of the original proposition in the Townsend bill with reference to interurban electric railroads. The provision in the original bill in reference to the establishment of through routes with electric lines was in these words:

Shall not establish any through route, classification, or rate between street, suburban, or interurban electric passenger railways and railroads of a different character.

That provision in the bill would have prevented the establishment of a through route by joining the steam railroads and an electric road. There is very much to be said on both sides of the question; but after consideration of the entire matter, so far as the committee could give consideration to it, we reached the conclusion that in this day of the development of transportation by electric roads, both passenger and freight, it was not desirable to exempt them from the provisions of the interstate-commerce law, and we believed that if they were continued under the provisions of that law they ought to have the same right and be subject to the same liabilities as steam railroads, and that if there was a chance to make a through interstate route by the combination of a steam railroad and an electric road, that power should be left in the hands of the commission. Undoubtedly at the present time that is in the interest of the electric interurban road.

We did something more, which was possibly of still greater benefit to them. In the original bill there was a provision that in establishing through routes the commission should not require any railroad company without its consent to embrace in such through route substantially less than the entire length of its road, or that of any intermediate railroad operated in conjunction or under a common management or control therewith, which lies between the termini. In other words, in establishing a through route under that provision, the commission would be required, if it established a through route, to make the haul just as long on that road as possible. That seems in a way to be a very fair proposition; and yet it seemed to us that it was still more fair for the public, and possibly of equal advantage in the long run to all the railroads, to give to the commission the power to make a through route and a through joint rate, regardless of the length of the line that might be used on any one road. For instance, if some one of the steam railroads running into the city of Washington, not far outside, connects with an electric line, although that electric line may parallel the steam road, the commission will have the power within its discretion to make a through route connecting the electric road that parallels the steam road until it comes to the point where it wishes to connect with the steam road, and come into the city of Washington as a through route, and thereby compel the steam road to furnish terminal facilities for the electric road, that otherwise could not get into the city of Washington.

But after all, while that is giving a considerable advantage to the electric road, it is also giving a great advantage to the people who use the railroad. It is within the power of the commission, in adjusting the joint rates, to fairly and reasonably protect the steam railroad.

One other provision that has caused great controversy throughout the country is the question of routing of freight. It has been the usual custom of railroads in the past to permit a man who brought freight to one of its stations to be shipped to some point off the line of the road to indicate the connecting lines by which that freight should be sent, or the connecting point to which that freight should be sent. That right is often of great advantage to the shipper. He is able thereby to keep better track of where his car of freight is. It may be that he wishes to change the destination of the freight in transit and consign it to some other point or some other person. It is not an infrequent case in the shipment of perishable goods to consign goods from one point in the country to a point far distant, making a consignment probably to the original consignor, with no expectation that the freight will ever reach the point of destination, expecting on the way to obtain a market for his car of perishable property and to divert it in transit—a proper and legitimate practice.

But in some decisions which have been made some of the courts have held that when freight was delivered to a railroad company in California, destined to New York, and it could not go through on one line it remained for the railroad companies to determine over what connecting line it should go, and that it was not within the power of the consignor to say what connecting lines his freight should pass over. So we have provided in the bill that wherever there are two or more through routes between two points the consignor of freight may indicate in writing the route over which his freight shall be taken, and that shall be put in the bill of lading and route instructions shall be made, and it is required that freight shall be delivered to and carried by the carriers over the route thus indicated.

In the original bill as introduced it was provided that this right should only be given where there are two or more through routes then duly established, and for which a through rate shall have been fixed as in this act provided to which through route and through rates the carrier is a party. That seemed to confine the right of the shipper to route his freight to through routes which were established under the provisions of this act.

Now, a great majority of the freight, or perhaps not the great majority of shipments, but a large proportion of the shipments of freight, is shipped where there is no through route established at all, where the lines connect and the freight rate is the sum of the local charges. There may be no joint rate established. The provision in the bill originally introduced would have confined the right of the shipper to route his freight where there was a joint rate established by the requirements of the commission or voluntarily by the railroad companies, but would not reach the point where the man shipped freight from his town to a distant point and there was no through route actually established, but where there might be choice of a half a dozen routes. This gives the right to the shipper to route his freight where there are two or more routes, no matter whether they have been established except through the physical connection of the carriers.

Mr. COX of Indiana. If the gentleman will yield I would like to see if I understand the gentleman.

Mr. MANN. I will yield to the gentleman from Indiana.

Mr. COX of Indiana. This is very interesting to me, because I have heard so many complaints of that nature by shippers out in my own town—men who ship poultry, eggs, and so forth, to New York. Do I understand the gentleman to say that when a shipper loads his car he can direct in writing to the agent of the railway the roads over which he wants the car to run from his place, say, to New York City?

Mr. MANN. That is correct.

Mr. COX of Indiana. And the roads will have to follow that direction?

Mr. MANN. They will have to follow it.

Mr. COX of Indiana. I think that is a wise provision.

Mr. MANN. As an instance of how this thing works, there was referred to me at one time in connection with the hearings a letter written to the Speaker of the House—and we had a great number of such things—from a man in Danville, Ill., who had ordered a car of freight sent to him in Danville, giving directions that it should come over a certain road which runs into Danville where he had his place of business close to the yard of that road and, I think, switching facilities.

He wrote that he applied to the railroad company every day for some time, asking if his car of freight had arrived, it having originated on another line of road, but he did not obtain it, although inquiry had been made of the consignor, who notified him that it had been shipped. In some way or other he afterwards received notice that his car was in Danville, in the yard of another road, a long distance from his place of business, with demurrage charges against him. There was no redress, of course, under the existing law.

Of course, in giving this right to the shipper to route his freight there may be cases where it will be absolutely impossible for the railroad companies to properly carry on their business if the shippers have the absolute right to route the freight. So we have provided in the bill that this right shall be subject to such reasonable exceptions and regulations as the Interstate Commerce Commission shall from time to time prescribe.

We make some amendments to section 16 of the interstate-commerce act. Section 16 of the existing law provides, among other things—and I speak of this because it has been referred to here and elsewhere—

No injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the commission shall be granted except on hearing after not less than five days' notice to the commission. An appeal may be taken from an interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States.

Those provisions are omitted from section 16 in the bill as we report it. It is, however, fair to ourselves to say that that fits in properly with the provisions of the bill creating a commerce court. The reasons for providing that five days' notice should be given before the circuit court should grant an interlocutory injunction was in order to protect the Interstate Commerce Commission, which was situated in Washington City, while the courts were scattered throughout the land, and five days' notice might be absolutely necessary in order for the commission to be properly represented; but with the commerce court located in Washington, with the requirement that railroad attorneys who desired to file petitions and obtain injunctions shall be required to come to Washington, there is no difficulty about the commission being properly represented before

the court at the hearing which is required in every case before an injunction is issued by the court. The provisions which we have inserted in this bill in reference to the issuance of injunctions are far more strict than those in the existing law, notwithstanding we have not included the five days' notice. The provisions in the pending bill concerning injunction orders are in section 3:

No order or injunction so restraining or suspending an order of the Interstate Commerce Commission shall be made by the commerce court otherwise than upon notice and after hearing, except that in cases where irreparable damage would otherwise ensue to the petitioner, said court, or a judge thereof, may allow a temporary stay or suspension in whole or in part of the operation of the order of the Interstate Commerce Commission for not more than sixty days from the date of his order, pending application to the court for its order or injunction, in which case the said order shall contain a specific finding, based upon evidence submitted to the judge making the order and identified by reference thereto, that such irreparable damage would result to the petitioner and specifying the nature of the damage. The court may, at the time of hearing such application, upon a like finding, continue the temporary stay or suspension in whole or in part until its decision upon the application.

So that it will never be possible under these provisions of the law to issue injunctions as most lawyers know them upon the finding of a master in chancery upon a bill presented to the master, where it used to be said, in my part of the country at least, that an injunction order cost $5. That was the fee of the master.

Mr. CRUMPACKER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. CRUMPACKER. In view of the fact that the proposed bill provides for no appeal from interlocutory orders, what is there, or what will there be, to prevent a judge of a court or the court itself from granting restraining orders or making other interlocutory orders without observing these requirements? Of course there can be no penalty imposed upon a judge who may possibly abuse a discretion that is vested in him. There is no right of appeal from an interlocutory order. The order may possibly omit the reference to the particular evidence that prompted the court to grant the order, and it occurs to me in reading from this bill that those carefully prepared provisions are in a way nugatory; they are rather advisory. Another suggestion to the gentleman. I doubt the power of a legislative body to require a court to specify in a decree or judgment what particular evidence prompted the court to reach his conclusion. It seems to me that that is going into the very vital and essential functions of the judiciary.

Mr. MANN. I should agree with the gentleman quite as to that, as to final decree, but if we have power over the granting of injunctions at all, then we have power to put this in this bill. If we have not the power over the issuance of injunctions, of course that whole provision is nugatory, as the existing provision of law is.

Mr. CRUMPACKER. Now, taking away the right of appeal from the granting of an interlocutory order is an important thing, and I would like to hear the gentleman upon it, because I was impressed with the idea that that was one of the safeguards that would require the judge who may grant the order or the court to carefully observe the provisions of the law, which in the main, it seems to me, are very salutary.

Mr. RICHARDSON. Will the gentleman allow me just a moment?

Mr. MANN. Yes.

Mr. RICHARDSON. I would just like to call the attention of the gentleman, before he begins to discuss this important feature to which the gentleman from Indiana has called his attention, to the fact that the present law reads——

Mr. MANN. Oh, I just read it.

Mr. RICHARDSON. That any injunction or interlocutory order or decree suspending or restraining the enforcement of an order of the commission shall be granted, and so forth. Now, this bill leaves everything out in the way of an interlocutory order or a suspension of course—a temporary restraining order—leaves that out. Why does it leave it out?

Mr. MANN. It does not leave it out. I just read it from section 3. Now, Mr. Chairman, there is a question in reference to whether an appeal should be allowed from an interlocutory order. This, however, is a practical question. If the commerce court shall justify its existence, it will be by the expedition of justice and the early determination of law suits in reference to these matters. Under the existing conditions, if you grant the commerce court the power to issue an interlocutory order—and no one contends that ought not to be done under some terms—and then provide for an appeal from the decision to the only court to which it can go, the Supreme Court of the United States, if the commerce court exercises expedition at all it ought to enter a final order in the case before the matter is determined by the Supreme Court, and it never would do so if it had the same question pending in the Supreme Court for determination, because the commerce court, the lower court, would not go ahead and render its decree while the same question in the same case was pending in the Supreme Court, so that the very purpose of creating the commerce court would be severely interfered with and probably would not justify its creation.

Mr. CRUMPACKER. Just a suggestion there in the way of a question.

Mr. MANN. Certainly.

Mr. CRUMPACKER. I think in all the States and in general federal practice appeals are allowed upon interlocutory decrees, as a rule; not all, but in most, but under this bill, if it becomes a law, only appeals can be prosecuted from final judgment and then no error can be assigned for irregularity or violations of the provision of the act in the issuing of an interlocutory decree. The appeal shall only be from the final judgment, so that the Supreme Court of the United States will never have power to pass upon the question as to whether that order of the Interstate Commerce Commission has been improperly arrested by an interlocutory decree.

Mr. MANN. I have no doubt whatever, of course, that if the commerce court will deliberately set aside the provisions of the law in relation to it—and the gentleman from Indiana seems to assume that the court would do so purposely—that the Supreme Court would read it a lecture which would cause a new commerce court to be selected.

Mr. CRUMPACKER. Let me say that I am not assuming that any court will willfully violate the law.

Mr. MANN. As the gentleman said a while ago, as I understood the gentleman, the commerce court would willfully disregard the provisions of the statute——

Mr. CRUMPACKER. I beg the gentleman's pardon. I undertook to say it might, and I felt it the duty of the legislative branch of the Government in making laws to provide complete and accurate safeguards against mistakes as well as abuses of discretionary power.

Mr. MANN. Well, there has never been that I know of, and I think the gentleman will never find, a way by which you can guard against a willful misuse of power by every official. The gentleman might assume he can guard against that in the Supreme Court, but he can not except by impeachment proceedings, which is not guarding against it. So far as obeying the provisions of the statutes are concerned in regard to an interlocutory order, I assume that no court would depart from the express provisions of the statutes, and if it did I assume it would just as likely be one court as another.

Mr. MADISON. Mr. Chairman, I want to ascertain whether I understand this section of the bill. I think I do, but I would like to ask the gentleman whether or not I do. If I interpret the section correctly, it means that a restraining order, what we lawyers usually call a restraining order, which is something more than a temporary injunction—well, something less than a temporary injunction, I intended to use the word "more" in the sense of difference—something less than a temporary injunction, and as I understand this section, the court may issue, or the judge of the court may issue, a restraining order without notice for a period of time not greater than sixty days. Is that right?

Mr. MANN. That is correct, on the conditions named in the section.

Mr. MADISON. Now, with both courts here in the city of Washington—referring to the Interstate Commerce Commission as a court, which is not entirely correct—why is it with both of these bodies here in the city of Washington that the interstate commerce court should have the power without any notice to the Interstate Commerce Commission to grant a restraining order for a period of sixty days?

Mr. MANN. I think that is a very fair question, and I think I can give the gentleman an answer——

Mr. MADISON. I do not ask it in a spirit of criticism.

Mr. MANN. I will say to the gentleman I think that is a very fair question, which occurred to me when I read that provision of the bill. While I did not prepare any of these court provisions of the bill, it seemed to me that it was designed to meet this case, with which I have unfortunately had experience in times past personally.

During the summer months I apprehend the court will not be in session in Washington, and the Interstate Commerce Commission will probably not be here. Some man with a very important case may have to chase around over the country to find a judge. That is not a fanciful proposition. Every lawyer knows that that sort of situation arises.

The court will not be here during all the year any more than Congress will be here, and the time will come when it will be

necessary, if you get an order at all, and when it may be perfectly proper to have an injunction order issued, for you to chase to the mountains, or to the seashore, or possibly to Europe, to find a judge who will issue an order, when it is impossible to give notice. You will be in luck if you find him.

Mr. LENROOT. Does not that same condition exist, and with much greater force, under the present law?

Mr. MANN. No; because it is easy to find a judge of the United States courts somewhere now.

Mr. LENROOT. They were compelled to bring their action in the district where the carrier had their chief operating office, and therefore they were limited to one judge.

Mr. MADISON. If the gentleman will permit me again——

Mr. MANN. Certainly.

Mr. MADISON. Is it not a fact—I am going into the subject generally of injunctions, but it applies here—is it not a fact, known generally to the profession and to the bar, that the principal grievance that men have against the issuance of injunctive orders without notice lies in the fact that it takes so long after an order is made before you can get it dissolved? Is it not a fact that that is the principal evil that will have to be remedied?

Mr. MANN. I think that is true.

Mr. MADISON. This very fact, that men get an order issued without hearing, upon ex parte affidavits, and then the judge does go to Europe or to the seashore, or to the mountains, or goes to some place else, and the defendant is tied up——

Mr. MANN. That is true, but that would not be true under the provisions of this bill.

Mr. MADISON. Well, why not?

Mr. MANN. That is the very thing we call to the attention of the gentleman. Such an order does not last more than sixty days unless it is extended by the court, and then the court must make the finding as to the specific reasons why the order is issued at all.

Mr. MADISON. Yes; provided now that sixty days is admitted to be a reasonable time. It seems to me if we provide for five judges who will not have a great deal to do if the present rate of work is to continue, if we provide for five judges with an addition of $2,000 to their salary, that we ought to require them to be here in the city of Washington to attend the cases of this kind and not permit the holding up of orders of the Interstate Commerce Commission for a period of sixty days.

Mr. MANN. Well, the gentleman may say that, but I do not think the gentleman will say seriously that he thinks the commerce court should keep a quorum in Washington all the year round.

Mr. MADISON. No.

Mr. MANN. I would not argue that question with the gentleman, because I do not believe he would be sincere in asking that the commerce court ought to keep a quorum in Washington the year round. I think that would be cruelty to animals.

Mr. MADISON. Yes; it might be true that you might not require them to be here the year round, but you could give to one or more——

Mr. MANN. But that is just what we do not want to give, "to one or more," to run the court. We require the action of the court to have at least a majority of the judges behind it, because we do not want to give to one judge or to two judges the power to continue these orders. It requires three judges to continue one of these orders in force after sixty days' time, which seems to me an exceedingly important provision. It is far better to let an order be issued by one judge for sixty days, which can not remain in force after sixty days unless three judges, a majority of the court, sustain it than it is to give to two judges the authority to issue an order.

Mr. MADISON. Will the gentleman permit me just a moment?

Mr. MANN. Certainly.

Mr. MADISON. I want to say if you make an American judge hear the facts, whether it is one or two or three judges that constitute the court, you will get the right kind of results. The important thing is not to have three men hear this matter and make the order, but that one man shall, in fact, hear both sides when it comes to the question of the interlocutory order. So far as I am concerned, I am inclined to the opinion that if it is a choice between evils, I would prefer that one man should hear the case as to whether or not a temporary order should be continued pending the litigation, rather than this system should stand as proposed here, that an order may be issued without notice, holding up the entire matter for sixty days.

Mr. MADDEN. Will my colleague allow me to ask him a question?

Mr. MANN. Certainly.

Mr. MADDEN. It is the opinion of the committee, is it not, that if an injunction is issued, and there is not a quorum of the court present, there is a continuance of the injunction for sixty days, and the injunction will dissolve itself at the end of that period?

Mr. MANN. I believe that is the case.

Mr. MADISON. May I ask the gentleman this: Is there any limitation that after one order is granted another order shall not be granted?

Mr. MANN. Oh, I think so.

Mr. MADISON. Where is it?

Mr. MANN. Well, I think a fair reading of the bill covers that as well as language can cover it. The bill provides how an order shall be continued.

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

Mr. MANN. Certainly.

Mr. LENROOT. I would like to ask the purpose for affirmatively granting to the court of commerce the power to issue injunctions in this connection? Jurisdiction has been granted in section 1. The court, under its equitable powers, had the right to grant these injunctions. In construing this section the court will presume that there was some purpose in all of the language used; and may it not take the position that it was the intent to change the equitable discretion the court would have in the granting of injunctions and give to it an absolute discretion?

Mr. MANN. Why, I think the reason for putting this provision in the bill is very clear. It is if it is in the power of Congress to limit the power to issue injunctions. We put in the provision as to the issuance of injunctions as it is in the law, and it is in the existing law, for the same purpose, limited so far as Congress has the right to limit the power of the court to issue injunctions within certain prescribed conditions.

Mr. LENROOT. I am not referring to the limitation part of the section.

Mr. MANN. The gentleman is referring to the provision, and that is what I am referring to. There is no question about it. It does not enlarge the power.

Mr. KEIFER. For fear that there may be some misunderstanding, I understood that the answer to the question here indicated that you are of the opinion that if the restraining temporary injunction was once dissolved that it could not, under any circumstances, be restored again. I think that is not the meaning of the bill. If there was a hearing of the case, either a final hearing or some other proper hearing, the court, it seemed to me, if they might wish, at any time along in the status of the case, issue a temporary injunction.

Mr. MANN. I do not think the gentleman from Kansas misunderstood me. The proposition which he presented was, as I understood him, this: Suppose an injunction order is issued by one judge for sixty days, and some judge—another judge—at the end of sixty days shall issue another injunction order for sixty days as to the same subject. I think not, clearly.

Mr. KEIFER. I might agree with you as to that, although the question and answer were pretty broad.

Mr. MANN. Oh, well, I think I conveyed my impression to the gentleman.

Mr. MADISON. Yes. I want to say frankly to the gentleman that I am asking largely for information. I have been in a condition that I have not been able to study the bill thoroughly; but I am interested in this proposition, and so I took up the gentleman's time, and thank him for his courtesy in yielding it. This section provides that said court or a judge thereof may "suspend in whole or in part the operation of the interstate commerce law." Now, then, it is not the court; it is not the majority portion of the court, that seems to have to wait for sixty days; but it is one man who will control. Now, I admit the full force of the gentleman's suggestion, that this bill provided that the majority of the court should act. But I find after reading the bill that as to this matter that only one may act.

Mr. MANN. That is what I stated. I said one might act. I said that he might issue a temporary order for sixty days; but the court acts when it is continued, and the bill provides that it takes a majority of the court to act as a court.

Mr. MADISON. All right. Now, then, I misunderstood the gentleman. I do not think he intended to mislead me at all. That being true, would it not be a better provision, taking into consideration the fact that the Interstate Commerce Commission is here in the city of Washington, and this court will be in the city of Washington, the judges will be here, that the judge thereof might allow a temporary stay, that any restraining order may be granted for no greater time than five days or ten days

without notice of hearing, and at the expiration of that short period of time, and after hearing, that he may make the temporary order for sixty days, and thus have the matter brought before the court, and let both sides be heard. Why would not that be a better provision?

Mr. MANN. If the gentleman should discuss the subject with the Interstate Commerce Commission, I think he would find that their experience had been that even the matter of the five days' notice was not very satisfactory. It is desirable to give the commission time in which to present its case, before the court is called upon to determine whether this injunction shall be continued in force; and with a temporary order issued for sixty days, as doubtless in most cases it will be, either by the court itself or a judge of the court, then the Attorney-General or the parties in interest will have time to present their case before the court is called upon to extend that order; and, I think, most of the cases will be disposed of practically upon the application to extend the injunction beyond the sixty days' time. In a great many of the cases which have already arisen, where there has been time granted by agreement of the parties, practically suspending an order of the commission, necessarily a temporary injunction of the court, where the commission has had time to present its case, I think in the majority of the cases, the court has refused to issue the injunction order, not on the final hearing and not on the first preliminary hearing, but upon a real preliminary hearing, and that has been practically a disposition of the entire case.

Mr. CRUMPACKER. My recollection is that this bill provides that four of the judges shall constitute a quorum.

Mr. MANN. Yes.

Mr. CRUMPACKER. Now, suppose one of the judges of the court grants a restraining order without notice and vacation comes. Unless the suitor can obtain an order of court requiring the assembling of four judges together, the order of injunction becomes inoperative at the expiration of the period of sixty days without regard to the importance of the controversy.

Mr. MANN. Yes.

Mr. CRUMPACKER. There is the other side of the question to look at.

A MEMBER. It may be continued.

Mr. CRUMPACKER. It can not be continued except by order of the court.

Mr. MANN. Yes; that is correct.

Mr. CRUMPACKER. And the court must be composed of at least four judges sitting officially. Now, it strikes me that provision ought to be made, even in cases like that, for protecting the rights of the parties. It occurs to me that three judges ought to constitute a quorum, and that the concurrence of three judges ought to be necessary to make any order.

Mr. MANN. Mr. Chairman, this debate, interesting and instructive, reminds me very much of the time when we had the penal code up in the House. Throw any kind of a legal proposition into a bunch of lawyers and you have got as many different opinions as there are lawyers present. [Laughter.] I do not propose to take any more time myself in discussing the court provisions of this bill, which, to my mind, are not essentials, but are mere incidents in the practice growing out of the law, which is essential.

Mr. HARDY. Will the Gentleman allow one question? Whether, in the opinion of the gentleman, in actual practice, the one judge issuing such a temporary injunction or restraining order would be likely to consult the conditions of the case as to whether he made it the full sixty days or some lesser and more reasonable time.

Mr. MANN. Oh, I think in actual practice, while the court was in session in Washington, a judge would refuse to issue any injunction at all without notice.

Mr. HARDY. Or if he did issue it, would issue it for a shorter time than sixty days.

Mr. MANN. I think he would not have the authority to say the time.

Mr. HARDY. The statute says it shall be for not more than sixty days.

Mr. MANN. Yes.

Mr. HARDY. That does not mean that he must give the full sixty days.

Mr. MANN. Oh, undoubtedly the Attorney-General or the parties in interest could go into court before that time and ask to dissolve the injunction; but I think the injunction order would run the sixty days, as far as the judge was concerned, under that language.

Now, Mr. Chairman, I wish to discuss briefly the provisions in regard to consolidation and stocks and bonds. I say I would like to discuss it briefly, because I have had a controversy with a very distinguished gentleman as to which of us knew the least on this subject. When the chairman of the Interstate Commerce Commission was before the committee I stated that I did not pretend to be well informed on the subject of the issuance of railroad stocks and bonds, and I asked the chairman of the commission for his judgment in reference to the matter, and he replied that while he was willing to yield to me as to knowledge of almost anything, yet when it came to the question of profound ignorance of the subject of stocks and bonds he thought that he could beat me. [Laughter.]

I do not concede that, but I think we have reached the point where it is necessary for us to enact some legislation along these lines. The sections which we have presented in this bill are quite different from the sections which were proposed to the committee.

The provisions in the original bill were contained in sections 12 and 13 of the Townsend, or administration, bill. Before we had gone very far in the hearings on the subject, but after we had had more or less testimony, which never was any great amount, new propositions were presented to us in another bill, and these have been considered by the committee. In the provisions as we now present them we provide in section 12 that no railroad corporation or water carrier corporation shall acquire stock in any railroad or water carrier corporation, or lease or purchase any railroad or water line which is directly and substantially competitive with the first corporation.

Now, there is no need of anyone asking me here what is the strict meaning of "directly and substantially competitive," because I leave that to the judgment of any member of the committee, which is as good as mine. Many of the States have language providing that two railroad companies which are parallel and competing shall not be consolidated. We have not used that language, but have used the language "Any two railroads that are directly or substantially competitive shall not be consolidated." We make the same provision in reference to stocks and bonds.

Another provision in this section is the so-called Russell amendment, providing that after July 1 of next year no two railroads or water-carrier lines which are directly and substantially competitive shall have the same persons as directors or officers of the roads or corporations, which probably will do much to prevent the practices of the past.

Mr. SIMS. Will the gentleman yield?

Mr. MANN. I will yield to the gentleman from Tennessee.

Mr. SIMS. What was the language used in the bill he introduced himself, seeking the same object as to competition?

Mr. MANN. I will refer that matter to my distinguished friend to examine the bill. Although that bill was prepared with great care and with all the exercise of judgment of which I was capable to give to it, still I do not remember that language.

Mr. SIMS. I did not know but that the House might prefer the language used instead of this, if they had an opportunity to pass on it.

Mr. MANN. I think this language, which was worked over by our committee at considerable length, is probably as well placed as we can place language and cover the purpose, with the knowledge that we now have, remembering that in this matter we are traveling a road that is untrodden.

Mr. SIMS. That is what I wanted to ask. If the words "directly and substantially competitive" have a definite meaning by reason of having been passed on by the court.

Mr. MANN. I think the gentleman probably did not hear my statement when I stated that I would not attempt to define the words "directly and substantially competitive."

Mr. BARTLETT of Georgia. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. BARTLETT of Georgia. Is it not a question of fact rather than a question of law to determine whether two roads are "directly and substantially competitive?" Would not the court have to appoint a master in chancery or an examiner to report the facts? You can determine by the map whether two roads between points like New York and Chicago run through competing territory.

Mr. MANN. I do not think there is any great difficulty in determining whether two roads are directly and substantially competitive by quite a number of different methods.

Mr. HARDY. I would like to ask the gentleman a question.

Mr. MANN. I will yield.

Mr. HARDY. A great many freight shipments are entirely by water, coastwise, for instance, from New York to New Orleans, and the competing shipment would be by railroad, say from New York to New Orleans. Does this attempt to prevent the railway corporation from owning stock in the waterways corporation?

Mr. MANN. If it is directly and substantially competitive, it does.

Mr. HARDY. Would not most of the coastwise lines be under direct competition with almost all of the railway lines?

Mr. MANN. Now, I will say to the gentleman as I said before, I shall not attempt to define the meaning of the words "directly and substantially competitive," and no one can define them. There is no one who can draw language which will say that two railroad companies ought not to consolidate when they ought not to, and may consolidate when they ought. It is not possible in the English language to do that without construction as it is worked out. Any two railroads in the United States are more or less competitive. Any two water lines are more or less competitive. Now, I think that if there is a water line between two points engaged in carrying a class of freight and a railroad between those two points engaged in carrying the same class of freight, they certainly are "directly and substantially competitive," and the prohibitions of this act would apply to them.

Mr. HARDY. Suppose, however, that the railway line only goes part of the way and it is a connecting line that carries the balance of the freight.

Mr. MANN. I would not think that would make any difference.

Mr. HARDY. They would both be competitive of the water line?

Mr. MANN. Undoubtedly.

Mr. HARDY. And prohibited under this section?

Mr. MANN. Undoubtedly. I can give an easy illustration that it is not easy to settle. They carry freight from Italy to Chicago. It can come by way of New York, as probably most of it does come, and go over the Pennsylvania Railroad or the New York Central and Lake Shore railroads to Chicago. Those two roads are plainly competitive between New York and Chicago. It may go by way of New Orleans and go over the Illinois Central Railroad to Chicago. It may go by way of Galveston and go over the roads that run from Galveston to Chicago. It might go through the Suez Canal and go around the other side and come by way of San Francisco and go from San Francisco to Chicago. Are all these roads "directly and substantially competitive" within the meaning of the prohibition which prohibits their consolidation, if they are? I do not know. But a plain case anybody can tell.

Mr. HARDY. Would not the better provisions be just simply to prohibit railroads from owning any stock in other lines?

Mr. MANN. Not at all. Would the gentleman desire to prevent, for instance, the Great Northern or the Northern Pacific line from owning a line of boats across the Pacific Ocean to the Orient? Is there any reason why a railroad company from the west coming to Duluth should not own a water carrier line that would carry its freight to Buffalo? Is not that to the interest of the western shipper of grain? Certainly there can be no objection to the consolidation of roads anywhere on the same line of traffic, where they are not competing directly and substantially, where the purpose is to make a line through.

When I was a boy—and that is not so very long ago—I believe there were a dozen roads constituting what is now one line between New York and Chicago. Would anyone to-day have a dozen lines under different management and ownership on the road between Chicago and New York or the road between Chicago and Washington? No one would have that. Here is a little feeder some place in the country and perhaps another one, and both of them are partly in competition with each other, both feeding the main line. It is to the interest of all parties that the one line having control of those companies, because it results in a reduction of freight rates and in an expedition of traffic.

No one desires to prevent that. No one, on the other hand, in a legislative body wishes to leave it within the power of a few men, as Harriman was in his day, or getting to be, where they might consolidate the railroads of the country and practically stamp out all competition, because, while we may legislate and legislate and legislate, after all the greatest factor in the country in reference to railway transportation and railway rates and the efficiency of our railway management is a natural competition between either roads or places and businesses which ought to be permitted to continue.

Mr. Chairman, we have provided a method in the bill—which has been severely criticised, and I hope gentlemen will not at this time make me enter upon any extended discussion of the subject—in reference to permitting railways to apply for permission to receive a determination as to whether they may legally consolidate. With the prohibition against roads "directly and substantially competitive" from consolidating either by purchase of stock or lease or purchase direct, we have provided that where a road wishes to absorb another road, either by purchase of its stock or by the purchase of the road or by lease, it may make an agreement to that effect, providing in the agreement that the agreement becomes effective only when the commerce court shall declare it is not in violation of the provisions of this section, and thereupon such road may file its decision with the commerce court and have a judicial determination of the fact as to whether the two roads are "directly and substantially competitive," and an order be entered either enjoining the two roads, if the finding is that they are directly and substantially competitive, from consolidation in any of these forms, or else, if the finding is that the two roads are not competitive, enjoining the United States from any proceeding against the roads entering into such consolidation.

Mr. SIMS. It is not mandatory, as I understand it, for the roads to take this course?

Mr. MANN. It is not.

Mr. SIMS. They can consolidate and go ahead and take the chances. Now, I want to ask the gentleman——

Mr. MANN. That is true.

Mr. SIMS (continuing). If with the able attorneys that the railroad companies have, if they will ever file a petition except where they have doubt?

Mr. MANN. Mr. Chairman, I see it is getting late, and I want to discuss for a few minutes another proposition in the bill, and I do not wish to talk after to-day in general debate on this bill. The bill provides that if the railroad companies do not make any attempt to thus get an adjudication, that any attempted acquisition by two roads in this manner or any violation in any way of the provisions of the prohibitions of this section shall be void and may be enjoined upon application to any court of competent jurisdiction, which would not be the commerce court, by the way, but any circuit court of the United States; so if such an agreement be entered into at all, the United States may, if it so desires, file a petition in any court of the land to enjoin the proposed purchase of the road, the proposed lease, or the proposed purchase of the capital stock. It is not required to enter into such proceedings as that. It may wait and bring proceedings under the Sherman antitrust law, and the right to do that is expressly saved by the section.

And it is claimed by some that there is no such legal controversy between the United States and the road as will permit the court as a matter of jurisdiction to determine upon the application of one road which proposes to absorb another, as to whether the roads are competitive or not under the provisions of the statutes.

Mr. MADISON. Why not?

Mr. MANN. It has been argued that it is no controversy, that it is a moot-court case. It seems to me that the argument is not well taken, because the court will not be called upon to act until an agreement has been entered into, which in itself is an attempted acquisition by the road and which in itself would authorize the United States under the law to commence proceedings to enjoin the proposed acquisition; and I can see no difference in the theory of the controversy whether under such proceedings we permit the United States to commence proceedings or permit the railroad company to commence proceedings to obtain an adjudication between it and the United States. If the United States commences the suit, then the court is called upon to determine whether the two roads are competitive under the provisions of the act and to determine whether it will enjoin the consolidation. If the railroad commences the proceedings, the court is called upon to determine the same thing.

Mr. MADISON. Was there some one person at that hearing representing the Government or the public under the provisions of the bill?

Mr. MANN. Oh, certainly.

Mr. RICHARDSON. Mr. Chairman, I would like to ask my colleague if he will yield to a suggestion in the way of a question?

Mr. MANN. Certainly.

Mr. RICHARDSON. Is not it a fact that under this provision that the court of commerce is required to take jurisdiction in advance of the parties acquiring any interest? Do not you use that language, "in advance," in this section? In advance of the parties having acquired any interest, and I ask you, to take jurisdiction of what?

Mr. MANN. The court in this case upon application of the railroad company does determine and adjudicate the matter in advance of the actual taking, but not in advance of the agreement to purchase or absorb, which of itself is subject to be enjoined by a suit on behalf of the Government as an attempted acquisition.

Mr. HUBBARD of Iowa. There is no provision in this bill for any preliminary hearing of this matter before the Interstate Commerce Commission.

Mr. MANN. No.

Mr. HUBBARD of Iowa. There is no provision in this bill whereby an agreement between parties is subject to the scrutiny of the Interstate Commerce Commission?

Mr. MANN. No; and that leads me to remark the bill as reported provides that this matter shall be disposed of by the commerce court.

In the report, which was made by direction of the committee, it was expressly stated that that matter was still under consideration by the committee as to whether this determination concerning roads being directly and substantially competitive should be made by the commerce court or by the Interstate Commerce Commission. There is considerable argument on both sides. I do not propose to go into it at this time, or to express any personal opinion on the subject, except in so far as to say that the claim in behalf of the Interstate Commerce Commission having the jurisdiction is that it is more easily informed, and can make use of its personal knowledge; and the claim in behalf of the court is that it can enter a final adjudication, and that there ought to be at the end of a hearing on this matter a determination of court, which is binding upon all parties, and which will stand.

Now, Mr. Chairman, just a word as to the issuance of securities by the railroad companies. The provisions of the bill as reported have been changed from the provisions which were first suggested to the committee. Those provisions in the bill will be discussed more at length by other members of the committee, I believe and hope, who are better able to discuss them than I am. As the bill was presented to the committee it proposed that railroad companies should not issue stocks at less than par value; that they should not issue bonds except at market value. As reported by our committee we have eliminated the question of issuing stocks at par value and have provided that no securities except not exceeding two-year notes shall be issued by railroad companies, subject to the provisions of this act, until application is first made to the Interstate Commerce Commission for the power to issue securities, naming the purposes for which such securities are to be issued. And the commission shall then, after such hearing as it may give, issue its certificate determining the amount of securities which may be issued, both stocks and bonds, the purposes for which the money may be applied which is received from them, and the price at which they may be sold.

That will protect the public; it will give to an unknown corporation which has no market value for its stock or its bonds, in a new part of the country—perhaps an electric road—an opportunity to obtain money from the issuance of its stocks and bonds on such reasonable terms as may be allowed.

The provision as we first had it under consideration in the committee also provided that upon the reorganization of railroad companies or their consolidation, arising from bankruptcy or otherwise, that they might issue certificates to the amount of their securities already in existence, where a railroad is being foreclosed, to the same amount on reorganization that it had outstanding before the foreclosure proceedings, and that upon consolidation it might issue securities to the amount that both roads had outstanding.

We have made a provision in the bill that either in a consolidation or as a result of sale, in foreclosure or other proceedings, the amount of securities to be issued shall not exceed the fair value of the property to be determined by the commission, shall not exceed the amount of securities theretofore outstanding, and conferring authority to take up receivers' certificates for new money which is paid into the corporation.

In other words, we have practically provided in this bill that no stocks and bonds shall be issued except for value, based upon prices which shall be fixed by the commission for legitimate railroad purposes, which shall be determined by the commission for the amount which may be allowed by the commission, and that in case a road goes through the hands of a receiver and foreclosure it shall only issue stock to the extent of the value of the road and not in excess of the amount of stock and bonds outstanding before the foreclosure proceedings were commenced, unless new money be put into the road.

Mr. Chairman, just a word. We can not deal lightly with the railroads of the United States. With more than, as I recall it, 330,000 miles of track in the United States, with more than 230,000 miles of so-called single track, with the great number of miles of double track, 75,000 miles of siding and switch tracks, and so forth, with the vast number of employees engaged upon railroads, supposed to be equal to at least one-twelfth of the laboring people of the United States, with the great income which comes to the railroads, with the tremendous importance which they exercise over our commerce, with the dependence upon them for our own happiness and comfort, we have approached this subject with the proper degree of solemnity, believing it was our duty in committee, after full consideration, to sweep aside any prejudice we may have had for or against railroads, and to deal fairly with them and at the same time to provide fairly for the great country and the great people whom we represent. [Applause.]

Mr. ADAMSON. Mr. Chairman, I have such respect for you, my colleagues, and the cause of right that I wish neither to omit nor inaccurately to state any material matter; nor do I wish to be prolix. I dare say, however, that I need not be overparticular on that point since the performance of the gentleman from Illinois [Mr. MANN], with which you have just been so highly entertained. He has long been celebrated as a rapid-fire talker. He next made a reputation as the most frequent speaker; but he has now blazed into splendor and made a new record as the longest talker who ever spoke on a commerce bill.

The gentleman from Illinois has made a magnificent speech. I have enjoyed it exceedingly; I can not follow it just in the way he has proceeded, because we approach the subject from different angles. He bears upon his shoulders the stupendous burden of carrying the administration measure. He has performed his duty to the best of his ability, in my judgment. To present new and wrong propositions, to present things not only radical, but reactionary, to present propositions which do not advance reform of railroad regulation, but really mark the turning point, effecting an absolute reversal of progress, made slowly at the demands of the people during the last twenty years, turning reform of regulation of interstate commerce back the other way, was his task. It will not require half so long to combat his efforts at showing reasons.

It is not necessary to discuss all the matters that he discussed. Most of the good things in the bill are put there as much "by us" as by him, by amendment. There were good men at both ends of the table, enough to put on this bill many of them. Mr. Chairman, in putting them on, we did not think they would blind us, as part of the speech of the gentleman may blind some people to the obnoxious parts of the bill, and induce us to vote for the whole bill. You might just as well turn a lion loose because you had trimmed his mane and tail as to fasten the obnoxious features of this bad bill upon the people because in this House we have put some good amendments on it. We all know that the lion's mane and tail will grow again, and we know that his fangs and claws are still there. [Laughter and applause.]

Likewise we know that it is not the intention of the administration, which has ordered the passage of this bill, nor the statesmen in another place, unmentionable by good Congressmen here, that any part of these amendments that we have put on shall ever be in the law when it is signed by the President. If we are misled by these amendments into voting for the bill here, then it goes into conference, and there they will all be taken off and the original bill brought in to us. So there is no inducement nor reason for us to be deceived. [Applause.]

He divided the bill, like "all Gaul," "into three parts." Though I followed his discourse closely, I am unable to distinguish clearly but two parts to this bill—the good part, which I like, and the bad part, that I do not like.

The good part I can not get, the bad part I can get, and may be compelled to take; but do not want it under any terms, not even when sugar coated with the good part. That sugar coat is not thick enough, nor sweet enough, nor extensive enough to cover, destroy, nor disguise the bitterness of "the wormwood and the gall" of the bad features. As I am not trying to pass the bill I shall not dwell upon its few good items, for they are not indigenous to the soil which germinated the bill nor congenial to its main terms. They are put on by amendment, and we would vote for them with pleasure if separated from the vicious provisions. The authority to allow the attorneys of parties at interest to appear in court under certain conditions subject to the control of the Attorney-General, so long dwelt upon by the gentleman from Illinois, is one of the amendments which was designed to alleviate a bad situation threatened by the original provision to give the Attorney-General absolute charge of litigation. Of course, the amendment improves the section, but by no means does the amendment render the original perfect or even acceptable. We ought to amend by striking out the proviso entirely on page 43 and inserting—

Complainants before the Interstate Commerce Commission interested in a case shall have a right to appear and be made parties to the case and be represented before the court by counsel, under such regulations as now permitted in similar circumstances under the rules and practice of the equity courts of the United States.

That provision was a part of the scheme to which sections 7, 12, 13, 14, 15, 16, and the repeal of certain words in section 1 of the original law were intended to contribute, devised by the

reactionaries with a view to moderating the efforts at regulation and obviate the force and avert the penalties of the antitrust and antipooling statutes.

The framework of the scheme of the reactionaries consists of—

THE COMMERCE COURT.

SEC. 12. Repealing the proviso in section 1. Giving the Attorney-General control of cases. Section 7 nullifying the law against combinations.

SECTIONS 13, 14, AND 15.

The first two are reciprocal in their purposes. The court is to transact the business desired as proposed in section 12. Section 12 is to furnish the business to make the court necessary. To facilitate that and other work essential to the plan the repeal of the proviso in section 1 is considered necessary. Giving the Attorney-General control of all litigation is absolutely essential to the scheme. The provisions of 13, 14, and 15 can be easily made to do the work of ratification, of consolidation already made, new consolidations as far as desired, and the prevention of developing the country in the future by the construction of new and independent lines to compete with monopoly now existing and to be perfected.

It is unfortunate that the Executive and my amiable and able friend, the gentleman from Michigan [Mr. TOWNSEND], were misled and deceived into lending their powerful sanction to the measure which they may not know to be so iniquitous, which they may not even believe to be such, and in fact both might probably deny it with perfect sincerity. I have no doubt their intentions are good, but their efforts meet more favor from the reactionaries than from the people, and however honestly intended are welcomed by special interests as calculated to help them secure improper ends and accomplish improper purposes. One of the sublime poets described a point between two worlds as "where gravitation, shifting, turns the other way." This bill registers the turning point where improvement in regulating interstate commerce, "shifting, turns the other way," assuming the form of radical though insidious reaction.

In presenting the substitute bill to the House the gentleman from Illinois, the distinguished chairman of our committee [Mr. MANN], has buttressed it with an elaborate report. It is presumed by their silence that all members of the committee who have not signed any statement, passively and tacitly at least concur in that report. Two members of the committee have submitted a statement commending and particularizing certain advantages possessed by the substitute bill, most of which are amendments.

The minority views signed by four of us, who actually and vigorously oppose the bill on account of its vicious provisions, despite a few beneficial amendments adopted through our aid, concede that the bill has been improved in committee by amendments, but is confined to outlining our objections to the obnoxious features of the bill, which, though altered in some minor particulars, do not now differ materially from their original character.

I shall endeavor to take up the subject in the order in which I have referred to these reports.

The majority report begins with quoting the special message of the President, in which he makes an argument for the commerce court, recommends that the Interstate Commerce Commission be relieved of its duties to initiate and defend litigation, as those duties engender partisanship or the accusation thereof; advocates giving carriers permission to make agreements now thought to be interdicted by the antipooling law; advocates the right of shippers to route their freight; recommends that the commission be authorized to initiate inquiries as to unjust rates and to investigate them before they become effective; that carriers be required, under penalty, to quote correct rates; and winds up with a labored argument in favor of the Federal Government undertaking to control the subject of competing lines and the consolidation thereof and the issue of stocks and bonds by taking actual control thereof, and allowing nothing done except on the authority of the Interstate Commerce Commission.

It is presumed that the argument is begun by the quotation of this message in order to command the solid cooperation of all the regulars, insurgents, and near insurgents, either present or past or hanging doubtful in the balance as to insurrectionary proclivities in the future. It will be observed that the powerful artillery of invoking the Republican platform is called into exercise, in support of sections 12, 13, 14, 15, and 16. If that is an unanswerable argument why all stripes of republicanism should support any part of the bill, the President could have gone further and put behind the provision for the annullment of the pooling law, also a demand of the Republican platform, and right here I will call attention to the fact that the Republican platform demands that the carriers be given the right to make and publish traffic agreements subject to the approval of the commission. I believe those, however, are the only provisions of the bill touched upon by the Republican platform. The argument for the commerce court has no foundation in any party authority.

As we all know, the gentleman from Michigan [Mr. TOWNSEND] is the inventor of that, and entitled to whatever credit or discredit attaches to it.

The Republican platform makes no mention of it, so no Republican, nor near Republican of whatever degree or quality, need halt and fear and tremble about that as the deliverance of cardinal Republican doctrine. If you insurge against anybody on that it will be against the ipse dixit of the President alone on a bill appropriating Mr. Townsend's court, prepared by the Attorney-General at the request of the President, and sent simultaneously to both Houses of Congress with orders to enact it into law.

Congress considered that court six years ago and refused to adopt it. As now presented, the proposition is much worse.

It will be observed that the argument in behalf of the commerce court is not as enthusiastic and convincing as the usual arguments made by my distinguished chairman, the gentleman from Illinois [Mr. MANN]. In fact, it is so conspicuous from the evident weakness and scarcity of argument, that, knowing the gentleman's resources, we may conclude there are no arguments in its favor.

His friends know that he was not originally in favor of the court, and believe that if he finally votes for that court it will be out of official deference to the President, substituting for his own conscience and judgment the imputed conscience and judgment of the President. If the gentleman from Illinois does make such a substitution I do not believe he will substitute any better conscience and judgment than his own, and his real friends hope he will not do so.

The provision as to initiating inquiry into rates and practices the President borrowed from the Democratic platform, just as the party in power has taken up every other valuable thing it has ever done or pretended to do. Repeated recommendations of the Democratic national convention forced the action which resulted in the Hepburn law. It is impossible for Republicans becomingly to wear Democratic clothes or effectively to carry out Democratic doctrines. They are under so many obligations to people who are mixed up with the special interests that it is impossible to take any good thing and put it straight through in good order. They must twist and contort it, and adulterate it so as to impair its effect and possibly vitiate its operation. The first mention that can be found in any Republican platform referring to reformation of transportation was in 1908, when it commended the efforts of the Republican party in the Fifty-ninth Congress, when the recommendations of the Democrats were partially adopted by the Hepburn Act, and that commendation was coupled with the complaint that the pooling privilege was being interfered with and demanded some interference with stocks and bonds, which some were simple enough to believe was thought to be in the interest of rate making. Our experience with this bill has dispelled that illusion.

The President's recommendations as to relieving the commission of the duty of initiating and defending litigation is of doubtful wisdom and unsupported by sufficient reason, but we have been so busy fighting greater evils that we have not actively antagonized that change.

The explanation made by the chairman of the committee as to the appearance of counsel for parties at interest hardly does him credit. His statement that in purely civil cases the court will direct, review, and correct control of the leading counsel as to conduct and disposition of cases on their merits is untenable. Even without the express language prohibiting interference with the Attorney-General's control of a case, the most that any court would do under the authority to prescribe the terms or which such an appearance could be made would be to direct the order of procedure as to introducing evidence, the number and length of arguments, the order thereof, and so forth. Only in criminal cases do the courts take control or make suggestions as to what the Government's counsel shall do as to pressing or abandoning the case. Granting nonsuits, directing verdicts, and suggestions in some equity cases present no analogy to the cases under consideration, which arise from property rights and complaints of persons, natural and artificial, such as are not usually committed to the charge of Government's counsel.

The President's recommendation as to quoting correct rates by the carrier we have not opposed at all. The other recommendation that the commission may arrest a rate before it goes into

effect and investigate its fairness, the President also borrowed bodily from the Democratic platform, so that the best two things in his original bill are taken from the Democratic platform.

The majority report truly states that the committee gave extended hearings and afterwards took up the bill for consideration section by section; that is, as regularly and consecutively as we possibly could consistent with the evolutionary progress of the bill and its numerous appearances and amendments by its authors. Of course, during the long period of frequent transition we were unable to prophesy just how important the amendments offered by the authors were going to be, so we never knew just how nor when we could rely on the stability of the administration bill far enough to go to work and try to consider it. So, very naturally, we set out to get up some amendments of our own, and when we did get down to work on the bill the newspapers say—of course I can not say, being a member of the committee—that progress was greatly retarded from the fact that when the provisions of the bill encountered obstacles there had to be delay and further conferences with the executive department as to how to proceed, but your committee finally got through and reported the bill by substitute.

The majority report correctly states that different theories are entertained as to control and regulation by government of transportation, but it is a grave and fundamental error to say that the theory adopted by our Government, following the theory of the state governments, is that the right of eminent domain and certain other rights granted to certain persons to construct, control, and own and operate railroads carries with it the power exercised on the part of the Government to regulate. The true theory is that because a State commits to state corporations the quasi governmental function of running trains on the railroads, accommodating the public for profit, and maintaining order thereon, it permits to them the right and power of eminent domain in order to effectuate their purposes. The state government regulates their operations because the State has granted the charter, a part of the law of the land, and their functions being quasi public, it is lawful and proper and requisite that the State should regulate their rates and practices as to transportation and the honesty and fairness of their transactions, so far as concerns their corporate dealings with others. Not one of these considerations has any application to federal regulation of interstate commerce.

The rates and practices of carriers engaged in interstate transportation are to be regulated by the Federal Government under act of Congress simply and solely because a provision of the Constitution gives to Congress the authority to regulate interstate commerce. There is no sense nor necessity in mixing it up with any other questions or analogies. There is danger and constant tendency to stretch that constitutional provision beyond its original intention and make it do a great deal of mischief in the direction of consolidating and centralizing all government at Washington, but there is no question as to its conferring the sole and only necessary power to regulate rates and practices in interstate commerce. The tendency to stretch it is in the opposite direction from the intention of the clause. The clause was put in the Constitution, not because anybody expected the Federal Government to assume the burden of scrutinizing and conducting all the details of interstate commerce, but for the purpose of enabling Congress to prevent one State from adopting laws and practices which would discriminate against the citizens and commerce of another State.

The majority report states that the Hepburn law of 1906 vastly improved the original act, but the propositions involved in the substitute bill are of even greater importance, and after this extended comparison of the original law, the Hepburn bill, and the present reactionary administration measure, the report, true to the invariable Republican instinct of a saving clause, apologizes by saying this climaxical bill does "not impose undue burdens upon the railways of the country nor unduly interfere with the power of the railway managers," professes that it confers benefits on the shipping public, and then gets clearly away from the subject of rate making and discloses the traditional "cat in the meal tub" by making an assurance of salvation to the "investing public." Our chairman could not have made the joke any better, even if he had reminded us that the same gentleman who, as Attorney-General, reassured the carriers and the investing public that the administration did not intend "to run amuck" on reform is still in the Cabinet and at its head, and he could have maintained the high character of the joke by suggesting that the present distinguished Attorney-General is very much like him.

The argument for the commerce court fails to sustain it. The evidence on the hearings failed to sustain it. The use by the President of analogy to the court of customs is very unhappy. The suggestion that it is like a patent court is not at all pertinent. The first question generally discussed here and elsewhere as bearing on the court has been that the court would entail great expense. On that point the question with me is, Is it a proper expenditure? If the court be necessary and proper, it ought to be created, regardless of the expense, If it is neither necessary nor proper, it ought not to be created at all, though it costs nothing or came accompanied by a large bounty. The evidence satisfies me that the court is entirely unnecessary. Decisions of the Supreme Court rendered since the President's message have clarified the situation and shown, according to the opinion of the commissioners, that the questions will be so much simplified by those decisions that business of that character will be much less in the future than in the past. There have been so few cases in the past as to create no necessity for the court. The circuit judges throughout the country are not dying from overwork nor resigning, so far as I can learn. They are able to take care of all of that kind of business that may arise. It is not insisted by anybody that circuit judges will know any more while sitting in commerce court than when presiding on circuit.

The demand for uniformity in decisions is little short of ridiculous. As long as God makes many men of many minds, as long as different environment, heredity, education, kinship, and financial interest produce different modes of thinking and different predilections, as long as this great country, stretching from ocean to ocean and from the frozen North to the tropic seas, teems with the thrifty sons of all nations of the world, with the body of the text and practice of the laws of all civilized nations, the idea of uniformity in anything is absolutely impossible, and our Supreme Court has so declared. The only possible tribunal that can be relied upon to harmonize and unify different theories, practices, and ideas, and declare what shall prevail is the Supreme Court of the United States, and though you create this court and a dozen other special courts, there will still be, although fugitive cases, instances and forms of litigation in which all those questions may reach the Supreme Court from courts other than the commerce court, and the final unifier, if one can be found, will be the Supreme Court. A great objection to the court is that it specializes litigation touching particular lines of business. This is abhorrent to the American sense. The customs court referred to by the President in his message is a misnomer. It ought not to be called a court at all. It passes on cases arising under the collection of revenue, and it ought to be called a commission or a board of appeals.

The judicial nomenclature ought not to be confused nor corrupted by calling such a board a court. When you seek a perfect analogy, it is safer to examine the substance rather than to sound the name. I object to the proposition to specialize all the commerce litigation so as to withdraw from lawyers over the country generally all the inducement afforded by hope of fees to become expert and accomplished in a branch of the law in which all of our people are interested. It smacks too much of the dark ages and the woes of a priesthood-ridden people to say that the leading subject of interest to the people if not the greatest field of litigation should be committed to a particular guild of lawyers, a class specially trained and devoted to that court who shall take the emoluments to the exclusion of all others. Furthermore, those who insist that there will be business enough to engage that court unwittingly suggest the alternative idea that if you take away business from the circuit courts enough to engage that court, it will to that extent leave the circuit courts idle and congest the business in the commerce court. In this connection it is noted that the carriers have not raised any rough house against the creation of this court. They are utterly amiable about it and ready to submit gracefully to its establishment. Its establishment, with most of the business transacted at Washington, would enable them to make common agreements about employing lawyers, as well as transportation.

Fewer lawyers with better fees and yet smaller contributions from each carrier would enable the same lawyers to represent all the carriers. It would be very economical to the railroads. Then all business having to go through that court, due decorum being maintained as to taking testimony and everything else, the business would become clogged and stagnated and the carriers would secure that dearest boon to corporations, "the law's delay." The carriers can afford to submit, and they evidently think so themselves.

Another peculiarity about that court is the way its personnel is to be constituted. The advocates of the court started out with the proposition that ordinary judges throughout the coun-

try do not know enough about the technical subject of commerce to make competent commerce court judges; therefore they desire to select the wisest and best and dedicate them entirely to that line of law. Mirabile dictu! The scene changes! And they propose not only to limit the time of service of the judges on the commerce court, but to appoint five new judges, assign them to initiate the court, and start it off as the first occupants of that peculiar bench. What goes with the idea of experience, and training, and expert judges? That is exceedingly plain to the man who wants to see. They are to receive their training in corporation law as corporation lawyers, before being appointed circuit judges; and no man need doubt that when those five new judges are appointed they—or at least three of them—will be men who know more about commerce instrumentalities, commerce transportation, manipulation of stocks and bonds, consolidation of railroads, destruction of competition, and disregard of public right, through long training as corporation lawyers, than any other five circuit judges, or all circuit judges in the United States combined. If anybody doubts this, let him wait and see. Why, corporation lawyers are now regarded as best qualified for the Cabinet.

On the hearings it was argued that the chief justice might not enjoy the task of assigning judges to fill the vacancies occurring annually on the commerce court. While the friends of the bill were "scratching in the bark" instead of "cutting to the heart of the tree," "straining at gnats and swallowing camels," making a fuss about little things to divert attention from great big bad things, I felt sorry for them. Being naturally good-natured and kind-hearted, I wanted to help them; so in perfect innocence I suggested to the distinguished gentleman who drew the bill and sent it to us to pass that he could relieve both the chief justice and the President of the embarrassment and responsibility of assigning a judge each year by writing it into the law that whenever a vacancy occurred the circuit judge holding either the oldest or youngest commission should fill the vacancy. Either way the law fixed it it would work automatically. Whether the law said the oldest or youngest commission, the eligible judge would know it, and everybody would know who the next judge would be, because the eligible would stand, like the crown prince, waiting to take the vacancy when it occurred, and could devote his leisure to studying commerce law and the interests of investors. The gentleman did not seem to admire my proffered assistance, but said he was not looking for automatic things. I then told him what a good old Republican friend had suggested to me, that the President, having named five new judges to start the court, might just appoint another new one every time a vacancy occurred. He smiled at that, and I quit trying to help him.

I am too good-natured to suggest anything mean; I hate to tell it, even as bad as I believe it is going to happen; but I will tell you what could happen. Five new judges could be appointed and start off the commerce court with terms, respectively, one, two, three, four, and five years. Under the provisions of this substitute bill each man can be reassigned up to 1914. The court being organized in 1910, the one-year man can be reassigned in 1911 for a term ending in 1916, and so on up to the fourth man, whose term would expire in 1914, he can be reassigned up to 1919. That would hold a majority of the original appointees in office until 1917, or seven years, long enough to start a line of decisions, establish a line of precedents, and do lots of mischief to the cause of justice in the United States if everything worked out that way. But the hardest class of folks on the face of this earth to rely on for systematic wrong and corruption is the lawyers. They get in the habit of respecting the law and the courts and the civilization protected by those bulwarks, and though you find one occasionally inclined to go wrong or temporarily crooked from bad company or environment, it will not do to count on holding three corrupt lawyers together for seven years. In the nature of things it is utterly impossible. You do not find a Jeffries more than once in a century, and there never have been three of a kind at one time since the dawn of jurisprudence. If that scheme were possible, and any of the plans which the reactionaries hope for under this bill were to receive the sanction of that court, the Supreme Court would reverse it with all the stinging and burning indignation compatible with the dignity of that august tribunal.

The President is much more reliable and less likely to do wrong from his training and practice as a lawyer than from his accomplishments as a Republican politician. Whatever good he may develop or whatever evil he may refrain from will be due to his legal training and restraint and not to his efforts to meet the exigencies of Republican politics, but rather in spite of them. Furthermore, as a lawyer, I object to the name "commerce court," and so do the American people. They love justice and revere law; they like a law court, a court of justice; they know what that means and respect it; it has never been their idea that commerce should become the dominating principle and passion of the American people. This is intended to be a land of liberty and sentiment, and education, and religion, and morality, and refinement, and law and order. We cultivate commerce as necessary to provide means of support. We do not intend to make it the dominating factor. Instead of securing unity and uniformity and simplicity, creating this court would further diversify our jurisdiction and practice, confound and confuse matters, and make our judicial system more unsatisfactory than at present, besides administering a rude shock to the sensibilities of our people. For these reasons, being a lawyer, I refuse to subscribe to the creation of that court. I love the law and honor the administration of justice as the sheet anchor of our social, industrial, and political fabric. I can not, as a lawyer, consent to reflect upon myself, my associates at the American bar, and the exalted cause and science of jurisprudence by indorsing any such anomaly.

Next in the majority report is a recital of some amendments put on by the committee, not demanded by the President nor the Attorney-General nor provided for in the reactionary administration bill. Among them we provide for giving the Interstate Commerce Commission power to require the carriers to provide proper bills of lading concerning which we have had extended hearings; also to require regulations as to carrying the baggage of commercial travelers, which we have considered at length, and a great many other valuable provisions, all of which but one we indorse. That is, the repeal in section 1 of the original act, of the proviso which declares "that the provisions of this act shall not apply to the transportation of passengers or property or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory." I understand the reasons why this was stricken out, and for those reasons I am opposed to striking it out. It is claimed "that it would be of assistance to the commission and courts, in determining questions of interstate character, to take that language out, as it would remove a limitation which might otherwise be claimed to be binding on the courts themselves." In other words, that language is a warning not to try to stretch federal authority to interfere with local and domestic institutions and instrumentalities. The peculiar provisions in this bill insisted on by the administration render more than ever important the retention of this language.

This is not the language of a state law that would operate like a red flag in the face of a mad bull when read by a centralist, who forgets all respect for his own State in belittling other States in toadying and fawning before the usurpation of centralized power. It is the language of the Federal Government directing its own officers and agents not to claim or insist on interfering beyond a certain point. It is for their safe guidance and warning as to constitutional limitations and the proper scope of their work. Officials who say that the language ought to be repealed because it is sometimes embarrassing to them and hinders what federal officials want to do are the very officials who most need that statutory instruction constantly before their eyes. The best thing in this substitute bill is next mentioned by the majority report. Soon after the commerce law was first passed the Supreme Court construed the conditioning clause "under substantially similar circumstances and conditions," placed in the bill by the Senate at the instance of the reactionaries, so as to emasculate the bill. We have been trying ever since to restore the virility of the law by repealing those words. Our committee considered it when the Hepburn bill was up, and it was again considered over at the other end of the Capitol, but the opposition was too strong for us and we failed to eliminate the words. If we could have done that, the Hepburn bill would have been almost ideal; but we can not overcome our objections to other features of the bill because of this amendment here. We have already been assured that this House is the only place where that amendment can secure any support, and will lose out in the end.

I was much interested in the discussion of the long-and-short-haul clause by the gentleman from Illinois [Mr. MANN]. He correctly answered in the negative the question of the gentleman from Illinois [Mr. CANNON] as to the possibility of enacting a valid law to prevent shipments by water from New York to San Francisco at lower rates than the transcontinental railroad could afford to charge. If natural advantages give people cheap rates, it would hardly be right to increase them in order to transfer the business to railroads otherwise unable to compete. The railroad can properly decline to seek business for which it can not offer fair terms and give its attention to other business more profitable needing attention. His answer to the

question of the gentleman from Georgia [Mr. BARTLETT] was not so satisfactory. He was asked if repealing the conditioning clause under "similar circumstances and conditions," in section 4 of the original act, would prove effective or would not the same condition be restored by the first proviso in section 6 authorizing the carrier to petition the commission for authority to make exceptional rates. The answer should have been no. With the qualifying clause in the act the carrier is permitted to take the initiative, judge the circumstances and conditions, and put the rates in force. The burden is then on the shipper to institute action, assail an intrenched position, negative a prima facie case showing a situation legal on its face, while on the other hand, if that clause be repealed and the proviso relied on instead, the burden will be transferred to the carrier to commence the case and make his proof to satisfy the commission that the situation is sufficiently exceptional to justify a variation of the rule for them. Only in that way can the carrier be authorized to put in such exceptional rates.

In my judgment a solution of the problem to fix rates according to distance is to give more attention to the terminal and handling expenses, which are as large for a short haul as for a long one. That accounts for the per ton mile charges appearing to be higher in England than in this country. The average haul here is more than five times as long as in England. In England every shipment pays the terminal and hanhandling expenses. If adequate charge be made for loading, unloading, receiving, and delivering, infinitesimal differentials on the increasing rates for successive stations would prove satisfactory and prevent many complaints.

The next subject is that of agreements between common carriers. The Democrats kept insisting on legislating against pooling and combinations in restraint of trade, until in an unlucky moment for the reactionaries, when they were not looking, Congress "run amuck" (although the administration never does) and enacted a law which, properly enforced, would really prevent pooling and maintain competition. The reactionaries have insistently and consistently battered at the doors of both parties to secure such modification as will restore to them the joys of the immense profits of monopoly. Despairing of their ability to repeal the law in plain terms, they decided to call it something else, and they said if we would make it lawful for them to enter into agreements as to rates and practices they were willing to retain the nominal inhibition against combinations and pooling. So they secured deliverances from both the last two national conventions. The Republican convention, as usual, proposed "to give the railroads the right to make and publish traffic agreements subject to the approval of the commission."

The pending bill follows that proposition, and, although it goes through the perfunctory performance of reenacting the law against pooling, that language is made to follow the language positive and conclusive, although veiled by awkward expression and the misleading use of the double negative by the positive declaration that the agreement is lawful if filed with the commission. The English language can make nothing else out of it. It is abhorrent to common honesty and repugnant to common sense. We favor the suggestion in the Democratic platform that all such agreements shall be "unlawful unless filed with and approved by the Interstate Commerce Commission." We shall offer that amendment to the section and the further amendment that if the agreement is contrary to the antitrust law it shall not be held to be lawful although approved by the commission.

A remarkable feature of this bill, an evident effort at linguistic jugglery, not by the executive department nor putative author of the bill, however, is this section. We challenge the judgment of any grammarian on that, whether or not he knows any law, or any lawyer, whether or not he knows any grammar, on the statement that any agreement is legalized by that section provided it is filed with the commission, that it can only be corrected or gotten rid of by dealing with each separate part of the rate severally, as in case of other individual rates; that it substitutes another name for pooling, with the same substance; and that by the operation of that section all the evils of pooling may be visited upon the people despite the antitrust and antipooling laws. For be it remembered that the great evil of pooling is not that the separate carriers divide the work and profits arbitrarily—that might not affect the public, but only themselves—but the evil is that it practices consolidation, destroys competition, and the people suffer in their facilities, rates, and fair treatment as to transportation through monopoly.

If we are mistaken as to the meaning, the language has no meaning. In explaining the apparent willingness of the shippers that the carriers be allowed to make agreements which would circumvent the antipooling law the gentleman from Illinois [Mr. MANN] failed to note that the leading shippers are factors and jobbers who care very little how high a rate is so it is uniform and so stable that they can rely on its permanence through the transactions of a business season or campaign. They want to know what the rate is before they sell or buy so they can avoid loss and make profit. If they buy commodities they reduce the price they pay enough to recoup for the freight. If they sell, they add the freght to the price. The public pays the freight both ways and the common people are interested in the amount and want low rates. The shippers are satisfied with stable rates. In the message quoted in the majority report the President makes this very clear. I shall not consent to any collusive arrangement between the shippers and the carriers to make secure their own profits at the expense of the public. The hearings disclosed a decided tendency in that direction, to which I object.

There are several other good amendments which we would be glad to see enacted into law, but they are not sufficient to induce us to accept the features already objected to and the obnoxious provisions which follow. If we should consent to be misled in that way into supporting this substitute bill because of these amendments the result might be that all these good features would go out in conference and the bill would pass with only the original obnoxious features. We have already been authoritatively advised that however we may discuss and amend around the edges, the conference committee is expected to preserve the original features of the administration bill in all their enormity, and that the beneficial amendments that we have made will go out of the bill before it becomes a law.

Here the discussion ought to end; for this ought to be the end of the bill, as there is no further reference to the regulation of rates and practices in interstate commerce, the only subject germane to this bill. But here is where our centralist friends propose to pervert the purposes of federal legislation and stretch our jurisdiction to do something entirely foreign to the intention of the commerce clause of the Constitution.

Section 12 of the bill, in addition to dealing with a matter entirely out of our jurisdiction, proceeds in an uncandid way to pretend to do a thing already provided for in the antitrust laws and then nullify it. It pretends to prohibit the acquirement of one competing line by another. And the authors of the bill were filled with surprise and consternation when we put into the first part of that section an amendment prohibiting the same person from being an officer or director in two competing companies. Pretense was all that was intended, real accomplishment was not desired. If anything is constitutional in that section that amendment is the most valuable thing in it. But that part of the section is an officious assumption of unwarranted jurisdiction over morals and common honesty, for the protection of investment, and the safety of business transactions, with which the Federal Government has nothing to do, except in the case of corporations chartered by the Federal Government. It is confessed now that this and the three following sections have no relation to rate making, the physical possession of the roads engaged in interstate commerce and the commerce clause of the Constitution providing all the power we need in that respect without assuming the burden of internal details of corporate and financial business.

The truth is, the pretense made in the first part of section 12 is entirely unjustified. The subject of consolidating two competitors into a monopoly is within the terms of the antitrust law. If that law is not sufficient, an amendment should be proposed and referred to the Judiciary Committee, but the trouble is the antitrust law is sufficient. The defect, if any, is in the enforcement of the law. The truth is, the corporations dread that law. It hangs like the sword of Damocles over their heads. Some administration might come along that would "run amuck" and enforce that law and get them into trouble. So the same ingenuity that urges the commerce court planned section 12 in order to give the court business and the same malefactors who laid the scheme provided in section 12 demanded the creation of the court in order to do that work. The scheme provided in the first part of the section is a mild imitation of the prohibition of the consolidation of competitors, and then, in the second half of the section, provides for the practical nullification of that provision and the penalties of the antitrust law. It is deliberately proposed that before a consolidation shall go into effect, although agreed upon, the commerce court shall by a liberality of practice in taking testimony, of which, I understand, our fight upon it has compelled a modification, not only at variance with legal precedents, but repugnant to the moral sense, proceed in advance to determine and declare by conclusive judgment, amounting to future guarantee against the

penalties of the antitrust law, that the consolidation can be made and competition destroyed.

In the original bill very great latitude is expressly given to people who have already begun to violate the law to go ahead and complete their scheme and receive perfect absolution from punishable guilt under the antitrust law. Anticipating the future by judicial action, taking up the ventures and investments of rich men, and judicially determining in advance what their future conduct shall be and their criminal responsibility therefor, is something unprecedented in the annals of jurisprudence. Here again attempt at analogy runs amuck. We are told that it is like a suit to quiet title or a bill by a trustee for direction, but there is no sort of similitude. Both of those well-known actions deal with accomplished facts already passed, and in both cases the action sought of the court is adjudication as to the things already done, beyond alteration by the parties, and the question is what judgment and directions should be given as the result of those accomplished facts. In this case it is proposed that the court take up the direction of transactions for the future and tell people in advance what they may do and what they may not do, and whether they will be liable to penalty therefor or not. This looked ridiculous to me, until the statement was openly made that the purpose of this contrivance is to circumvent the terms of the antitrust law and legalize by the sanction of the judgment of the commerce court the destruction of competition and the effecting of consolidation contrary to the terms of the antitrust law, it being deemed impossible to repeal that law outright.

Everybody knows that the power to fix a reasonable rate is just as plenary whether there is one road or a hundred between points. The question of competition may be a circumstance to regard as evidence in considering the question, but the power to fix the rate is absolute. If we are to stretch the Constitution and stretch the science of jurisprudence out of all reasonable shape by projecting court investigation into the future transactions of men and break down all local authority and state autonomy by perverting the commerce clause of the Constitution, it will simplify the question of marriage and divorce. Men before marriage can have a court to decree a divorce, adjust all property rights, and dispose of all children produced and allowed to live to be disposed of. There is another interesting feature in that situation, and that is the amiability of these special interests who say they want to be law-abiding citizens and will obey the antitrust law if you will change it in some way so as to fit their conduct. That is a beautiful proposition; there are many things we all like and many things we would like to do for our own pleasure and interest, but the law of the land and rights of other men interpose obstacles.

It would be equally fair to us all and fully as rational to provide a general-latitude clause providing that all laws which stand in the way of our desires and purposes shall bend to conform to our wishes and interests so that we can all respect and obey the law. The next three sections are just as foolish. They undertake to interfere with all corporate transactions without regard to the authority granting charters and to prohibit the issuance of any stocks or bonds without the permission and authority of the Interstate Commerce Commission. There is no pretense that this is necessary to regulating rates and practices, but it is for the purpose of protecting existing lines of railroads and enabling investors to take care of their investments without regard to anybody else, and prevent further development of the country. It is intended that a few capitalists may control all lines of transportation, prevent the construction of new and independent lines as competitors, allow no further railroad development except such as they see proper to make in extension of their own lines, and control regulation for their own security and enrichment.

These provisions would impose a world of work on the commission, and if not promptly and wisely performed might permit a saturnalia of corrupt dealing, watered stock, fraudulent bonds, wild speculation, and a deluge of panic and disaster. The only advantage would be the satisfaction and security to the wreckers that their performances have been legalized. These propositions would overshadow our country with such menace to new enterprises that the present holders would gratify their hope of preventing further development. They would be legally authorized to exploit and complete their consolidation of existing lines, and through legalized monopoly continue to exploit the people who pay the bills and appeal to us in vain to guarantee fair and just treatment. There is no escaping the obvious conclusion that these provisions are not designed to secure just and fair rates and practices of transportation nor bear any relation thereto. Their evident purpose is to anticipate and set up by indirection, for the advantage of present security holders, the impossible federal incorporation act by an improper use of the commerce clause to take control of the subject of investments and look after securities in speculation. If that is a good purpose, it should find manifestation in an honest effort to enforce the antitrust law instead of trying to invent means to nullify it. If further legislation is necessary and appropriate for that purpose, the bill should go to the Judiciary Committee. It has no place on a measure to regulate transportation.

We need thousands of miles of new railroad in the South and the West. The enactment of these provisions would paralyze all efforts to secure them for years. We protest against such iniquitous interference, which has no other purpose than the aggrandizement of existing powerful corporations which can take care of themselves and need no such help from the Government. It is fair to admit, for the benefit of the inscrutable wisdom of those insurgents and near insurgents, who deceive their constituents and themselves by pretending that Cannonism is worse than Taftism, that the Republican platform does mildly "favor such national legislation and supervision as will prevent the overissue of stocks and bonds in the future by interstate carriers." But even that declaration fails to describe or justify the enormity of these propositions. There was a rational declaration by the Democratic convention asserting "the right of Congress to exercise complete control over interstate commerce and the right of each State to exercise like control over intrastate commerce." It made the absolute demand "to compel railroads to perform their duties as common carriers and prevent discrimination and extortion." It favored the efficient supervision of rate regulation of roads engaged in interstate commerce, and recommended valuation of railroad properties as a circumstance to help determine the justice and fairness of rates. We favored that, and shall offer that amendment, but the reactionaries behind this bill do not want it, and will not have it, because the knowledge of the true value of their properties would justify increased taxation.

We concede that the Federal Government ought to use all its powers to secure information of every character that would be valuable in aiding the Interstate Commerce Commission to determine just and reasonable rates. We abhor dishonesty and irregularity in the management of corporate affairs. The discussions of this bill disclose some loose and dirty methods of organizing corporations and issuing stocks without turning the cash into the Treasury, and issuing bonds, selling them for what they will bring and using the money to pay dividends on the stock. The States in which those things occur ought to put the perpetrators in the penitentiary, and if those States have not character enough to do that they ought to be required to discharge their duties of government or surrender their territory to States which will discharge them. My own State and such other first-class ones, as I am acquainted with, recognize the honest principle of chartering, organizing, and conducting corporations. When an issue of stock is made simultaneously the same amount of money is placed in the Treasury, the stock certificate simply shows each man's interest in the corporation and each man owns his stock. The corporation becoming an artificial person, owns the money or whatever it buys or builds with the money. It does not sell stock; it has none to sell. If it wishes to increase its capital stock more money can be paid into the Treasury and a corresponding amount of stock certificates issued to those who pay the money.

Having thus been honestly organized, if necessity or business opportunities make it advisable to use more money than they have on hand, they have a right, just as natural persons, to use whatever credit they have, to borrow what they need on the market, and it is no business of the Federal Government to obtrude any inquisitorial interference or requirements into the domestic arrangements of state corporations. The States can be relied upon to look after the question of morality and honesty and the conduct of the corporations they create. Those questions bear no sort of relation to rate making by the Federal Government in interstate commerce. Having physical possession of the roads actually engaged in interstate commerce, the power to regulate rates and practices is absolute, regardless of all other circumstances and conditions. The question of practical honesty and sound morality and protection of investments, the Federal Government has no concern with, and fortunate it is for the cause of honesty and morality. My State has rigid regulations to govern all of those subjects—protect investments, promote honesty and morality—and at the same time encourage further development and progress, which we so much need and which the passage of this bill would render impossible for many years.

Our final and strongest objection to this legislation is the manner in which it originated and came to Congress. If I am wrong I am in good company. Many statesmen of patriotism

and renown have entertained the same view. It was intended that the legislative, executive, and judicial departments of the Government should operate in their respective spheres independent of one another. It was fondly hoped that the safeguards, reservations, and limitations upon exactly specified and delegated powers would foster and preserve forever our Republic to administer our benign institutions. Unfortunately, just as in the beginning, "the serpent was more subtle than all the beasts of the field," so in framing our Constitution Hamiltonian suggestion was more cunning and insidious than the open candor and honest statesmanship of the great and good men who gave character to our young Republic. Not being able openly and direcly to form a centralized monarchy, indirection and finesse were employed by the crafty prototypes of the dominant party of this day to secure indefinite provisions for construction to work upon. That party has not been slow to utilize every loophole and license which could be construed or stretched to benefit the privileged classes and injure the masses. It is defiantly asserted that the commerce clause will permit the practical elimination of state lines and the ultimate destruction of local authority through the gradual assumption of all power by the General Government. It is claimed that the general-welfare clause will authorize federal legislation on any subject affecting anybody's welfare. No wonder that Jefferson feared and trembled for the perpetuity of the Republic in apprehension of the broad construction to be exercised by the federal courts in their power to construe the Constitution.

The provision, however, making it the duty of the President "to give to Congress information as to the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient" seemed to occasion no alarm. It appeared quite natural and proper that the President in executing the laws might discover defects in them or subjects which they did not reach and report them to Congress, advising Congress also as to general conditions at home and abroad under his administration of the Government. All the Presidents appeared to understand it; it worked well, the duty was performed, the power was not abused, and the legislative function of Congress was respected until quite recently. It has now become the fashion for the President to have pet policies for sensational and political purposes, for nobody has discovered where they have accomplished any practical good, nor is it deemed sufficient for those policies to be limited to the legitimate executive function of administering and enforcing the law. Positive legislation of specific prescribed character, to the utmost detail, must be the corner stone and foundation of these policies. Conferences are held with the parties interested, legislation is determined upon by the Executive, bills are drawn and sent to Congress with orders to pass them. According to the newspapers, which generally tell the truth, we are ordered to pass them substantially as presented.

We are informed that if this House alters them, the amendments will be eliminated before the bill becomes a law. In my judgment this is the most violent and insulting act of usurpation and dictation to Congress by way of interference with its functions ever indulged in by an Executive. I would not personally disparage the President nor speak unkindly of him. I refer to him officially and have no doubt he is as good as his party—certainly as good as any Congressman pliant enough to swallow the affront to him and to Congress by servile obedience to the command. I care not how good, great, and able the President may be, this breach of the privilege of Congress ought to be resented. We should defeat this bill on account of its dictation by the Executive, regardless of its character. It constitutes a serious assault upon the dignity, freedom, and independence of Congress, fraught with danger to our institutions. Respect for myself, my constitutents, the constitutional powers and duties of Congress, and the free institutions of my country compel me to resist the measure, as much on account of its origin as because of its obnoxious provisions.

Mr. MANN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BENNET of New York, 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. 17536, the railroad bill, and had come to no resolution thereon.

QUESTION OF PERSONAL PRIVILEGE.

Mr. PARSONS. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. PARSONS. The gentleman from Illinois [Mr. RAINEY], in discussing the Fitzgerald resolution to-day, made some remarks, and lest anyone should infer from them that I had ever used my public position as a Member of Congress or my political position as chairman of the Republican county committee of the county of New York in aid of the American Sugar Refining Company, or any of its officials, or in aid of any member of my family, to prevent any prosecution, or any such thing, I wish to say that I have never, directly or indirectly, used either my public position or my political position in aid of the American Sugar Refining Company, or any of its directors, or in aid of my father or any member of my family.

I have seen the implication in the papers, at times, that the American Sugar Refining Company has probably aided me in my elections to Congress and in factional fights in New York. It never aided me directly or indirectly, nor did any official of it ever aid me, except such aid as may have come from my father, which, I think, may be pardonable.

I will be very glad to answer any questions that any Member of the House may wish to ask.

Mr. RAINEY. Mr. Speaker, I will say to the gentleman that I do not desire to embarrass him personally in any way, and I regret exceedingly the fact that it became necessary for me to mention him this afternoon; but I want to ask the gentleman if he is not a member of the law firm of Parsons, Closson & McIlvaine?

Mr. PARSONS. I am.

Mr. RAINEY. Which firm have their offices at 52 William street, New York City?

Mr. PARSONS. Yes.

Mr. RAINEY. Of which John E. Parsons, the organizer of the sugar trust, and until recently its general counsel, is the senior member?

Mr. PARSONS. He is not any longer a member. He retired in May of last year.

Mr. RAINEY. Until that time, then, he was the senior member of the firm of Parsons, Closson & McIlvaine?

Mr. PARSONS. He was.

Mr. RAINEY. Is the gentleman from New York himself now the senior member of that firm?

Mr. PARSONS. Well, I do not know who claims to be the senior member.

Mr. RAINEY. The firm still does business under the name of Parsons, Closson & McIlvaine?

Mr. PARSONS. It does.

Mr. RAINEY. And as long as they did business under that firm name they were the attorneys for the sugar trust, were they not?

Mr. PARSONS. I think that technically my father was its general counsel. I think that the firm never was, except, possibly, for a few months, from the time that my father retired from the firm. In fact, I think it never was. Mr. Closson of the firm was.

Mr. RAINEY. Is it not true that the name of Parsons, Closson & McIlvaine appears signed to briefs in cases against the American Sugar Refining Company?

Mr. PARSONS. I do not know. It may be.

Mr. RAINEY. Does the gentleman admit that?

Mr. PARSONS. I say it may be. I do not know.

Mr. RAINEY. Although a member of the firm, you do not know that much about its business?

Mr. PARSONS. I do not know that. Inasmuch as the gentleman from Illinois——

Mr. RAINEY. If the firm name does appear signed to briefs in the courts for the American Sugar Refining Company, that would be pretty good evidence, in spite of the gentleman's statement, that his firm are attorneys for the American Sugar Refining Company, would it not?

Mr. PARSONS. In that matter, yes.

Mr. RAINEY. The gentleman now has an interest in this firm?

Mr. PARSONS. I have.

Mr. RAINEY. And that firm acts for the American Sugar Refining Company?

Mr. PARSONS. I think not. It may in one or two matters that have held over.

Mr. RAINEY. Has the gentleman ever shared in any of the fees which the firm has received?

Mr. PARSONS. Since I was sworn in as a Member of Congress in December, 1905, I have not shared in any of the fees, directly or indirectly, received from the American Sugar Refining Company except in one case. There was one case where I had charge of the litigation. It was a civil suit for rent, and I argued the appeal in the appellate division in the New York court of appeals. In that case, I will say for the information of the gentleman, that in the appellate division of New York the gentleman who was opposed to me was John L. Cadwalader, the

senior member of the firm of Strong & Cadwalader, of which Attorney-General Wickersham was a member and of which Henry W. Taft is a member.

Mr. RAINEY. Which firm recently were also the attorneys for the American Sugar Refining Company.

Mr. PARSONS. Only in one litigation.

Mr. RAINEY. The gentleman has been president of the Republican county central committee of New York for a number of years.

Mr. PARSONS. Yes.

Mr. RAINEY. Would the gentleman have any objection to stating now how much money the American Sugar Refining Company, directly or indirectly, has contributed to his committee in the city of New York?

Mr. PARSONS. Never a cent, nor has any director of the company, outside of my father, ever contributed a cent except, I believe, that you will see from the published statement, under the New York law, which compels us to publish the contributions—I believe that Mr. Thomas, now president, did a year ago in the national campaign contribute $100.

Mr. MANN. That would corrupt a lot of fellows. [Laughter.]

Mr. RAINEY. Will the gentleman say how much the American Sugar Refining Company has contributed to the congressional campaign, if he knows?

A MEMBER on the Republican side. In Illinois? [Laughter.]

Mr. RAINEY. I mean in New York State.

Mr. PARSONS. Since I have been active in politics in New York I have never heard of the company, or anyone in its behalf, contributing a cent to a political campaign.

Mr. RAINEY. The gentleman seems to know so little about the business of the law firm of which he was a member that I was in hopes he would know more about the business of the Republican central committee of New York.

Mr. PARSONS. I do know all about the business of the Republican county committee while I was chairman, and what I say in regard to that is absolutely so. [Applause on the Republican side.]

Mr. RAINEY. The gentleman was not treasurer of the committee, however.

Mr. PARSONS. No.

Mr. RAINEY. Is not the treasurer of that committee a director of the American sugar trust?

Mr. PARSONS. He is not.

Mr. RAINEY. Who is treasurer?

Mr. PARSONS. I do not know who is treasurer. At present they are having difficulty in finding one.

Mr. RAINEY. How many of the Republican county central committee of New York are sugar-trust officials, or own large blocks of stock in the American Sugar Refining Company or its allied companies?

Mr. PARSONS. I do not know of anyone outside of myself that has any such connection.

Mr. RAINEY. That is all I desire to ask the gentleman. I desire to say that I am sorry that it was necessary for me to refer at all to the gentleman, and it is only on account of his unfortunate business and political connections that I referred to him at all.

Mr. PARSONS. May I say a word further? In the 1904 campaign my father was one of the vice-presidents of the Parker Constitutional Club [laughter on the Republican side] and, I think, contributed to the Democratic campaign. He calls himself a Democrat, although I think he does vote for me when I run for Congress. I am quite sure that the members of the Havemeyer family always considered themselves Democrats. [Laughter and applause on the Republican side.]

TERMS OF UNITED STATES COURT, SAN DIEGO, CAL.

Mr. STERLING. Mr. Speaker, I desire to call attention to a report which was presented yesterday from the Judiciary Committee on the bill (H. R. 22561) establishing regular terms of the United States district court of the southern district of California at San Diego, Cal. That report (No. 1008) was presented inadvertently and is erroneous in that it does not explain the amendments made to the bill by the committee. I ask unanimous consent to withdraw that report and present the proper report (No. 1024), which I now send to the desk.

The SPEAKER. Is there objection?

There was no objection.

DEWITT EASTMAN.

Mr. KAHN. Mr. Speaker, I present a conference report on the bill (S. 614) to amend an act entitled "An act for the relief of Dewitt Eastman," approved January 8, 1909, for printing under the rules.

The report (No. 1025) and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 614), entitled "An act to amend an act entitled 'An act for the relief of Dewitt Eastman,' approved January 8, 1909," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House as to the body of the bill, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by said amendment insert the following:

"That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers Dewitt Eastman, who was a private of Battery I, Fourth Regiment United States Artillery, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said battery and regiment on the thirteenth day of June, eighteen hundred and sixty-five: *Provided*, That, other than as above set forth, no bounty, pay, pension or other emoluments shall accrue prior to or by reason of the passage of this act."

And the House agree to the same.

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

JULIUS KAHN,
F. C. STEVENS
JAMES L. SLAYDEN,
Managers on the part of the House.
M. G. BULKELEY,
N. B. SCOTT,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House of the conference on the disagreeing votes of the two Houses on bill S. 614 make the following statement to accompany the conference report thereon:

As the bill was originally amended by the House, the soldier was given the privileges of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, from the 13th day of June, 1865.

Under the amendment as agreed upon by the conferees, the soldier will receive the benefit of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, including homestead rights, with a proviso, however, that other than as above set forth no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act.

JULIUS KAHN,
F. C. STEVENS,
JAMES L. SLAYDEN,
Conferees on the part of the House.

WITHDRAWAL OF PAPERS.

By unanimous consent leave was granted to Mr. KRONMILLER to withdraw from the files of the House, without leaving copies, papers in the case of Katesbury R. Warrington, Fifty-eighth Congress, no adverse report having been made thereon.

ADJOURNMENT.

Then, on motion of Mr. MANN (at 5 o'clock and 12 minutes p. m.), the House adjourned.

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. GOEBEL, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 1942) for the establishment of a probation and parole system for the District of Columbia, reported the same with amendment, accompanied by a report (No. 1016), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 7635) authorizing the President to drop officers from the rolls of the army under certain conditions, reported the same with amendment, accompanied by a report (No. 1022), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. CANDLER, from the Committee on Claims, to which was referred the bill of the House (H. R. 6543) for the relief of the heirs of William Russell, reported the same without amendment, accompanied by a report (No. 1017), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 22082) for the relief of the heirs of C. J. Stockbridge, reported the same without amendment, accompanied by a report (No. 1018), which said bill and report were referred to the Private Calendar.

Mr. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3346) for the relief of Frank E. Lyman, jr., reported the same with amendment, accompanied by a report (No. 1021), which said bill and report were referred to the Private Calendar.

Mr. SMITH of California, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 10132) granting certain land to the town of Yuma, in the Territory of Arizona, reported the same without amendment, accompanied by a report (No. 1023), which said bill and report were referred to the Private Calendar.

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. 24211) granting relief to persons who served in the military telegraph corps of the army during the civil war—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

A bill (H. R. 24448) granting an increase of pension to Samuel Russell Dummer—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11486) granting a pension to Gertrude A. Huth—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 21962) granting an increase of pension to Albert Yoder—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

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. SIMS: A bill (H. R. 24499) to create a new division in the western judicial district of the State of Tennessee—to the Committee on the Judiciary.

By Mr. BURLESON: A bill (H. R. 24500) to provide for the erection of a public building at Austin, Tex.—to the Committee on Public Buildings and Grounds.

By Mr. PUJO: A bill (H. R. 24501) for the construction of a dam and lock in the Mermentau River, Louisiana, and appropriating $75,000 therefor—to the Committee on Rivers and Harbors.

By Mr. THISTLEWOOD: A bill (H. R. 24502) to increase the limit of cost for the acquisition of a site and the erection of a public building at Murphysboro, Ill.—to the Committee on Public Buildings and Grounds.

By Mr. MURDOCK: A bill (H. R. 24503) to provide for the purchase of a site and the erection of a public building thereon at McPherson, Kans.—to the Committee on Public Buildings and Grounds.

By Mr. WILEY: A bill (H. R. 24504) to establish a college in the District of Columbia, the leading object of which shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in order to promote the liberal and practical education of the industrial classes—to the Committee on the District of Columbia.

By Mr. STEPHENS of Texas: A bill (H. R. 24505) to increase the limit of cost of the Federal building at Wichita Falls, Tex.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 24506) to provide for the purchase of a site for a public building at Amarillo, Tex.—to the Committee on Public Buildings and Grounds.

By Mr. COOPER of Pennsylvania: Resolution (H. Res. 586) providing for the printing of the Digest and Manual of the Rules and Practice of the House of Representatives for the third session of the Sixty-first Congress—to the Committee on Printing.

By Mr. WILEY: Resolution (H. Res. 587) calling upon the Attorney-General to investigate the financial and educational affairs of the George Washington University—to the Committee on the District of Columbia.

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. ANDERSON: A bill (H. R. 24507) granting an increase of pension to Eugene A. Burrell—to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 24508) for the relief of Peter Ludwig—to the Committee on War Claims.

By Mr. BENNET of New York: A bill (H. R. 24509) granting a pension to Lizzie R. Hain—to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 24510) granting an increase of pension to Francis J. Seifert—to the Committee on Invalid Pensions.

By Mr. CALDERHEAD: A bill (H. R. 24511) granting an increase of pension to Noah Poorman—to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 24512) granting an increase of pension to David A. McClure—to the Committee on Invalid Pensions.

By Mr. GILLETT: A bill (H. R. 24513) for the relief of Charles J. Woods—to the Committee on Military Affairs.

By Mr. GRAHAM of Pennsylvania: A bill (H. R. 24514) for the relief of William H. H. Bennett—to the Committee on Military Affairs.

By Mr. HAMILTON: A bill (H. R. 24515) granting an increase of pension to Clark H. Beardslee—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24516) granting an increase of pension to Henry M. Marvin—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 24517) granting an increase of pension to John F. Mannel—to the Committee on Pensions.

By Mr. HULL of Iowa: A bill (H. R. 24518) granting a pension to William Leaver—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 24519) granting an increase of pension to Martha E. Trivett—to the Committee on Invalid Pensions.

By Mr. KENDALL: A bill (H. R. 24520) granting an increase of pension to James M. Lamb—to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 24521) granting an increase of pension to John B. Kennedy—to the Committee on Invalid Pensions.

By Mr. LINDSAY: A bill (H. R. 24522) granting an increase of pension to Jordan Seyfertte—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 24523) granting an increase of pension to Benjamin Gill—to the Committee on Invalid Pensions.

By Mr. MORGAN of Oklahoma: A bill (H. R. 24524) granting an increase of pension to Ruben L. Crosno—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24525) granting an increase of pension to John Swem—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24526) granting an increase of pension to John M. Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24527) granting an increase of pension to General L. Rackley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24528) granting an increase of pension to Robert A. Houston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24529) granting an increase of pension to Elbert Dixon—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24530) for the relief of Benjamin F. Eads—to the Committee on War Claims.

Also, a bill (H. R. 24531) for the relief of Fanny Donnelly—to the Committee on War Claims.

Also, a bill (H. R. 24532) granting an increase of pension to James C. Smith—to the Committee on Invalid Pensions.

By Mr. MORSE: A bill (H. R. 24533) for the relief of Ole J. Johnson—to the Committee on Claims.

Also, a bill (H. R. 24534) granting a pension to Frederick A. Hanover—to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 24535) granting a pension to Henry S. Matter—to the Committee on Invalid Pensions.

By Mr. PEARRE: A bill (H. R. 24536) granting an increase of pension to John L. Wheeler—to the Committee on Invalid Pensions.

By Mr. RUCKER of Missouri: A bill (H. R. 24537) granting an increase of pension to Andrew J. Perkins—to the Committee on Invalid Pensions.

By Mr. SHARP: A bill (H. R. 24538) granting an increase of pension to Clark S. Berry—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24539) granting an increase of pension to Joseph C. Johnson—to the Committee on Invalid Pensions.

By Mr. SHEFFIELD: A bill (H. R. 24540) granting an increase of pension to Caroline Waldron—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24541) granting an increase of pension to Mary A. Murphy—to the Committee on Invalid Pensions.

By Mr. TALBOTT: A bill (H. R. 24542) granting an increase of pension to Annie O. Taylor—to the Committee on Pensions.

Also, a bill (H. R. 24543) granting an increase of pension to John W. Hunter—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 24544) granting an increase of pension to Thomas Whalon—to the Committee on Invalid Pensions.

By Mr. WEISSE: A bill (H. R. 24545) granting a pension to Mary Raymond—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24546) granting an increase of pension to W. P. Stevens—to the Committee on Invalid Pensions.

By Mr. WHEELER: A bill (H. R. 24547) granting an increase of pension to Clinton Hazeltine—to the Committee on Invalid Pensions.

By Mr. JAMIESON: A bill (H. R. 24548) granting an increase of pension to Robert L. Edmonds—to the Committee on Invalid Pensions.

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: Papers to accompany bills for relief of Elias Babione, Jackson Stouffer, and Samuel Bell—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John Tlorkowski—to the Committee on Pensions.

By Mr. ANTHONY: Petition of citizens of Nemaha County, Kans., for legislation to regulate interstate shipment of intoxicating liquors—to the Committee on Alcoholic Liquor Traffic.

By Mr. ASHBROOK: Paper to accompany bill for relief of Henry J. Wilson—to the Committee on Invalid Pensions.

By Mr. BARTLETT of Georgia: Petition of Savannah (Ga.) Chamber of Commerce, regarding bills of lading for shipment of cotton between the United States and Europe—to the Committee on Interstate and Foreign Commerce.

By Mr. BENNET of New York: Paper to accompany bill for relief of Lizzie R. Hains—to the Committee on Invalid Pensions.

By Mr. CARY: Resolution adopted by the T. O. Howe Post, Grand Army of the Republic, of Green Bay, Wis., indorsing the measure creating a volunteer retired list—to the Committee on Military Affairs.

By Mr. CONRY: Memorial of the legislature of New York, for appropriation to improve the upper Hudson River—to the Committee on Rivers and Harbors.

By Mr. COOPER of Wisconsin: Petition of T. O. Howe Post, Grand Army of the Republic, of Green Bay, Wis., for a volunteer officers' retired list—to the Committee on Military Affairs.

By Mr. DIEKEMA: Petition of Nunica Grange, No. 1329, and Ottawa Grange, No. 30, both in the State of Michigan, in favor of the immediate establishment of a national health bureau—to the Committee on Expenditures in the Interior Department.

By Mr. MICHAEL E. DRISCOLL: Petition of Fortuna Council, No. 1305, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. FITZGERALD: Memorial of the legislature of the State of New York, for appropriation to improve the upper Hudson River—to the Committee on Rivers and Harbors.

By Mr. FORNES: Petition of Provident Life Insurance Society of New York, for a national public-health bureau—to the Committee on Expenditures in the Interior Department.

Also, petition of California Wine Association, of New York City, against Senate bill 5473, regulation of liquor traffic in the District of Columbia—to the Committee on the District of Columbia.

By Mr. FOSS of Illinois: Petition of Lake View Council, No. 694, Royal Arcanum, of Chicago, Ill., favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Petition of Sinnissippi Council, No. 1158, Royal Arcanum, of Belvidere, Ill., favoring the passage of House bill 17543, to admit to the mails as second-class matter periodicals and journals of fraternal and benevolent organizations, etc.—to the Committee on the Post-Office and Post-Roads.

By Mr. GOULDEN: Petition of Provident Life Insurance Society, favoring Senate bill 6049, for the establishment of a national health bureau—to the Committee on Expenditures in the Interior Department.

By Mr. GRAFF: Petition of citizens of Peoria, Ill., for House bill 22066, boiler inspection bill—to the Committee on Interstate and Foreign Commerce.

By Mr. GRAHAM of Pennsylvania: Petition of Post No. 88, Grand Army of the Republic, of Allegheny, Pa., urging the passage of House bill 10764, for a monument to Friend W. Jenkins—to the Committee on the Library.

By Mr. HANNA: Petition of the Chamber of Commerce of Cleveland, Ohio, indorsing the plan that the rates on second-class matter be increased, and when the postal deficit is eliminated that 1-cent rates on first-class matter be established—to the Committee on the Post-Office and Post-Roads.

By Mr. HAWLEY: Petitions of Alaska Fishermen's Packing Company and Alaska Fishermen's Union, of Astoria, Oreg., against House bill 22579, amendatory provisions for civil government in Alaska, and for other purposes—to the Committee on the Territories.

By Mr. HOWELL of New Jersey: Petition of Robert N. Bayliss, of Bloomfield, N. J., for refunding of inheritance tax to the Stevens Institute of Technology (H. R. 20338)—to the Committee on Claims.

Also, paper to accompany bill for relief of Thomas McElroy—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: Petition of E. A. Wedgewood Camp, No. 1, Department of Utah, United Spanish War Veterans, for Senate bill 4033—to the Committee on Military Affairs.

By Mr. HUFF: Petition of United Presbyterian Church of Zelienople, Pa., for an amendment to the Constitution recognizing the Deity—to the Committee on the Judiciary.

By Mr. JOYCE: Petition of Reformed Presbyterian Church of White Cottage, Ohio, favoring an amendment to the Constitution recognizing the Deity therein—to the Committee on the Judiciary.

By Mr. KAHN: Paper to accompany bill for relief of Martha E. Trivett—to the Committee on Invalid Pensions.

Also, petition of Thomas Kerr and 21 others, of San Francisco, Cal., protesting against the immigration of Asiatics, except merchants, students, and travelers—to the Committee on Foreign Affairs.

By Mr. LAWRENCE: Petition of Peace Party Chapter, Daughters of the American Revolution, of Pittsfield, Mass., for retention of the Division of Information of the Bureau of Immigration and Naturalization in the Department of Commerce and Labor—to the Committee on Immigration and Naturalization.

By Mr. MILLINGTON: Petition of merchants of Utica, N. Y., for House bill 23587, fixing size of baskets and other containers of small fruits—to the Committee on Agriculture.

By Mr. MURDOCK: Petition of Eunice Sterling Chapter, Daughters of the American Revolution, of Wichita, Kans., for retention of the Division of Information of the Bureau of Immigration and Naturalization—to the Committee on Immigration and Naturalization.

Also, petition of citizens of Kansas, for a law prohibiting the interstate shipment of intoxicating liquors—to the Committee on the Judiciary.

By Mr. NICHOLLS: Petition of certain citizens of Scranton, Pa., for House bill 22066 and Senate bill 6702, boiler-inspection bills—to the Committee on Interstate and Foreign Commerce.

By Mr. OLMSTED: Petition of Grange No. 1343, Patrons of Husbandry, of Halifax, Pa., favoring Senate bill 5842 and House bill 20582, relative to regulation of oleomargarine traffic—to the Committee on Interstate and Foreign Commerce.

By Mr. REYNOLDS: Petition of Eureka Grange, No. 607, Patrons of Husbandry, favoring Senate bill 5842, governing tariff on oleomargarine—to the Committee on Interstate and Foreign Commerce.

By Mr. RUCKER of Colorado: Petition of J. A. Blackwood, pastor of the Reformed Presbyterian Church of Evans, Colo., and several others, asking Congress, to submit a constitutional amendment to the several States through the several legislatures—to the Committee on the Judiciary.

Also, petition of A. P. Lindell, president, L. A. Matteson, secretary, and some 40 members of Local Union No. 141, of the T. E. and C. U. of A., located at Brush, Colo., praying for the

passage of parcels-post and antigambling in farm product legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. SHEFFIELD: Paper to accompany bill for relief of Mrs. Anna E. Sisson—to the Committee on Invalid Pensions.

Also, petition of Local No. 224, Journeymen Boiler Makers' Union, of Providence, R. I., against government interference in the matter of the water supply of San Francisco—to the Committee on the Public Lands.

By Mr. SMITH of California: Petition of Methodist Episcopal Church South, of San Diego; San Diego City and County Ministers' Association; and Presbyterian Church of Santa Ana, all in the State of California, for an amendment to the Constitution recognizing the Deity in that instrument—to the Committee on the Judiciary.

Also, petition of congregation of the Central Methodist Episcopal Church, the official board of the First Methodist Church, and 46 qualified voters, all of San Diego, Cal., for Senate bills 225 and 2846 and House bills 460 and 14536—to the Committee on Alcoholic Liquor Traffic.

By Mr. SPERRY: Petition of Sheridan Council, No. 1467, Royal Arcanum, of New Haven, Conn., in relation to postage on fraternal publications—to the Committee on the Post-Office and Post-Roads.

By Mr. STERLING: Petition of citizens of Bloomington, Ill., for House bill 22066 and Senate bill 6702, boiler-inspection bills—to the Committee on Interstate and Foreign Commerce.

By Mr. SWASEY: Petitions of Merrymeeting Grange, No. 258, of Bowdoinham; North Jay Grange, No. 10, of North Jay; Bear River Grange, No. 285, of Norway; Jefferson Grange, No. 147, of Jefferson; Pleasant Valley Grange, No. 136, of Bethel; Pleasant Valley Grange, No. 274, of Rockland; North Somerset Grange, No. 218, of Solon; Boothbay Grange, No. 137; Union Grove Grange, No. 80, of East Sumner; Leeds Grange, No. 99, of Leeds; Pleiades Grange, No. 355, of Glenburn; Mount Cutler Grange, No. 152, of Hiram; Jonesboro Grange, No. 357, of Jonesboro; Pleasant River Grange, No. 433, of Vinalhaven; Mariaville Grange, No. 441, of Mariaville; Harvest Home Grange, No. 413, of West Ellsworth; Norland Grange, No. 319, of East Livermore; Rockemeka Grange, No. 109, of Peru; Canton Grange, No. 110, of Canton; and Solid Rock Grange, all in the State of Maine, against any change in the oleomargarine law—to the Committee on Agriculture.

By Mr. WANGER: Petition of Helen W. Elliott, president, Elizabeth A. Garrigues, secretary, and 13 other members of the Bryn Mawr (Pa.) Indian Association, that allotted lands should not be alienated during the twenty-five-year trust period; that tribal funds should be segregated and be expended for the benefit of individual Indians in the improvement of allotted lands and the establishment of Indian homes; and that no less than 10 acres of irrigated land be allotted each member of the Yuma tribe—to the Committee on Indian Affairs.

By Mr. WEISSE: Petition of Federated Trades Council of Milwaukee, Wis., against federal interference in the matter of the water supply of San Francisco—to the Committee on the Public Lands.

Also, petition of Chamber of Commerce of Cleveland, Ohio, favoring advancement of postage on second-class matter to cover cost of service—to the Committee on the Post-Office and Post-Roads.

SENATE.

FRIDAY, *April 15, 1910.*

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

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

MESSAGE FROM THE HOUSE.

A messsage from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed a joint resolution (H. J. Res. 191) to provide for the printing as a House document of 1,000,000 copies of Farmers' Bulletin No. 391, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Board of Trade of Easton, Pa., praying that investigations and inquiries be made into the causes of mine explosions and for the more efficient use of mineral resources, which was referred to the Committee on Mines and Mining.

Mr. CULLOM presented a petition of Switchmen's Local Union No. 199, American Federation of Labor, of Chicago, Ill., praying for the enactment of legislation to abolish the involuntary servitude imposed upon seamen of the merchant marine of the United States while in foreign ports, which was referred to the Committee on Commerce.

He also presented petitions of sundry citizens of Peoria and Jacksonville, in the State of Illinois, praying for the passage of the so-called "boiler-inspection bill," which were referred to the Committee on Interstate Commerce.

Mr. SCOTT presented a petition of the Ladies of the Maccabees of the World, of Cairo, W. Va., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. PENROSE presented petitions of Hickory Grange, No. 1285, of Penfield; of Forest Grange, No. 370, of Euclid; of Lenox Grange, No. 931, of Nicholson; of Manchester Grange, No. 1374, of Emigeville; of North Shenango Central Grange, No. 844, of Linesville; of Shryoca Grange, No. 1359, of Arcadia; of Davidson Grange, No. 1081, of Muncy Valley; of Edinboro Grange, No. 947, of Edinboro; of Tioga County Center Grange, No. 929, of Wellsboro; of Hop Bottom Grange, No. 952, of Hop Bottom; of New Vernon Grange, No. 608, of Clarks Mills; of Friendship Grange, No. 1018, of Uniondale; of Cherry Grange, No. 1224, of Dushore; of Union Grange, No. 152, of Hop Bottom; of West Greene Grange, No. 1296, of Waterford; of Susquehanna Grange, No. 74, of South Montrose; of Cambria Grange, of Ebensburg; of Sinking Valley Grange, No. 484, of Arch Spring; of Brady Grange, No. 1218, of Troutville; of Fox Croft Grange, No. 1220, of Downington; of Unionville Grange, No. 1263, of Kennett Square; of Turtle Point Grange, No. 1236, of Turtle Point; of Highland Grange, No. 1123, of Wilmore; of Thompson Grange, No. 868, of Thompson; of Friedensburg Grange, No. 1291, of Friedensburg; of Middletown Grange, No. 684, of Langhorne; of Buffalo Grange, No. 331, of Manns Choice; of Bloomfield Grange, No. 958, of Riceville; of Bunker Hill Grange, No. 1368, of Bunker Hill; of California Grange, No. 941, of Milton; of Covington Boro Grange, No. 1016, of Covington; of Perry Grange, No. 585, of Clarks Mills; of Mount Joy Grange, No. 584, of Clearfield; of Corydon Grange, No. 1205, of Corydon; of Conneaut Grange, No. 955, of Albion; of Shiloh Grange, No. 927, of West Auburn; of Cambridge Grange, No. 168, of Cambridge Springs; of Highland Grange, No. 339, of Susquehanna; of North Bingham Grange, No. 1194, of North Bingham; of Bald Eagle Grange, No. 1390, of Bald Eagle; and of Excelsior Grange, No. 1136, of Little Marsh, all of the Patrons of Husbandry, in the State of Pennsylvania, praying for the adoption of certain amendments to the present oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

Mr. KEAN presented resolutions adopted by the legislature of New Jersey, which were referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Whereas a bill is now pending in the House of Representatives authorizing the President of the United States, by and with the advice and consent of the Senate, to promote Maj. Gen. Daniel Edgar Sickles, of the United States Army, to the grade of lieutenant-general, and providing for his retirement from active service with that rank in the army; and

Whereas the said bill, having been referred by the House of Representatives to its Committee on Military Affairs, and that committee, after giving said bill due consideration, has reported the same to the House of Representatives with the recommendation that it do pass: Therefore be it

Resolved by the senate and assembly of the State of New Jersey, That in view of the distinguished military services of Major-General Sickles as a regimental, division, army corps, and department commander we hereby request the Senators and Representatives in Congress from this State to vote for the aforesaid bill and to favor its enactment into law during the present session of Congress.

Resolved, That a certified copy of the foregoing preamble and resolution be transmitted by the secretary of state to each Senator and Representative in Congress from this State.

DEPARTMENT OF STATE.

I, S. D. Dickinson, secretary of state of the State of New Jersey, do hereby certify that the foregoing is a true copy, as the same is taken from and compared with the original received in my office on the 6th day of April, A. D. 1910.

In testimony whereof I have hereunto set my hand and affixed my official seal at Trenton this 6th day of April, A. D. 1910.

[SEAL.] S. D. DICKINSON,
Secretary of State.

Mr. KEAN presented a petition of sundry citizens of Bayonne, N. J., praying for the passage of the so-called "boiler-inspection bill," which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Second Brigade Society, New Jersey Volunteer Infantry, of Trenton, N. J., praying for the enactment of legislation authorizing the President of the United States to appoint Maj. Gen. Daniel E. Sickles, United States Army, retired, to be a lieutenant-general, United States Army, retired, which was referred to the Committee on Military Affairs.

He also presented a petition of the Union County Medical Society, of Elizabeth, N. J., praying for the enactment of legis-