IOWA.

Cornell Riveland, at Ossian, Iowa.

KANSAS.

Charles A. Mosher, at Kinsley, Kans.
W. C. Perdue, at Beloit, Kans.

MICHIGAN.

Hannibal A. Hopkins, at St. Clair, Mich.

NEBRASKA.

Albert M. Coonrod, at Ord, Nebr.

NEW JERSEY.

Charles McCollum, at Morristown, N. J.

NEW YORK.

Edward Gross, at New City, N. Y.

OKLAHOMA.

W. M. Allison, at Snyder, Okla.
Joseph M. Briggs, at Fairfax, Okla.
Jabez A. Felt, at Hennessey, Okla.
Henry R. Morris, at Orlando, Okla.
Arthur B. Pattison, at Hominy (late Wah-Shin-Kah), Okla.

PENNSYLVANIA.

Loretta N. Young, at Bentleyville, Pa.

SOUTH DAKOTA.

Peter J. Rogde, at Sioux Falls, S. Dak.

TEXAS.

Caroline Cotulla, at Cotulla, Tex.
Auguste Dumont, at Paducah, Tex.
James M. Sloan, at Navasota, Tex.

UTAH.

Alfred L. Hanks, at Tooele, Utah.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June 21, 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.

JAMES C. JOHNSON.

Mr. MOON of Pennsylvania. Mr. Speaker, I ask unanimous consent for the present consideration of the following concurrent resolution:

The Clerk read as follows:

House concurrent resolution 48.

Resolved by the House of Representatives (the Senate concurring), That the President be requested to return to the House of Representatives the bill (H. R. 1386) to correct the naval record of James C. Johnson.

The SPEAKER. Is there objection?

There was no objection.

The concurrent resolution was agreed to.

BANKRUPTCY.

The SPEAKER laid before the House the bill (H. R. 20575) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by an act approved February 5, 1903, and as further amended by an act approved June 15, 1906, with Senate amendments.

The Senate amendments were read.

Mr. SHERLEY. Mr. Speaker, I move to agree to the Senate amendments. As there are quite a number, it is proper that I should give to the House an explanation of their effect.

The SPEAKER. How much time does the gentleman desire?

Mr. SHERLEY. I think I can make a statement in five or ten minutes that will cover the entire amendments.

The SPEAKER. The House is pressed for time to consider conference reports.

Mr. SHERLEY. I do not desire to say anything if the House is willing to accept the amendments. I will only say that all these amendments are practically amendments to the form of the bill as it passed the House. The only substantial change in the House bill is one in the grounds for refusing a discharge to a bankrupt. The House bill made it a ground for refusal to discharge where the bankrupt made a materially false statement to a commercial agency upon which credit was obtained. The Senate thought that was going too far and limited it to false statements made to a person or his representative. Then there is a provision to make sure that no additional fees can be allowed other than those in the act, and there is a rearrangement of these sections so as to make them plainer without increasing at all the amount that may be allowed. Those, in substance, are the changes, and the others are changes in form.

The SPEAKER. The question is on the motion of the gentleman from Kentucky to agree to the Senate amendments.

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

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

RULES COMMITTEE PRINTING AND BINDING.

Mr. DALZELL. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution I send to the desk.

The Clerk read as follows:

House resolution 818.

Resolved, That the Committee on Rules may have leave to have such printing and binding done as is necessary for the business before them.

The resolution was agreed to.

NAVAL APPROPRIATION BILL.

Mr. FOSS of Illinois. Mr. Speaker, I call up the conference report on the naval appropriation bill, and ask that the statement be read in lieu of the report.

The SPEAKER. The Clerk informs the Chair that the papers are not here. The gentleman will withdraw his request.

Mr. FOSS of Illinois. I withdraw the request at present.

[Mr. GOLDFOGLE addressed the House. See Appendix.]

PENSION APPROPRIATION BILL.

The SPEAKER laid before the House the notice of the conferees of the House and the Senate that they have been unable to agree touching the pension appropriation bill (H. R. 20578).

Mr. KEIFER. Mr. Speaker, I move that the House insist on its disagreement to the Senate amendments and agree to the conference asked for.

The motion was agreed to.

The Chair appointed as conferees on the part of the House Mr. KEIFER, Mr. SNAPP, and Mr. GALLAGHER.

BRIDGE ACROSS YELLOWSTONE RIVER.

The SPEAKER. The Chair lays before the House the following Senate bill, a similar bill being on the House Calendar.

The Clerk read as follows:

A bill (S. 8222) granting to the Northern Pacific Railway Company the right to construct and maintain a bridge across the Yellowstone River.

Mr. MANN. Mr. Speaker, I ask for the passage of the Senate bill.

The bill was ordered to be read the third time, was read the third time, and passed. A similar bill on the House Calendar was ordered to lie on the table.

BRIDGE ACROSS ARKANSAS RIVER.

The SPEAKER also laid before the House the following Senate bill, a similar House bill being on the calendar.

The Clerk read as follows:

A bill (S. 8615) to authorize the Southern Development Company to construct a bridge across the Arkansas River.

Mr. SULZER. Mr. Speaker, reserving the right to object——

Mr. MANN. Objection does not apply.

Mr. SULZER. I would like to have some information in regard to this matter.

The SPEAKER. This is a Senate bill, with a similar House bill on the calendar.

Mr. MANN. This was a House bill, introduced by the gentleman from Texas [Mr. RANDELL], for the building of a bridge across the Arkansas River, and it does not require unanimous consent, I will say to the gentleman from New York.

The bill was ordered to be read a third time, was read the third time, and passed, and a similar House bill was ordered to lie on the table.

BRIDGE ACROSS MONONGAHELA RIVER.

The SPEAKER. The Chair also lays before the House the following Senate bill, a similar bill being on the House Calendar.

The Clerk read as follows:

A bill (S. 8668) amendatory of the act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County."

The bill was ordered to be read a third time, was read the third time, and passed, and a similar bill on the House Calendar was ordered to lie on the table.

On motion of Mr. MANN, a motion to reconsider the votes by which the last three bills were passed was laid on the table.

JOHN A. BROWN.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent for the present consideration of the following concurrent resolution.

The SPEAKER. The gentleman from Georgia asks unanimous consent for the consideration of the following concurrent resolution, which the Clerk will report.

The Clerk read as follows:

House concurrent resolution 49.

Resolved by the House of Representatives (the Senate concurring), That the President be requested to return to the House of Representatives the bill (H. R. 2272) for the relief of John A. Brown.

The SPEAKER. Is there objection? [After a pause]. The Chair hears none, and, without objection, the resolution is agreed to.

LIENS ON VESSELS.

The SPEAKER also laid before the House the bill (H. R. 15812) relating to liens on vessels for repairs, supplies, and other necessaries, with Senate amendments.

The Senate amendments were read.

Mr. MOON of Pennsylvania. Mr. Speaker, I move that the House concur in the Senate amendments.

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

GUNS FROM THE STATE OF MASSACHUSETTS.

The SPEAKER also laid before the House the bill (H. R. 10280) to authorize the Chief of Engineers, United States Army, to receive twelve 3.2-inch breech-loading field guns, carriages, caissons, limbers, and their pertaining equipment from the State of Massachusetts, with Senate amendments.

The Senate amendments were read.

Mr. HULL of Iowa. Mr. Speaker, I move that the House concur in the Senate amendments.

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

FIFTIETH ANNIVERSARY OF THE BATTLE OF GETTYSBURG COMMISSION.

The SPEAKER also laid before the House, from the Speaker's table, House concurrent resolution 47, with a Senate amendment.

The Clerk read the Senate amendment.

Mr. MANN. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

The SPEAKER. The Chair announces, in pursuance of the foregoing resolution, the following committee.

The Clerk read as follows:

Mr. TAWNEY, Mr. LAFEAN, and Mr. LAMB.

FORTIFICATIONS APPROPRIATION BILL.

Mr. SMITH of Iowa. Mr. Speaker, I desire to call up the conference report on the bill H. R. 17500, the fortifications appropriation bill, and I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 17500) "making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for triel and service, and for other purposes," 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 amendment.

WALTER I. SMITH,
JOSEPH V. GRAFF,
SWAGAR SHERLEY,
Managers on the part of the House.

GEO. C. PERKINS,
S. B. ELKINS,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House on the disagreeing votes of the two Houses on the amendment of the Senate to the fortifications appropriation bill submit the following written statement in explanation of the accompanying conference report:

It is agreed by the conferees and recommended that the Senate recede from its amendment, which will strike out the increase, proposed by the Senate, from $300,000 to $500,000 for ammunition for seacoast cannon.

WALTER I. SMITH,
JOSEPH V. GRAFF,
SWAGAR SHERLEY,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I call from the Speaker's table conference report on the bill H. R. 25552, a bill making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1911, and for other purposes, and I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

[For conference report and statement see House proceedings of June 17, 1910.]

Mr. TAWNEY. Mr. Speaker, I move the adoption of the conference report.

Mr. FITZGERALD. I would like to have five minutes.

Mr. TAWNEY. I yield five minutes to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. Mr. Speaker, I am opposed to the adoption of the conference report. I declined to sign it because I believe the conferees are proposing to do something which should not be done.

In the District of Columbia appropriation act for the fiscal year 1910 Congress authorized the erection of two public convenience stations in the District of Columbia. One is in the triangle at Dupont circle and the other is between F and G streets. Some time in February of this year a contract was made by the District Commissioners for the erection of the public convenience station in the triangle bounded by Twentieth street, P street, and Massachusetts avenue. The contract price for the structure was $5,500. It is almost complete. At Dupont circle every day, except in the most extreme weather, three or four hundred children, with nurses and other women, congregate there. There are no conveniences of any kind in this circle. It is imperative that some facilities for these children, women, and nurses be provided in that vicinity, and pursuant to that necessity Congress authorized the erection of the public convenience station. When it is complete, properly screened by high shrubbery, it will not only be a structure of very great utility and very great necessity, but it will be wholly inoffensive. It seems, however, that in the vicinity of the circle there are some property owners and residents who come to this city for one or two weeks in a year, open their palatial mansions, and, after having engaged in the social festivities of the season, close their houses and retire to some other more attractive part of the civilized world.

When the building was almost completed some of these persons discovered that a public convenience station was being erected, and in their supersensitiveness they have been able to so work upon the imagination of gentlemen, both in this body and in another, as to have incorporated in this bill a provision to which the conferees have agreed, which provides that the authority for the public convenience station is repealed, and the commissioners are authorized to enter into a supplemental agreement with the contractor providing for the abandonment of further work of construction, for removing the construction work already done, for restoring the triangle to its former condition, and giving the commissioners the discretion in their authority to purchase any materials which the contractor may have on hand.

Mr. Speaker, in a community like this, frequented by so many strangers from all parts of the United States, an enlightened policy demands not one or two, but a great many of these public convenience stations throughout the city.

There is nothing more important both to the health and the comfort, not alone of visitors, but of those who live here permanently, than that these stations be established. I am more familiar with the locality of Dupont circle than with the locality between F and G streets, where work has been authorized upon another one of these stations, which is to be abandoned. For two years I lived within four squares of Dupont circle. Four small children, with a nurse, daily went to Dupont circle to play. There are no toilet facilities of any kind either in the circle or near it accessible to those who frequent the park, and these children were compelled at various times to travel back and forth from home to the circle because there were none of the usual conveniences in the park of which they might have taken advantage. Where the station is located is a car junction and a transfer station. It is at times a very thickly frequented spot.

Two objections have been made to the station. One is that the residents there protest against it. Many of them, I assert, have not spent three whole months in a year in their residences, and they object to any kind of a building of this char-

acter in their vicinity. The distinguished gentleman who bought the old Blaine mansion, which to my knowledge has not been occupied more than a month during any one of the last ten years, is very much wrought up about this building; and yet, properly screened with shrubs, nobody would be able to tell what the character of building was, and it would not be offensive to the most supersensitive person.

Another objection is that it is likely to attract an undesirable class of people. But there is no danger of that. That same objection has been urged against the establishment of these stations in every city in the United States, wherever they have been erected. But, properly cared for and properly looked after, they do not attract an undesirable class, but are very essential and very necessary for the comfort and welfare of the people.

Mr. Speaker, after Congress had authorized these stations, and after contract had been made for their erection, and after work had proceeded upon them, until they are now in a position where they are likely to be completed, I believe that it is unjustifiable to accept the Senate amendment providing for their abandonment, the repeal of the law for their construction, and prevention of their erection, simply to satisfy the whims of those dilettantes who use the capital merely to further their social aspirations. I hope in the interest of those who are compelled to use these circles, the class for whom facilities of some kind should be provided, the House will vote down this report, so that it will be possible to insist upon disagreement to the amendment of the Senate in abandoning the stations.

Mr. SIMS. Would the gentleman insist that these public convenience stations should be put at every circle and square in Washington——

Mr. FITZGERALD. No; I do not.

Mr. SIMS (continuing). Where only the local residents resort, where no strangers visit, and where nobody congregates except the inhabitants of the immediate vicinity?

Mr. FITZGERALD. I would not have them in every square, but there are some sections where the people go for purposes of recreation, or in order to obtain fresh air, and where it is cool in oppressive weather.

Mr. SIMS. Is not every park or circle shaded like Dupont circle, with large trees; and would the gentleman have the same treatment there?

Mr. FITZGERALD. There is one directly opposite St. John's Church, in Lafayette Park, and I have not yet heard any particular outcry against it. There is one in Franklin Square, and there are others throughout the city. The objection to these stations is due to the supersensitiveness of a certain class of people.

Mr. MANN. I have lived ten years near Dupont circle, and there is no more occasion for one there than there is for a bathing place in the middle of the ocean.

Mr. FITZGERALD. The gentleman from Illinois says that he has lived in this vicinity, and that there is no necessity for this building. The gentleman has lived on Q street, and I ask the attention of the gentleman from Illinois.

Mr. MANN. I am listening to the gentleman, and never fail to listen to him.

Mr. FITZGERALD. He lived on Q street, between Fifteenth and Sixteenth.

Mr. MANN. Get it closer down; about Eighteenth street.

Mr. FITZGERALD. Well, he has lived as far away from Dupont circle as I am now from the House Building. He has no young children, another thing.

Mr. MANN. I had for a long time one who played in this circle frequently, and I knew all about it. There is scarcely a day within the last ten years that I have been in the city that I have not passed through it. The gentleman is not familiar with it.

Mr. FITZGERALD. I have not had ten years' knowledge of it; but I am sufficiently familiar with it, because I have resided in the neighborhood for two years, and having small children that frequently play there, I know the need of such facilities, and I know the condition there. The gentleman is mistaken about the necessity for these stations.

It is due to the opposition of certain persons who have their costly mansions in the vicinity of Dupont circle, which are not open more than a month or six weeks in any one year. The gentleman from Illinois perhaps associates with these people more frequently than I do.

Mr. MANN. I associate with the gentleman from New York more frequently than anybody else, much to my pleasure.

Mr. SIMS. I have lived near Dupont circle, my children have played in that circle, and I think that the convenience station there is a first-class nuisance and ought to be abated. That is what I think about it.

Mr. FITZGERALD. The gentleman from Tennessee has not really lived near Dupont circle.

Mr. SIMS. On Nineteenth street.

Mr. FITZGERALD. The gentleman from Tennessee lives on Massachusetts avenue, between Fourteenth and Fifteenth streets, about a quarter of a mile distant.

Mr. SIMS. I lived on Nineteenth street part of the time.

Mr. FITZGERALD. The gentleman's children would have to go out of their way to go to Dupont circle to play. I know where the gentleman from Tennessee lives; I know where the gentleman from Illinois lives. I know where gentlemen live who think this convenience station is a first-class nuisance. They have never seen it, and have no knowledge whatever of the necessity for it. I say this park, with two or three hundred small children and women in it every day, should have some facilities of this character near it. I have no sympathy with that class who seem to feel that there is some impropriety in erecting such stations where they are greatly needed for the comfort and health of the people.

Mr. SIMS. Let me be candid with the gentleman. I have lived on Nineteenth street, and I know that Dupont circle has gotten to be almost completely utilized by loafing white and colored people, and that convenience station will only add to the number of just such people who gather there, and it ought to be abated. I have not a foot of property there, and never expect to have.

Mr. FITZGERALD. The gentleman is mistaken about the character of the people who use Dupont circle. It is used by a large number of small children in care of their nurses. There are people who have not much else to do who go and sit there. But they have no other place to go. These parks are not expected to be occupied alone by those who can afford in the heated weather to go to some cooler and more private place. They are for a class of people who must take advantage of these parks, and every man who is out of work is not a disreputable person. There are a great many men anxious and willing to work to-day who can not get work to do.

Mr. SIMS. I have been through there in the early morning on my way to market, and I have seen certain people there who appeared to have been there all night, and the more conveniences they have the more encouragement there will be to them to remain there.

Mr. FITZGERALD. I am always in sympathy with the poor unfortunates who have no homes to which they can go to sleep and who must sleep in a public park, and I would not deny to them the conveniences which are so necessary to their health and comfort, when they have no house to which to go, although the gentleman from Tennessee has.

Mr. SIMS. The evidence I saw did not indicate that they had been asleep.

Mr. FITZGERALD. The gentleman sees many strange things and has many strange ideas that no other human being ever sees or dreams of.

Mr. TAWNEY. Mr. Speaker——

Mr. DOUGLAS. Will the gentleman from Minnesota yield for a moment? I should like to ask him a question before he begins. I have been curious to know by what authority, after the appropriation has been made and the work nearly completed on this convenience station, it was stopped and who gave the order to stop it.

Mr. TAWNEY. Mr. Speaker, the conferees on the part of the House receded and agreed to the amendment which the gentleman from New York [Mr. FITZGERALD] has discussed. The reason for our doing so is this: The conferees on the District of Columbia appropriation bill, after a full investigation in conference, agreed to a provision repealing the authority for the construction of both of these convenience stations. The report in the House was rejected because the conferees exceeded their jurisdiction.

Mr. MANN. On something else.

Mr. TAWNEY. On something else. Now, it was agreed by the conferees on the part of the two Houses—the chairman of the conference committee on the part of the Senate is also chairman of the District of Columbia Committee in that body, and the chairman of the conferees on the part of the House is the gentleman from Michigan [Mr. GARDNER]—that this provision should be offered on the sundry civil bill as a Senate amendment to that bill, and for that reason it was inserted in the Senate. Both committees had previously agreed to it.

Now, Mr. Speaker, that is one reason why the conferees concurred in the Senate amendment, but there is another reason. The District Commissioners heretofore inaugurated the policy of constructing public comfort stations in this city at fabulous cost. Twenty-five thousand dollars was to be expended in the

construction of one of these convenience stations and $15,000 for the other. But the sundry civil subcommittee on appropriations had the Superintendent of Public Buildings and Grounds before it, and he submitted an estimate for two of these stations in Potomac Park, at a cost of $2,500 each. One objection that I have to the existing authority for the construction of these convenience stations is that the limit of cost is far beyond where it ought to be.

Mr. CAMPBELL. Did the gentleman say the estimate was $2,500 or $25,000?

Mr. TAWNEY. Two thousand five hundred dollars.

Mr. CLARK of Missouri. If that is true, why does not the committee set a limit on it?

Mr. TAWNEY. That is one reason I favored concurring in the Senate amendment. If the authority is repealed, the question of what should be a reasonable cost for accommodations of this kind can be considered more carefully than the question has heretofore been considered.

The gentleman from New York referred to the convenience station opposite St. John's Church in Lafayette Park. That has been there for a number of years. There has been no complaint about that building not being sufficient to accommodate the public. It is cared for by watchmen, and the whole cost of the building did not exceed $1,000. Another fact, Mr. Speaker, I want to call to the attention of the House is that the cost of maintaining these institutions aggregates $7,500 a year.

Mr. FITZGERALD. Not for one?

Mr. TAWNEY. For two of them. They have four attendants in each one and then a substitute in order that the attendant may have leave of absence.

Mr. FITZGERALD. Is it not a fact that these stations which cost $25,000 are underground stations in which the cost is quite expensive, while the ones proposed at Potomac Park are not anything like the underground stations?

Mr. TAWNEY. They are not alike, but one of the $25,000 stations is above the ground, the one at the corner of Seventh street and Pennsylvania avenue. That cost $25,000.

Mr. FITZGERALD. I know that the contract price of the building which is to be erected in this triangle at Dupont circle was $5,500, because I saw the contract.

Mr. TAWNEY. That did not include the plumbing or fittings.

Mr. FITZGERALD. The gentleman realizes that you must not only have plumbing of the best character, but the inside well finished.

Mr. TAWNEY. The one near St. John's Church has good plumbing.

Mr. FITZGERALD. Would the gentleman consent to the erection of frame buildings like the one in Lafayette Park at these other places?

Mr. TAWNEY. No; the fact that the parties are satisfied shows that they do not want a palace. The erection of the other convenience stations, or public comfort stations, the authority for which is repealed if this amendment is agreed to, is at the southwest corner of the Department of the Interior building and right under the window of the Patent Office. The ventilator comes right up under the window in the Patent Office, and hence the condition created would be intolerable in the summer season.

For these reasons the conferees receded and concurred in the amendment. The result will be that next session the question can be taken up and considered by the new commissioners, who, I think, have a more businesslike idea of matters of this kind than the former commissioners.

Mr. SCOTT. What will be done with the structure that has been started?

Mr. TAWNEY. It will be removed.

Mr. SCOTT. And will the fountain be restored?

Mr. TAWNEY. I do not know. That belongs to the jurisdiction of the public buildings and grounds, and will be taken care of by the superintendent.

Mr. FITZGERALD. If the gentleman will go there he will see that the fountain has not been interfered with, and that it will remain.

Mr. SCOTT. One of the chief objections to the erection of this structure I have was that it obscured the view of the fountain.

Mr. FITZGERALD. That is too bad, to prevent anybody from seeing that fountain.

Mr. MANN. Well, it is.

Mr. FITZGERALD. Why not walk around the next corner?

Mr. TAWNEY. Mr. Speaker, I yield five minutes to the gentleman from Michigan [Mr. GARDNER], chairman of the subcommittee on the District of Columbia appropriation bill.

Mr. GARDNER of Michigan. Mr. Speaker, the facts have been stated substantially in regard to the two stations, except that the one down at the Patent Office has not been begun. No money has been expended there except for the plan, and it is proposed to use the plan elsewhere, so that that money is not lost if that station is not constructed. The Commissioner of Patents and others directly interested in that office waited upon the committee and the commissioners, and the Committee on Appropriations went down there——

Mr. FITZGERALD. Did the gentleman say nothing had been spent at Dupont circle?

Mr. GARDNER of Michigan. Pardon me; I am now speaking of the Patent Office. We went down and looked the proposed site over and other places which were under contemplation. The committee, I think, was a unit that if we were interested in the Patent Office we would not want a public-convenience station where the vent would come right up in the office or have the people going in and out constantly there, as they would be in their use of this place. In other words, it would be, in our judgment, a nuisance to the habitants of that office.

Mr. SCOTT. That would seem so obvious that the curiosity is raised as to who suggested that place.

Mr. GARDNER of Michigan. It was located there by the commissioners, but I think the committee was a unit about the advisability of not having that station put at that point, although for the accommodation of the public it is much more desirable than the one at Dupont circle, as many more people are passing there.

Mr. NORRIS. I think that would be a very desirable location, if it could be done without interfering with anything else.

Mr. GARDNER of Michigan. The committee regards it as one of the most desirable in the city.

Mr. MANN. Which is that?

Mr. GARDNER of Michigan. By the Patent Office.

Mr. STAFFORD. May I ask the gentleman is the present comfort station at Judiciary Park, near the Pension Office, inadequate for the use of the public now?

Mr. GARDNER of Michigan. So far as I know, it is not.

Mr. STAFFORD. There is a station at the present time there, a wooden structure.

Mr. GARDNER of Michigan. There has been no allegation to that effect.

Mr. STAFFORD. Was it the purpose to place an additional station in place of the existing one?

Mr. GARDNER of Michigan. That is one of the most congested parts of the city there. Now, the needs of Dupont circle are not so large, and I agree with much of what the gentleman from New York has said, except that no one realized how large a structure was to be erected there until its preparation began to approach toward the roof. I think it is big enough to house a family of six or seven people, and it would be a very comfortable station there; but it is a mar, a blot in and of itself, upon one of the most beautiful parks or circles in this city.

Mr. NORRIS. I would like to suggest to the gentleman why should you not build a station underground like the one on Pennsylvania avenue?

Mr. GARDNER of Michigan. That raises another question that was canvassed, but the necessary sewer that would act as a conductor there would cost several thousand dollars, as there was nothing there to meet the requirements of an underground station. Now, I want to emphasize this: Not one family, but a score of families living in that vicinity objected, not in the start, because they did not know that a house of such proportions was to be erected and did not realize that it was to be such a conspicuous object in the immediate vicinity of that circle. Then, as it has been said over and over again since this matter has been brought up, that it is——

The SPEAKER. The time of the gentleman from Michigan has expired.

Mr. TAWNEY. I yield the gentleman five minutes more.

Mr. GARDNER of Michigan. That it is a transfer station, except, as the gentleman from New York has well said, for nurses and the children of the people who come for recreation in the Dupont circle.

The question arises, then, whether or not these nurses can not take their children elsewhere, if it is largely for them—to the homes, for instance, from which they come, most of them being in close proximity. But the gentleman from Minnesota [Mr. TAWNEY] has hit the nail on the head when he says that we do not want these buildings of such proportions put in the circles or adjacent to the circles in this city. Thomas circle has been instanced. What a blot it would be anywhere in Iowa circle, or Sheridan circle, or almost any other circle, to put a house there that, as I say, will accommodate comfortably six or seven people and use it for a public convenience station!

Mr. FITZGERALD. There is no comparison between Thomas circle and Dupont circle.

Mr. GARDNER of Michigan. In what way?

Mr. FITZGERALD. In regard to size. The statue in Thomas circle practically takes up the entire circle.

Mr. GARDNER of Michigan. I should have said in that vicinity. This is not in Dupont circle.

Mr. FITZGERALD. It is well screened by the trees there now, and by the planting of the tall shrubbery would be completely screened.

Mr. GARDNER of Michigan. I hope, as the gentleman from Minnesota [Mr. TAWNEY] has well stated, that the report of the committee will be adopted, and that in the future these stations may be located with greater care, first, as to public convenience, and then whether they shall be above or under ground, and where they shall be the most needed.

Mr. FITZGERALD. The gentleman was a conferee in charge of the District appropriation bill in which both of these stations were authorized, was he not?

Mr. GARDNER of Michigan. They were reported, and asked for an appropriation for convenience stations, but it was not stated whether they would be above or under ground.

Mr. FITZGERALD. They were carried in the appropriation bill for the fiscal year 1910, of which bill the gentleman from Michigan had charge. Does he think that he failed to give proper attention to these items or does he try to blame it on somebody else?

Mr. GARDNER of Michigan. I think the gentleman has misconstrued anything I have said, if I have sought to put the blame elsewhere. I do say that none of us thought of a building of the proportions that has been constructed, or that is approaching completion in its outer walls, near Dupont circle.

Mr. FITZGERALD. Did the gentleman make any inquiry before he agreed to this item? The House relied on him. How does he come now to say that proper attention will be given hereafter if we repeal an act that we adopted under his lead?

Mr. MANN. It came from the committee of which the gentleman from New York [Mr. FITZGERALD] is a member. Does the gentleman escape the responsibility and put it onto somebody else?

Mr. FITZGERALD. I am in favor of it. I am not coming here and saying that we should repeal something that was done under my lead and saying that proper attention will be given in the future to those things.

Mr. MANN. The gentleman from New York did not have full information from the gentleman from Michigan. The House relies upon both gentlemen to give us full information on this subject.

Mr. FITZGERALD. This talk about this building being a large and imposing structure is just pure bosh, as anyone can find out if they will go up and see. The gentleman from Illinois [Mr. MANN] would not know the building was there unless somebody pointed it out to him.

Mr. MANN. It is a dirty, disreputable looking building.

Mr. FITZGERALD. The gentleman is talking about the contractor's workshop.

Mr. MANN. I go by there twice a day and have been doing so for a long time. I have been all over this building a dozen times. It would be a disgrace to Pokeville.

Mr. FITZGERALD. It will be a disgrace to supersensitive gentlemen from Chicago, some of whose constituents probably are objecting to this building.

Mr. GARDNER of Michigan. I want to say to the gentleman from New York that we are not here to shirk any responsibility in the matter. We are simply stating the situation as we find it. The two are to remain or go together, the one down at the Patent Office and the other at Dupont circle.

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

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

Mr. TAWNEY. Mr. Speaker, I now move that the House further insist upon its disagreement to the Senate amendments not included in the conference report, and ask for a further conference.

The SPEAKER. The gentleman from Minnesota moves that the House further insist upon its disagreement to the Senate amendments and ask for a conference.

Mr. DALZELL. Mr. Speaker, I make a preferential motion.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. DALZELL. I demand a separate vote on amendments Nos. 63 and 98.

The SPEAKER. The gentleman from Pennsylvania demands a separate vote on amendments Nos. 63 and 98. Does any gentleman demand a separate vote on any other amendment?

Mr. HUGHES of New Jersey. Mr. Speaker, I demand a separate vote on amendment No. 76.

The SPEAKER. Without objection, the motion that the House do further insist on disagreement to Senate amendments, excepting 63, 98, and 76, will be considered as agreed to.

There was no objection.

The SPEAKER. The Clerk will report amendment No. 63.

The Clerk read as follows:

Page 114:

"For the continuation of the investigation of the structural materials, both belonging to and for the use of the United States, such as stone, clays, cement, etc., under the supervision of the Director of the Bureau of Mines, including necessary personal services, $100,000."

Mr. DALZELL. Mr. Speaker, I move that the House concur in the Senate amendment.

The SPEAKER. The gentleman from Pennsylvania moves that the House recede from its disagreement to the Senate amendment and concur in the same.

Mr. DALZELL. Mr. Speaker, amendment No. 63 and amendment No. 98 both relate to the same subject-matter, and I think that the motion to concur ought to apply to both of those amendments.

The SPEAKER. Without objection, the vote can be taken on the two amendments together.

Mr. MANN. I think we had better take a vote on amendment No. 63 first.

Mr. SCOTT. What is the nature of amendment No. 98?

The Clerk read as follows:

Page 175, strike out lines 1 to 8, inclusive:

"BUREAU OF STANDARDS.

"For the continuation of the investigation of the structural materials, both belonging to and for the use of the United States, such as stone, clays, cement, etc., under the supervision of the Director of the Bureau of Standards, including necessary personal services, to be immediately available, $50,000."

Mr. TAWNEY. Mr. Speaker, I yield thirty minutes to the gentleman from Pennsylvania [Mr. DALZELL].

Mr. DALZELL. Mr. Speaker, this first amendment, No. 63, provides an appropriation of $100,000 for the continuation of the investigation of the structural materials both belonging to and for the use of the United States, such as stone, clays, cement, and so forth, under the supervision of the Director of the Bureau of Mines.

This amendment No. 63 is placed in the bill by the Senate, while amendment No. 98 is a House provision originally, which has been stricken out by the Senate, and reads:

For the continuation of the investigation of the structural materials both belonging to and for the use of the United States, such as stone, clays, cement, etc., under the direction of the Director of the Bureau of Standards, including necessary personal services, to be immediately available, $50,000.

Now, Mr. Speaker, the first appropriation for the investigation of structural materials was made in 1905. That was the year of the St. Louis Fair, and the language in the paragraph making the appropriation was as follows:

For the investigation of the structural materials of the United States, such as stone, clays, cement, etc., under the supervision of the Director of the United States Geological Survey, $5,000.

In the subsequent year, 1906, another appropriation was made in this language:

For the continuation of the investigation of structural materials of the United States under the supervision of the Director of the Geological Survey, $7,500.

An increase of $2,500.

In the next year the language was substantially the same, but the appropriation was increased to $12,500. And so on until in 1909, when the language was changed so as to read:

Both belonging to and for the use of the United States, $100,000.

It is apparent, therefore, that the investigation of structural materials has been under the technological branch of the United States Geological Survey every year since 1905, down to and including 1909, and we might naturally suppose that in the present bill provision would be made for a further continuation of these investigations of structural materials under some form of language and under the United States Geological Survey.

The bill, however, as reported to the House contained no such provision in the section relating to the United States Geological Survey, but it did contain an appropriation for the pursuit of the same identical work under the language of the previous appropriation bills under the supervision of the Bureau of Standards.

Now, in the meantime Congress had passed a law which created a Bureau of Mines, and that law contained this language:

That the Secretary of the Interior is hereby authorized to transfer to the Bureau of Mines from the United States Geological Survey the supervision of the investigation of structural materials and the analysis and testing of coals, lignites, and other mineral-fuel substances, and the investigation of causes of mine explosions—

Including, as you will observe, up to this time all structural materials, whether owned by the United States or private individuals.

Then it went on to say, in section 4:

And the appropriation made for such investigations may be expended under the supervision of the Bureau of Mines in manner the same as if it were so directed in the appropriation act.

And then it goes on to say:

And such investigation—

that is to say, the investigation relating to structural materials that have been prosecuted by the technological branch of the Geological Survey from 1905 to 1909—

such investigation shall hereafter be within the province of the Bureau of Mines, and shall cease and determine in the organization of the United States Geological Survey.

You will observe that the character of investigations referred to as "such investigation" that have been appropriated for during all these years has been accurately determined. It is the investigation conducted by the Geological Survey—investigations that belong to no other department of the Government than the United States Geological Survey; not to the Watertown Arsenal, where investigations of a similar character are sometimes made; not to the Bureau of Standards, which also has authority to make certain kinds of investigations, but investigations made by the Geological Survey. These, under the language of the law, mandatory as it is, must be transferred to the Bureau of Mines.

Therefore the result of the action on the part of the Committee on Appropriations in this House is, in violation of the express mandate of the law, to strip the Bureau of Mines of the means of carrying on these investigations, and to give to the Bureau of Standards what belongs to the Bureau of Mines.

Now, Mr. Speaker, with respect to the character of these investigations——

Mr. TAWNEY. Will the gentleman permit me to interrupt him right there?

Mr. DALZELL. Certainly.

Mr. TAWNEY. The gentleman was not here when this was acted upon in the House. He charges that it is the purpose of the Committee on Appropriations to strip the Bureau of Mines. The House voted by an overwhelming majority for the provision which is stricken out in the Senate.

Mr. DALZELL. Oh, I have read the RECORD.

Mr. TAWNEY. And the House voted against making any appropriation for the testing of structural materials in the Bureau of Mines.

Mr. DALZELL. I understand that, and I think the House did a very great injustice and a very great wrong, and I do not believe that the House understood the question at the time they did it.

Now, Mr. Speaker, the Bureau of Standards has no jurisdiction, by its organic law, to conduct any such investigation. The Bureau of Standards conducts investigations of a very high order, and if it attends to the conduct of such investigations as it is called upon to attend to it will have all that it can possibly do. The Bureau of Mines, by transfer from the Geological Survey, has experienced officers, men who have been conducting these investigations for the last six years. It has an equipment, laboratories, and testing machines, and all that sort of thing, out in the city of Pittsburg. It is possessed of experts and possessed of equipment that the Bureau of Standards does not have. Let me call attention now to the organic law creating the Bureau of Standards:

That the functions of the bureau shall consist in the custody of the standards—

The yardstick, the quart measure, and all that sort of thing—

the comparison of the standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Government; the construction, when necessary, of standards, their multiples and subdivisions; the testing and calibration of standard measuring apparatus; the solution of problems which arise in connection with standards; the determination of physical constants and the properties of materials, when such data are of great importance to scientific or manufacturing interests and are not to be obtained of sufficient accuracy elsewhere.

Now, it seems to me that I need not spend very much time in arguing that this is a class of work entirely different from the investigation of structural materials. The former consists of laboratory work, but the investigation of structural materials consists of field work in the first instance, the examination of quarries, the examination of mines, the examination of strata of various kinds, to be followed by laboratory work under the supervision of the same engineers who do the field work. So that the House provision is not only a denial to the Bureau of Mines of that which the law intended the Bureau of Mines to have, and that which the Bureau of Mines is equipped to do, but it is a transfer to the Bureau of Standards of that which the law does not authorize the Bureau of Standards to have.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore (Mr. OLCOTT). The gentleman has twenty minutes remaining.

Mr. DALZELL. I reserve the balance of my time. Others will want to speak.

Mr. TAWNEY. Mr. Speaker, this matter was very thoroughly considered in the House when the sundry civil bill was recently under consideration. We spent practically two days in consideration of the question, both of jurisdiction and power and appropriations for the Bureau of Mines. I do not intend to devote a great deal of attention to this question now, for the reason that at the conclusion of the debate the House, by an overwhelming majority, said, and properly so, that the testing of structural materials has no relation whatever to the function of a Bureau of Mines. I want to say to the gentleman from Pennsylvania [Mr. DALZELL] and to other friends of the Bureau of Mines that the action of the House, if it is adhered to, does not deprive the Bureau of Mines of the opportunity or the power or the money to make such structural material investigations as are incident or necessary to the construction or the operation of mines. Section 2 gives to the Bureau of Mines all the authority necessary to investigate structural materials that pertain to mines, and the appropriations that have been made for the Bureau of Mines are available for that purpose.

What claim can anyone make that the Bureau of Mines should be clothed with authority to make investigations of structural material which does not pertain at all to the mines or to the Bureau of Mines? Why is it that the friends of this bureau are so tenacious in endeavoring to clothe this bureau with a function that it has no legitimate right to?

Mr. WASHBURN. Will the gentleman yield?

Mr. TAWNEY. Certainly.

Mr. WASHBURN. Will the chairman of the committee explain the meaning of section 4 of the act creating the Bureau of Mines?

Mr. TAWNEY. I do not know whether the gentleman was here when we discussed that or not. Section 4 is very plain. It was construed a number of times by the chairman, the gentleman from Illinois [Mr. MANN], Chairman of the Committee of the Whole House on the state of the Union, but I will refer to it later. I suppose the gentleman is now referring to the fact that section 4 authorizes, in the discretion of the Secretary of the Interior, the transfer of the equipment of the technological branch that has heretofore had the investigation of structural material.

Mr. WASHBURN. If the gentleman will allow me, I would be glad to be specific. Section 4 provides that the Secretary is hereby authorized to transfer to the Bureau of Mines from the United States Geological Survey the supervision and investigation of structural material.

And then, omitting a few lines, it says:

Such investigation shall hereafter be within the province of the Bureau of Mines.

Mr. TAWNEY. The language is very plain; and after a full discussion the House agreed and by a large majority declared that the investigation of structural material, such as iron and steel, wood, glass, brick, clays, and cement, had no relation whatever to the functions of the Bureau of Mines, and that in appropriating money for that purpose by the Government to the Bureau of Mines we are simply duplicating the service. For these reasons the House heretofore declined to make a specific appropriation for the Bureau of Mines for this purpose.

Mr. DALZELL. Will the gentleman yield?

Mr. TAWNEY. I yield to the gentleman.

Mr. DALZELL. I suggest to the gentleman that it makes no difference about what the Bureau of Mines might do theoretically, but the law here has provided that it shall have charge of this particular work which has been defined by six years actual experience of the Geological Survey.

Mr. TAWNEY. That law that gave it the right to do so was made by the conferees.

Mr. DALZELL. I can not help that.

Mr. TAWNEY. The House itself has got to appropriate money for the investigation of structural material, and refused to put it in the Bureau of Mines because it is a duplication of service. The gentleman from Pennsylvania lays great stress on the fact that we first commenced the investigation of structural material in the Geological Survey as a part of the government exhibit at the St. Louis Exposition. That is true. We did investigate structural material down there for show purposes on an appropriation of $5,000 one year and $7,500 for the next, and Congress declared that the investigations should cease at the expiration of the appropriation.

But the gentleman is mistaken about the Geological Survey first entering on this service. The Bureau of Standards was

created in 1904, and from the annual report of the director of that bureau for the fiscal year ending June 30, 1904, I read this:

A small laboratory for testing engineering instruments has been established in the chemical building—

This is the first year of its existence.

The equipment includes machines for testing structural materials of a capacity of 100,000 pounds. This will be used for testing materials for this and other government bureaus and for the public when the authority to test is required.

Mr. DALZELL. Will the gentleman let me interrupt him again?

Mr. TAWNEY. Certainly.

Mr. DALZELL. I want to impress upon the gentleman the difference between testing and investigation of structural material. They are two entirely different things. One belongs to the Bureau of Mines and the other to the Bureau of Standards.

Mr. TAWNEY. The gentleman exposes his ignorance of the whole proposition when he claims there is any difference between investigation and testing. You can not test structural material without investigating the properties that constitute that material. It is absolutely impossible to sever the one from the other. But the Bureau of Standards is authorized to do any and all testing of structural material that any bureau in the Government to-day is authorized to do. It has authority, and far greater authority than that vested in the Bureau of Mines or the Geological Survey, because the work of the Geological Survey, if not done illegally, is necessarily confined to the structural material both belonging to and for the use of the Government of the United States.

The Bureau of Standards is not only authorized to investigate and test structural material belonging to and used by the United States, but it is authorized to test and investigate structural material no matter who it belongs to. All the difference between the two bureaus heretofore is that one has authority to investigate structural material for outside parties, who must pay the cost of such investigations, while the other has no authority to investigate structural material for outside parties, but does it, and the Government pays for the investigations.

When the Geological Survey or the Bureau of Mines test structural materials belonging to parties outside of the Government, they not only violate the law, but make those tests at the expense of the Federal Treasury. That is a wide difference, and that is one reason, my friends, why the technological branch of the Geological Survey has been so popular. When the Pennsylvania Railroad can go to the Geological Survey, as it has heretofore, and have its structural materials tested at the expense of the Government; when the United States Steel Corporation, of Pittsburg, can go to the Bureau of the Geological Survey and have its materials tested and investigated at Government expense, and the other great corporations of this country, is it not natural that they in return for this favor would support and urge on Members of Congress the granting or appropriating of all the money that such a bureau might need?

Mr. DALZELL. The gentleman draws on his imagination——

Mr. TAWNEY. I am not drawing on my imagination.

Mr. DALZELL. For by the very terms of the law the Geological Survey in the first instance, and the Bureau of Mines in the second, are confined to the investigation of structural materials belonging to and for the use of the United States.

Mr. TAWNEY. I agree to that. That is the law. I understand that is the law, but the law has been violated, I say. Now, when the technologic branch of the Geological Survey has heretofore tested structural materials for any bureau of the Government that bureau had to reimburse the Geological Survey for the expenditure incident to the making of that test. Not so with the railroad corporations, not so with the United States Steel Corporation, not so with the other corporations in the city of Pittsburg that are to-day demanding that this policy shall be continued hereafter as heretofore, under the jurisdiction of the Bureau of Mines. Under the law the Bureau of Standards is authorized and is required to charge for every investigation made, for every test that is made for parties outside of the Federal Government.

Not so, I say, with the Bureau of Mines or with the Geological Survey; and I say this is the cause of all this pressure for $100,000 for testing structural materials when $50,000 is more than they have expended in the investigation of structural materials in previous years, even for outside parties. As the gentleman from Michigan [Mr. LOUD] well suggests, it is the part of wisdom, it is the part of good administration for us to provide for a centralization of scientific work of the Government as much as possible. We have created a Bureau of Mines. That bureau is equipped with authority and ample appropriation for the purpose of exercising every function that belongs legitimately to a Bureau of Mines.

Mr. HOBSON. Will the gentleman permit a very short question?

Mr. TAWNEY. One word and then I will yield. We have also created a Bureau of Standards and clothed that bureau with all the power and authority necessary, and it is proposed to continue the investigtion of these structural materials there for the appropriation of one-half as much as the Geological Survey has had heretofore appropriated. Now, I yield to the gentleman from Alabama.

Mr. HOBSON. I wish to ask the chairman of the committee whether the provision for the Bureau of Mines as it now exists is ample to permit them to carry on such tests of materials that are a legitimate part of their duty.

Mr. TAWNEY. I am obliged to the gentleman for asking me that question, because that reminds me of a statement made to me by the Secretary of the Interior within the last few days; that after an examination of section 2 he was satisfied that there was ample power and authority in that section to enable the Bureau of Mines to make all the tests of such structural materials in connection with all questions incident to the operations of mines as was necessary, and that the appropriation of $310,000 was likewise ample for that purpose.

Mr. HOBSON. Three hundred and ten thousand dollars. I would like to ask the gentleman, simply to complete that information, whether perhaps an allotment of $50,000 for that work under the Bureau of Mines and the other $50,000 of the $100,000 to the Bureau of Standards for the specific work that is called for would not be a wise compromise and settlement of this question.

Mr. TAWNEY. I will say to the gentleman from Alabama that we can not at this time determine what amount of money the Bureau of Mines will require in investigations of that character. That bureau is not yet organized. Its work may depend largely, and will depend largely, upon the policy of the director when that person is selected and the bureau is organized. It will be an easy matter when we come here next year to supplement any appropriation that we make now that may be necessary after the bureau has been organized and its policy has been thoroughly established.

I reserve the balance of my time.

Mr. DOUGLAS. Before the gentleman takes his seat I would like to ask him a question.

Mr. TAWNEY. I have used more time than I was entitled to now.

Mr. DOUGLAS. I would just like to ask the gentleman one question. Did I understand him to reply to the gentleman from Alabama [Mr. HOBSON]——

The SPEAKER pro tempore. The gentleman declines to yield.

Mr. DALZELL. I yield five minutes to the gentleman from Alabama [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, the gentleman from Minnesota [Mr. TAWNEY] seems to base his argument against this proposition because the bureau of the Government that has been doing this work heretofore has violated the law. I do not know whether it has or not. I presume the gentleman has authority for his statement or he would not make it, and if they have violated the law I think it is very proper that he call the attention of this House to the fact.

But that is not a fair argument in determining if this appropriation should go to the Bureau of Standards or to an absolutely new bureau that is being created by the Government that will have new officers in it and have no connection whatever with the bureau that the gentleman charges has violated the law. Therefore, I think that argument does not need to be answered further than that statement.

I believe that it is very important to the Government and very important to the American people that there should be a bureau in the Government that is equipped with scientific men and scientific instruments for the careful investigation of structural material, in order that we may know exactly what we are doing and can economize in a scientific way. If you were building a great public building, you may put enough structural material in the way of iron beams in that building to hold it up, without any scientific investigation, but you may put two or three times as much material in there as it is necessary to use, two or three times as much as it is necessary to sustain the building, unless you know the qualities of which that structural material is composed. Its power to sustain pressure, to hold up weight, its tensile strength, are all scientific questions. The average citizen has not the opportunity or the money to make these investigations himself. The other government bureaus are not equipped to do it. So I say an appropriation along this line is manifestly right and it is manifestly in the interest of economy.

Then the only question involved is whether it shall be exercised by the Bureau of Standards, that has not done this class

of work in the main heretofore, or by this new Bureau of Mines that the Congress in a recent enactment of the Congress has directly authorized to do this work. The Bureau of Standards is what its name implies.

The SPEAKER pro tempore. The time of the gentleman from Alabama [Mr. UNDERWOOD] has expired.

Mr. DALZELL. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE of Pennsylvania. Mr. Speaker, it seems to me the gentleman from Minnesota is in a somewhat confused state of mind in interpreting the Bureau of Mines act.

Mr. TAWNEY. Anybody would be who tried to interpret it.

Mr. BURKE of Pennsylvania. The work of testing structural materials is of vital importance to the Government and to the people.

Since it began at Pittsburg, in the heart of my district, it has been done in a manner that has challenged world-wide admiration. No man, whether he be statesman, scientist, geologist, or day laborer, can go through that testing laboratory without thinking more than ever of his Government and the splendid work it is doing.

It is now proposed to transfer this work to the Bureau of Standards; but this is illogical and unnecessary, for the reason that when we created the Bureau of Mines a short time ago we specifically provided that "the work of testing structural materials by the Geological Survey should cease and determine."

Does any man mean to say that we intended to permanently put an end to this great work that has already saved the Government millions and protected it from imposition? Certainly not, and the only reason we legislated it out of the Geological Survey was to centralize all this character of work in the Bureau of Mines, and we specifically provided in the same act that "the work shall hereafter be done by the Bureau of Mines, and for this purpose the employees, equipment, and materials heretofore used by the Geological Survey are transferred to the Bureau of Mines."

Certainly nothing could be plainer and certainly no more logical place for such tests and scientific work can be found in America or, in fact, in the world than in the great mining, manufacturing, and mercantile center, the city of Pittsburg. I am opposed to cutting down the appropriation or removing the work elsewhere.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BURKE of Pennsylvania. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. SMALL. Will the gentleman from Pennsylvania yield to me two minutes?

Mr. DALZELL. I promised to yield two minutes to the gentleman from North Carolina [Mr. THOMAS].

Mr. THOMAS of North Carolina. Mr. Speaker, there is no disposition to take from the Bureau of Standards any of the work it has been doing, nor will the sundry civil bill, as amended by the Senate, do so. The Bureau of Standards has been doing its work efficiently and well. The Geological Survey for years past has been doing work, however, which the Bureau of Standards has not been doing—the investigation of certain structural materials. The testing of structural materials has been under the technologic branch of the Geological Survey since 1903, and the money given by the Senate amendment, $100,000, is the same as heretofore. Recently, by an act of Congress, this work of the Geological Survey was transferred to the Bureau of Mines; but the House thought, in its wisdom, that it would consolidate this work in the Bureau of Standards. The bill went to the Senate, and the Senate disagreed with the House, and the Senate said that the work which had been done in the Geological Survey and which had been transferred to the Bureau of Mines ought to be done by the Bureau of Mines, the successor of the Geological Survey.

Now, Mr. Speaker, the work of the Bureau of Mines as to structural materials is declared by the Supervising Architect of the Treasury to be a most valuable work, and he has urged that the investigation of the structural materials be placed under the Bureau of Mines during the next fiscal year, the same work which has heretofore been done by the Geological Survey. He says there are important investigations in connection with public buildings now under construction concerning concrete, stone, sands, lime, and clay products, and involving expenditures during the next fiscal year of not less than $12,000,000. Investigations upon materials for the Panama Canal and other investigations all should be done in the Bureau of Mines.

Let this appropriation of $100,000 remain with the Bureau of Mines, as provided by the Senate amendment. Let the Bureau of Standards do its work as heretofore.

Do not destroy a valuable work now in progress under the Geological Survey and transferred to the Bureau of Mines, after July 1, at the Pittsburg experiment station, which can not be discontinued under the Bureau of Mines nor transferred to another bureau during 1910–11 without serious loss to the Government. [Applause.]

Mr. GRAHAM of Pennsylvania. Mr. Speaker, it has been affirmed that the Bureau of Mines, formerly the technologic branch of the United States Geological Survey, has accomplished but little along practical lines. In refutation I desire to make a brief statement of the work accomplished by the Bureau of Mines, formerly the technologic branch of the United States Geological Survey:

Bulletin 324. Effects of San Francisco earthquake and fire on various structural materials.

Bulletin 329. Methods of investigating and testing structural materials.

Bulletin 331. Tests and investigations of 22 sands, 12 gravels, and 25 broken stones from different building centers of the United States mixed as concrete in different proportions.

Bulletin 344. Tests of 144 full-size, plain concrete beams without reenforcement, showing comparative value of gravel, granite, limestone, and cinder for use in concrete in different proportions.

Bulletin 370. Fire resistive properties of 30 full-sized sections of walls of buildings made of different concretes, of different bricks, and of various building stones, terra cotta, etc., to determine the effect of conflagration, temperatures, and the rate of heat transmission from the inflamed side to the outer side.

Bulletin 387. Structural materials (building stones, concrete aggregate, etc.) available for building construction in Oregon and Washington.

Bulletin 388. Investigations of the plasticity of clay as affected by colloid matter.

Bulletin 418. A study of the waste of structural materials in fires.

Besides the foregoing, which are printed and published, there are a large number of other investigations, some completed and awaiting publication, others nearly complete, and others in various stages. Part of this work has been undertaken at the direct request of the Supervising Architect of the Treasury, and part by the Isthmian Canal Commission, as has been ascertained by direct inquiry of these officials.

No complete list of the foregoing work is available, but the following are a few of the more important ones:

1. An investigation of a large number of concrete beams, with steel reenforcement of various kinds. This work has been of a number of years' duration and involves an enormous quantity of labor.

2. An investigation into the manufacture of lime, including a study of ways of burning, the amount of heat required, etc.

3. Testing of fire brick to find out how much load they would carry at high temperatures.

4. A study of the methods of drying clay in advance of manufacture, in order to overcome certain manufacturing trouble due to too great a shrinkage.

5. An investigation of the chemical and physical properties of a large number of lime mortars.

The above list is very incomplete.

Mr. TAWNEY. I yield to the gentleman from Illinois [Mr. FOSTER].

Mr. FOSTER of Illinois. Mr. Speaker, I was very much in favor of the establishment of the Bureau of Mines. The chief purpose of the Bureau of Mines, in my judgment, after it is established and it gets thoroughly organized, is to prevent if possible the horrible accidents that have occurred in the mines of this country. Now, if we are to load down this Bureau of Mines with a whole lot of extra work, in my judgment we are going to defeat one of the most important purposes for which this Bureau of Mines was established. With the statement of the Secretary of the Interior that the Bureau of Mines under section 2 has all the authority that is necessary for the purpose of testing structural materials in mines, I believe that we ought to vote down this proposition and leave this work with the Bureau of Standards, where it is to-day. [Applause.] The Bureau of Standards is doing an excellent work. It is organized and is able to do that work now better than the Bureau of Mines or any other bureau not organized at this time or can be for some time. Let us leave the testing of structural material where it now is, and leave the Bureau of Mines for the great work for which it was established, which was to prevent accidents in mines and the saving of human life. I hope the motion will not be agreed to, but that the amendment will finally be stricken out and the provision of the House will prevail. It is my earnest desire to have the Bureau of Mines give its attention strictly to the cause of mine accidents and their prevention.

Mr. TAWNEY. I yield to the gentleman from New Jersey [Mr. WILEY].

Mr. WILEY. Mr. Speaker, it is very difficult to say what should be said on this matter in a few minutes. A real common-sense view of the case would be a contemplation of the resources which are before us, the Bureau of Standards and the Bureau of Mines, which has only just been created. These bulletins which the gentleman from Pennsylvania read do not come from the Bureau of Mines at all, because that was not in existence, but from the Geological Survey, under whose auspices these tests have been made.

As the gentleman from Illinois [Mr. FOSTER] has just said, the reason given for the creation of the Bureau of Mines is to prevent mine accidents; and if we diversify their efforts by giving them structural material to test, we are going to minimize the purpose for which the bureau was created. It is no part of the purpose of the Bureau of Mines to test structural material. You may as well turn it over to a bureau of chemistry, because in all of these tests chemical analyses and chemical information are employed. The Bureau of Standards is thoroughly equipped for this work.

Mr. ENGLEBRIGHT. Will the gentleman yield to me for a question?

Mr. WILEY. I can not yield. It would be interesting and instructive for any gentleman of this House to go out to the Bureau of Standards and see the work that they are doing and to know how it has been accepted by the engineers of this country. They are establishing standards, and that is what the engineers want. All other matter is a mere detail of the standards.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DALZELL. I yield two minutes to the gentleman from West Virginia [Mr. STURGISS].

Mr. STURGISS. Mr. Speaker, it is not possible to determine by the names of the respective bureaus where the work of analyzing and testing structural materials should be done. There is nothing in the name that indicates it, but there is an infallible rule laid down by the law that created these several bureaus, and it clearly confers upon the Bureau of Mines the duty and the power to investigate such materials, and it has the equipment ready to do the work. The House ought not to have any pride of opinion on this subject. It ought not to influence the House to say to it that a few days ago it voted strongly against this proposition; but, on the contrary, with greater light and information, it ought to reverse its judgment. It ought to prefer to be right even at the expense of consistency. It is more inconsistent to pass the bill in its present condition, after having passed the act that created the Bureau of Mines and defined its duties and powers, than it would be to correct the mistake that was made in the passage of the House bill.

If there is anything that we are interested in in West Virginia it is in the Bureau of Mines. We have watched its creation, and we have seen the experiments that have been conducted by the Geological Survey at Pittsburg with great pleasure and satisfaction.

In connection with my remarks I want to submit a letter from the state geologist of West Virginia, a scientific authority of the highest character, for two years in the service of the great Republic of Brazil, who has been serving his State for many years with distinguished success and credit, and who has a reputation world-wide as a scientist, geologist, and successful man of affairs, who declares in most emphatic language that this bill ought to be amended in the manner indicated by the Senate amendment.

I ask that his letter be printed as a part of my remarks:

WEST VIRGINIA GEOLOGICAL SURVEY,
Morgantown, W. Va., June 15, 1910.

Hon. GEORGE C. STURGISS,
Morgantown, W. Va.

MY DEAR MR. STURGISS: Complying with your request concerning the matter of appropriation of $100,000 made by the Senate amendment to the sundry civil bill to be given the new Bureau of Mines in testing structural and other materials at Pittsburg, I would say:

This amendment should stand and the House should agree to the same, since this bureau already has a trained force of experts accustomed to work in that line. It has also had constructed at great expense one of the largest testing machines in the world, and is therefore thoroughly equipped to carry on the work of testing not only steel and iron, but concrete, building stone, brick, and every kind of material that enters into modern buildings and machinery. Situated as this laboratory is at Pittsburg, in the heart of the industrial center, not only of the United States but of the world, it is by all odds the most suitable, convenient, and desirable location where all kinds of structural material should be tested. I trust that the House will see the wisdom of withdrawing its opposition to the Senate amendment, instead of insisting that this appropriation should go to the Bureau of Standards, thus leaving the new Mining Bureau a fully equipped testing plant in that great industrial center of Pittsburg with no appropriations with which to carry on this work.

Very truly, yours, I. C. WHITE, *State Geologist.*

Mr. DALZELL. I yield two minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, I agree with the gentleman from Pennsylvania [Mr. DALZELL] when he says that the House must have voted under a misapprehension of fact when it voted to transfer that work from the Geological Survey to the Bureau of Standards. These two bureaus conduct their investigations along entirely different lines. Investigations are different in nature. The Bureau of Standards establishes standards, as the word indicates, while the Geological Survey, in investigating structural materials, makes use of those standards for the purpose of ascertaining the value of materials. That is one point. The other point is that the Bureau of Standards could not possibly investigate these bulky materials at all without disturbing all the delicate instruments which are now housed in that institution. The Geological Survey investigates these structural materials in bulk by powerful machinery for the purpose of ascertaining their durability, their powers of resistance, and so forth. The Bureau of Standards does an entirely different work. The Supervising Architect states that the benefits derived from the investigations of the Geological Survey pay many more times than the amount which we appropriate for these investigations annually. We must remember that we are building now from $12,000,000 to $15,000,000 worth of public structures every year, and for the purpose of determining the material for these constructions, to make the proper specifications, the results of these investigations are necessary. They can not be carried on by the Bureau of Standards.

Mr. DALZELL. I yield the remainder of my time to the gentleman from Ohio [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I ask the attention of the House for a few minutes. I want, first, to deny the statement made by the gentleman from Minnesota [Mr. TAWNEY] that the House considered this proposition for two days and then by an overwhelming majority voted it down. It was considered, altogether, for two hours.

Mr. TAWNEY rose.

Mr. DOUGLAS. I decline to yield.

Mr TAWNEY. I simply want to correct the gentleman's statement.

Mr. DOUGLAS. The gentleman can not correct it. The gentleman would not yield to me when I asked him a question, and so I decline to yield to him. We did spend a day on the various amendments providing for the Bureau of Mines. We did not spend two hours on this proposition, and the vote was 64 against my amendment and 47 for it. Only a little over 100 men were present during the session of the committee, and that was the exact vote. I am glad to say that many men have come to me since and said that they voted under a misapprehension.

Another statement: The House has never at any time voted to turn this work over to the Bureau of Standards as against the Bureau of Mines. I made the point of order that the Bureau of Standards was not authorized by law to do this work, and the gentleman from Illinois [Mr. MANN] in the chair, in a carefully considered opinion, held that, considering the language of the act of organization, that bureau had that power, and that is as far as the House has had any opportunity to express itself.

In the next place, I want to refer to the statement of the gentleman from Minnesota, that the Geological Survey has habitually violated the law in doing work for outside parties. I deny it. It is gossip coming from I know where and I think the gentleman himself knows where. I do not believe it has habitually been done, but in a few instances it has been done, and under circumstances which absolutely, in my opinion, justified its being done. But at the same time there is no warrant for supposing that an appropriation made for testing structural material of the United States will be used for testing structural material of other people unlawfully.

Now, I ask the attention of the House to this proposition: The gentleman from Minnesota makes a statement as a basis of his argument against the motion of the gentleman from Pennsylvania with which I absolutely and heartily concur. This is his sentiment, and I believe it should influence more men on the floor to vote for the motion of the gentleman from Pennsylvania than any other one proposition. The gentleman from Minnesota says he is in favor of the "centralization of the scientific work of the Government." In other words, that this work ought to be kept in one place. I agree with him heartily. I agree that the purely scientific work of the Government should be kept in one place, and the industrial work should be segregated from it. That is why I believe in the work of the Bureau of Mines that has been transferred from the technological branch of the Geological Survey to the Bureau of Mines. It has been transferred there and is there now, and all the work, while in one aspect it may be called scientific, it is eminently and

essentially industrial work. It is a work which is perhaps scientific in the method in which it has been done, but the methods and investigations have been along industrial lines.

In conclusion, I want to say to the membership of the House that here is a work that is going on: Thousands of barrels of cement are being investigated and tested every day by the technological branch of the Geological Survey for the Isthmian Canal Commission. Thousands of tests are being made and investigations are being made for the Supervising Architect, Taylor, all over the country, for the $50,000,000 worth of buildings which have been authorized by the Congress.

I submit that the great office at Pittsburg, fully equipped, will be starved to death by giving it no appropriation, and this would be utterly foolish and unworthy of the Congress of the United States. That work is going on every day. It is a great and valuable work, and unless some appropriation is made it must stop on the 1st day of July. The agent here of the Isthmian Canal Commission has said that rather than have it stop they would pay for it out of their own appropriation for the Isthmian work.

The gentleman from Minnesota says it is a question of doing it in one place for $50,000 and in some other place for $100,000. I deny that there is any such alternative before the House. The Bureau of Standards would be glad to get this work, outside of the work they have been doing, at any price. It is not a question whether they will get this $50,000 or $100,000. The question is whether they shall get hold of the work that has been done well and done elsewhere. [Applause.]

Mr. DALZELL. I yield to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Speaker, I ask unanimous consent to extend some remarks in the RECORD, but not upon this bill.

Mr. SHERLEY. What on?

Mr. HUMPHREY of Washington. On the public buildings bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. DALZELL. Mr. Speaker, I make a similar request.

The Speaker pro tempore. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. DOUGLAS. Mr. Speaker, what time is the vote to be taken?

The SPEAKER. The gentleman from Minnesota yielded half his time to the gentleman from Pennsylvania. The gentleman from Pennsylvania has exhausted all of his time, and the gentleman from Minnesota has eleven minutes remaining.

Unanimous consent was given to Mr. GOEBEL to extend his remarks in the RECORD.

Mr. BORLAND, by unanimous consent, was given leave to extend remarks in the RECORD.

Mr. TAWNEY. Mr. Speaker, I now yield ten minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, the work of investigation of structural materials has in recent years been carried on both in the Bureau of Standards and in the technologic branch of the Geological Survey. At the last Congress we appropriated $175,000 for a new laboratory for the Bureau of Standards, and we appropriated $150,000 to install there a great testing machine, the greatest by far in America, and not only the greatest and the most powerful, but the most accurate and reliable, and the Bureau of Standards to-day is better equipped for making the tests of heavy structural materials than any other institution in America. We have within the year increased the staff of the Bureau of Standards to carry on this work by adding 28 men. Now, to what extent shall we continue to do this work in both places—in the Bureau of Standards and in the Bureau of Mines? If, as here asserted, we have by a law created a Bureau of Mines and given it authority to make these tests, then we are in the unfortunate situation of having two bureaus authorized to do the same thing and equipped for the same purposes. The bill now under consideration contains this appropriation:

> For the investigation as to the causes of mine explosions, methods of mining, especially in relation to the safety of miners, the appliances best adapted to prevent accidents, the possible improvement of conditions under which mining operations are carried on, the use of explosives and electricity, the prevention of accidents, and other inquiries and technologic investigations pertinent to the mining industry, $310,000.

So that, aside from the provisions now under consideration, we have expressly appropriated money for all technologic investigations under the Bureau of Mines pertinent to the mining industry, and all other investigations of structural materials here provided for are those not pertinent to the mining industry. Not only is the Bureau of Mines authorized to make technologic investigations pertinent to the mining industry, but a large appropriation is made to enable them to do those things, and why should we do this work twice, and why should the Bureau of Mines have charge of technological investigations not pertinent to the mining industry in two places, or carry it in one? $150,000 for the Bureau of Mines, but upon the floor of the House that was raised to $310,000, so that there is $160,000 carried in this bill more than was asked for by the department available for technologic study on matters pertinent to the mining industry. Now, shall we continue to carry the technologic investigations of structural materials that are not pertinent to the mining industry, in two places, or carry it in one? I have told you that within a few months we put $175,000 into a new laboratory at the Bureau of Standards to do this work, and we put $150,000 into the greatest testing machine in America to do this work, and we have employed 28 additional men at the Bureau of Standards to do this work, and the sole question now is whether we will do it in both places, or whether we will do the technological investigations pertinent to the mining industry under the Mining Bureau, as already provided by this act, and do the balance of the work at the Bureau of Standards. I have visited this Bureau of Standards repeatedly. It has been for years engaged in the investigation of structural materials to my personal knowledge, so it is just as much a change of law to take this from the Bureau of Standards and give it to the Bureau of Mines as it would be to take it from the Bureau of Mines and give it to the Bureau of Standards, and more so, for the Bureau of Mines has never had it in fact, although it may have been authorized to do the work. So that if this vote should be in favor of the motion of the gentleman from Pennsylvania, we will be inevitably engaged in doing this same work in two places, and it is not simply an alternative as to where we shall do it. If the committee be sustained, then under the law the technological investigations of structural materials so far as pertinent to mining will be conducted under the Mining Bureau, and so far as not pertinent to mining will be conducted under the Bureau of Standards, and that is where it ought to be. [Applause.]

Mr. TAWNEY. Mr. Speaker, I move the previous question on the motion of the gentleman from Pennsylvania.

The question was taken, and the previous question was ordered.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Pennsylvania [Mr. DALZELL] to recede and concur in Senate amendments Nos. 63 and 98.

Mr. MANN. I ask for a division on the vote. It is only on amendment No. 63 at this time.

The SPEAKER pro tempore. The question is on the motion to recede and concur in Senate amendment No. 63.

Mr. TAWNEY. Amendment No. 63 is the amendment appropriating $100,000 for testing structural material in the Bureau of Mines. The other is striking out $50,000 heretofore authorized by the House for the investigation of structural material in the Bureau of Standards, and the vote comes on whether we will recede and concur in amendment No. 63 for the testing of structural material in the Bureau of Mines.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Pennsylvania [Mr. DALZELL] to recede and concur in amendment No. 63.

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

Mr. TAWNEY. Division, Mr. Speaker.

The House divided; and there were—ayes 90, noes 81.

Mr. TAWNEY. Tellers, Mr. Speaker.

Tellers were ordered, and Mr. TAWNEY and Mr. DALZELL took their places as tellers.

The House again divided; and there were—ayes 91, noes 97.

So the motion of the gentleman from Pennsylvania [Mr. DALZELL] was rejected.

Mr. TAWNEY. Mr. Speaker, I move to further insist upon our disagreement to Senate amendments Nos. 63 and 98.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will now report amendment No. 76.

The Clerk read as follows:

> Strike out the following words:
> "*Provided further*, That no part of this money shall be spent in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, shortening of hours or bettering the condition of labor or for any act done in furtherance thereof not in itself unlawful."

Mr. HUGHES of New Jersey. Mr. Speaker, I move that the House do further insist on its disagreement to amendment No. 76.

Mr. TAWNEY. How much time does the gentleman wish?

Mr. HUGHES of New Jersey. I would like to take thirty minutes. I may not need all of it.

Mr. TAWNEY. I will yield to the gentleman twenty minutes.

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. HUGHES] state his motion?

Mr. HUGHES of New Jersey. My motion is that the House further insist on its disagreement to Senate amendment No. 76.

Mr. BARTLETT of Georgia. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Has the gentleman from Minnesota [Mr. TAWNEY] made any motion?

Mr. TAWNEY. I have made a motion to further insist on our disagreement to all the Senate amendments not included in the report which the House has adopted, and thereupon the gentleman from New Jersey [Mr. HUGHES] asked for a separate vote on amendment No. 76, and that is the motion that is before the House.

Mr. CLARK of Missouri. Did you not ask that the debate last for an hour?

Mr. TAWNEY. I said I had control of the time for one hour.

Mr. CLARK of Missouri. How long are you going to have it last?

Mr. TAWNEY. I do not know that there is any necessity for continuing it very long.

Mr. MANN. Everybody is in favor of the motion.

Mr. HULL of Iowa. A parliamentary inquiry, Mr. Speaker. My understanding is that the gentleman from Minnesota [Mr. TAWNEY] moved that the House further insist on its disagreement. Now, how can another motion of that character come in from the gentleman from New Jersey [Mr. HUGHES]?

Mr. TAWNEY. It does not.

The SPEAKER pro tempore. The Chair had not understood that the gentleman from Minnesota [Mr. TAWNEY] had made such a motion.

Mr. HULL of Iowa. He made that motion in the beginning and the gentleman from New Jersey simply called for a separate vote.

Mr. HUGHES of New Jersey. There is no dispute between the gentleman from Minnesota [Mr. TAWNEY] and myself.

Mr. HULL of Iowa. You both moved the same thing.

Mr. HUGHES of New Jersey. I would like to state for the benefit of the Members of the House just what the amendment is.

Mr. TAWNEY. Go ahead.

Mr. HUGHES of New Jersey. The gentleman from Minnesota [Mr. TAWNEY] yielded me twenty minutes or as much thereof as I might need.

Mr. Speaker, this amendment provides that no part of $100,000 appropriated by the House, which was increased to $200,000 by the Senate, shall be spent in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, shortening of hours, or bettering the condition of labor or for any act done in furtherance thereof not in itself unlawful.

In another body this amendment was considered, and the request was made that it be sent into conference in order that the effect of the provision might be considered. I would like to have this House pass upon it, so that the other body may know the temper of the House in regard to the matter.

A curious situation has arisen in regard to the status of organizations of labor. It may be stated by gentlemen on the floor of this House that this is an unimportant matter, and that there is no disposition upon the part of anybody to commence these prosecutions. The statement is interesting in view of the knowledge that Members of this House have, that they have been flooded with telegrams against this amendment, and that these telegrams originated with the Manufacturers' Association of this country, an organization that is absolutely inimical to, and organized for the purpose of suppressing and exterminating, all organizations of labor. But gentlemen should know that one of the attorneys who took part in the suit of Loewe *v.* Lawlor, the Danbury Hat Manufacturers' case, is now in the gallery of this House, an interested spectator, anxious to see what the House will do with this amendment. Their interest in it has been great enough to cause them to send thousands of telegrams and communications to the Members of this House against this amendment. Yet it will be urged that it means nothing, and that nobody ever intended that these prosecutions should be had. The language of the decision of the court in the Danbury Hat case shows any lawyer who will take the trouble to read it that, under that construction of the Sherman antitrust act, any organization of laboring men entering upon a strike where the commodity manufactured may be the subject of interstate commerce are offenders under this law. That is the situation that has developed, and that is the status of organized labor at this time. It is idle to say that this never was intended. We all know it never was so intended. The debates upon the Sherman antitrust law when it passed will show that it was far from the minds of the proposer or of those who voted for that statute that any such meaning should be given to it.

But the court of last resort has so decided, and so any organization of trainmen, any organization of men engaged in the product of a commodity which may become subject to interstate commerce, by the very fact of simultaneously withdrawing from work—the very fact of entering into a combination to withdraw from that employment, and so prevent the manufacture or transportation of that interstate-commerce commodity—brings them within the provisions of this act.

Mr. COX of Indiana. Will the gentleman yield?

Mr. HUGHES of New Jersey. Yes.

Mr. COX of Indiana. Your amendment does not exempt labor unions from the provisions of the Sherman antitrust law, does it, then?

Mr. HUGHES of New Jersey. Not by name.

Mr. COX of Indiana. As I read your amendment, the only effect is it simply reads that no part of that appropriation be employed to prosecute labor unions?

Mr. HUGHES of New Jersey. Of course; that is it precisely.

Mr. COX of Indiana. And leaves the law in force.

Mr. HUGHES of New Jersey. I am attempting legislation as far as I can legislate here on an appropriation bill. That legislation would be out of order if put on any appropriation bill, but this gives me an opportunity to test the temper of the House in the matter. It says in terms that no part of this money shall be spent for the purpose of carrying on criminal prosecutions of violations of the Sherman antitrust law on the part of these organizations.

Mr. COX of Indiana. Will not your amendment, if organized labor is doing anything that is wrong or unlawful within itself, still leave this appropriation to be used by the Department of Justice to prosecute them for that offense?

Mr. HUGHES of New Jersey. Of course. I will read the language of the Supreme Court in the syllabus on this case:

> The antitrust act of July 2, 1890 (26 Stat., 209), has a broader application than the prohibition of restraints of trade unlawful at common law.

Now, by common law it would be unlawful for a man to strike. At common law in England for two hundred years the wages of labor were fixed by the justices of the peace. It was a crime punishable by a long term of imprisonment for a man to accept more wages than the justice of the peace fixed; and that law was repealed because the justices of the peace were too liberal. Now, in my judgment, under the language of the Supreme Court this law is even more drastic than the common law.

In the State of New Jersey, some ten or fifteen years ago, three or four men were sent to the state prison, for what? For entering into a conspiracy to withdraw simultaneously from the employment of their employers. So I say to you now, that every organization of labor engaged at present in the manufacture of a commodity that may become the subject of interstate commerce, every trainmen's organization, if they simultaneously withdraw from their employment, and that simultaneous withdrawal has the effect of causing a cessation of interstate commerce in that commodity, they become offenders under the provisions of the Sherman antitrust act. I do not think the membership of this House want that situation to exist. I have a bill before the appropriate committee in this House, which has not seen fit to report it, which does as a provision of substantive law what this amendment seeks to do by way of limitation. In the fullness of time, after the proper display of the attitude of the House on this subject, that committee may be moved to report this bill.

I reserve the balance of my time.

Mr. TAWNEY. Mr. Speaker, I call for a vote on my motion to further insist upon our disagreement to the Senate amendment.

The SPEAKER. The question is on the motion of the gentleman from Minnesota [Mr. TAWNEY].

Mr. HAYES. Mr. Speaker, a parliamentary inquiry. Does this include all the amendments, or only the one?

Mr. TAWNEY. They have all been disagreed to except this one.

The SPEAKER pro tempore. This motion includes only one.

Mr. HAYES. A separate vote on amendment 76?

The SPEAKER pro tempore. This is a separate vote on amendment 76.

Mr. HUGHES of New Jersey. On that I ask for the yeas and nays.

The question was taken on ordering the yeas and nays.

The SPEAKER pro tempore. Thirty-nine Members rising—not a sufficient number.

Mr. HUGHES of New Jersey. I ask for the other side, Mr. Speaker.

The SPEAKER pro tempore (after counting). On the question of ordering the yeas and nays there are 39 in the affirmative and 70 in the negative. A sufficient number, and the yeas and nays are ordered.

Mr. TAWNEY. The effect of this motion is simply to send this amendment back to conference.

Mr. MANN. A parliamentary inquiry. If the motion does not prevail, what is the effect?

The SPEAKER pro tempore. If the motion does not prevail, the Chair thinks that another motion would be in order. The question is on the motion to insist on the disagreement of the House to the amendment of the Senate.

Mr. HUGHES of New Jersey. I ask unanimous consent to withdraw the demand for the yeas and nays—to vacate the order.

The SPEAKER pro tempore. The gentleman from New Jersey asks unanimous consent to vacate the order for the yeas and nays. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question now is on the motion of the gentleman from Minnesota that the House insist on its disagreement to the amendment of the Senate.

The question being taken, the motion was agreed to.

The SPEAKER resumed the chair.

The SPEAKER. Does the gentleman from Minnesota desire to ask for a conference?

Mr. TAWNEY. I have already asked for a conference.

The SPEAKER. If there be no objection, the conference will be granted.

Mr. HUGHES of New Jersey. Mr. Speaker, I move that the House conferees be instructed to refuse to concur in Senate amendment No. 76.

Mr. TAWNEY. I make the point of order that that has been disposed of, and the conference has been agreed to.

Mr. HUGHES of New Jersey. The motion comes at the proper time, before the appointment of the conferees.

The SPEAKER. The gentleman is correct. The gentleman will forward his motion to the Clerk, who will report it.

The Clerk read as follows:

Resolved, That the House conferees be instructed to refuse to agree to Senate amendment No. 76.

Mr. TAWNEY. Mr. Speaker, I do not know that I care at this time to discuss the motion offered by the gentleman from New Jersey. If he wants to discuss it I yield to him five minutes.

Mr. HUGHES of New Jersey. I ask for a vote, Mr. Speaker.

The SPEAKER. The question is on agreeing to the instruction.

Mr. HUGHES of New Jersey. On that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 154, nays 105, answered "present" 12, not voting 118, as follows:

YEAS—154.

Adair	Driscoll, D. A.	Johnson, Ky.	Pujo
Adamson	Driscoll, M. E.	Keliher	Rainey
Aiken	Edwards, Ga.	Kendall	Randell, Tex.
Alexander, Mo.	Ellerbe	Kennedy, Iowa	Rauch
Anderson	Ferris	Kinkaid, Nebr.	Reynolds
Austin	Finley	Kinkead, N. J.	Richardson
Barnhart	Fish	Kitchin	Robinson
Bartlett, Ga.	Fitzgerald	Kopp	Roddenbery
Beall, Tex.	Floyd, Ark.	Kronmiller	Rodenberg
Bell, Ga.	Foster, Ill.	Lamb	Rothermel
Booher	Gallagher	Langley	Rucker, Colo.
Borland	Garner, Tex.	Latta	Rucker, Mo.
Bowers	Garrett	Lenroot	Sabath
Brantley	Gill, Mo.	Lever	Shackleford
Burgess	Glass	Lindbergh	Sheppard
Burleson	Good	Lloyd	Sherwood
Burnett	Gordon	Lundin	Sims
Byrd	Graham, Ill.	McDermott	Sisson
Byrns	Greene	Macon	Slayden
Campbell	Hamlin	Maguire, Nebr.	Smith, Tex.
Candler	Hammond	Martin, Colo.	Southwick
Carlin	Hardwick	Mays	Sparkman
Carter	Hardy	Miller, Minn.	Spight
Cary	Haugen	Mondell	Stafford
Clark, Fla.	Havens	Moon, Tenn.	Steenerson
Clark, Mo.	Hay	Moore, Tex.	Stephens, Tex.
Cline	Hayes	Morrison	Sulzer
Collier	Heflin	Moss	Talbott
Cooper, Wis.	Helm	Murdock	Taylor, Colo.
Cox, Ind.	Henry, Tex.	Murphy	Thomas, Ky.
Cullop	Hinshaw	Nelson	Tou Velle
Davis	Hitchcock	Nicholls	Turnbull
Dawson	Hollingsworth	Norris	Underwood
Dent	Houston	O'Connell	Watkins
Denver	Howard	Oldfield	Webb
Dickinson	Hubbard, Iowa	Palmer, A. M.	Wickliffe
Dickson, Miss.	Hughes, Ga.	Patterson	Woods, Iowa
Dies	Hughes, N. J.	Pearre	
Dixon, Ind.	Hull, Tenn.	Poindexter	

NAYS—105.

Ames	Fairchild	Knapp	Payne
Barchfeld	Fassett	Knowland	Plumley
Barclay	Foss, Ill.	Küstermann	Prince
Barnard	Foss, Mass.	Law	Reeder
Boutell	Foster, Vt.	Lawrence	Roberts
Burke, Pa.	Fowler	Longworth	Sherley
Burke, S. Dak.	Gardner, Mass.	Loud	Smith, Cal.
Calderhead	Gardner, Mich.	Loudenslager	Sterling
Cassidy	Garner, Pa.	Lowden	Stevens, Minn.
Chapman	Gillett	McCreary	Sulloway
Cocks, N. Y.	Graff	McCredie	Tawney
Coudrey	Grant	McKinlay, Cal.	Taylor, Ohio
Cowles	Griest	McKinley, Ill.	Thistlewood
Crow	Guernsey	McLachlan, Cal.	Thomas, Ohio
Crumpacker	Hamilton	McLaughlin, Mich.	Tilson
Currier	Hawley	Madden	Tirrell
Dalzell	Henry, Conn.	Madison	Townsend
Davidson	Higgins	Mann	Volstead
Denby	Hill	Miller, Kans.	Wanger
Diekema	Howell, N. J.	Moon, Pa.	Washburn
Dodds	Howland	Moore, Pa.	Weeks
Draper	Hubbard, W. Va.	Morgan, Okla.	Wheeler
Durey	Huff	Morse	Wiley
Dwight	Hull, Iowa	Needham	Young, Mich.
Ellis	Humphrey, Wash.	Nye	
Elvins	Johnson, Ohio	Olcott	
Esch	Keifer	Parker	

ANSWERED "PRESENT"—12.

Bradley	Foelker	Kennedy, Ohio	Maynard
Butler	Graham, Pa.	Korbly	Padgett
Douglas	James	Lee	Ransdell, La.

NOT VOTING—118.

Alexander, N. Y.	Englebright	Jones	Rhinock
Allen	Estopinal	Joyce	Riordan
Andrus	Flood, Va.	Kahn	Saunders
Ansberry	Focht	Lafean	Scott
Anthony	Fordney	Langham	Sharp
Ashbrook	Fornes	Legare	Sheffield
Bartholdt	Foulkrod	Lindsay	Simmons
Bartlett, Nev.	Fuller	Livingston	Slemp
Bates	Gaines	McCall	Small
Bennet, N. Y.	Gardner, N. J.	McGuire, Okla.	Smith, Iowa
Bennett, Ky.	Gill, Md.	McHenry	Smith, Mich.
Bingham	Gillespie	McKinney	Snapp
Boehne	Gilmore	McMorran	Sperry
Broussard	Godwin	Malby	Stanley
Brownlow	Goebel	Martin, S. Dak.	Sturgiss
Burleigh	Goldfogle	Millington	Swasey
Calder	Goulden	Morehead	Taylor, Ala.
Cantrill	Gregg	Morgan, Mo.	Tener
Capron	Gronna	Moxley	Thomas, N. C.
Clayton	Hamer	Mudd	Vreeland
Cole	Hamill	Olmsted	Wallace
Conry	Hanna	Page	Weisse
Cook	Harrison	Palmer, H. W.	Willett
Cooper, Pa.	Heald	Parsons	Wilson, Ill.
Covington	Hobson	Peters	Wilson, Pa.
Cox, Ohio	Howell, Utah	Pickett	Wood, N. J.
Craig	Hughes, W. Va.	Pou	Woodyard
Cravens	Humphreys, Miss.	Pratt	Young, N. Y.
Creager	Jamieson	Pray	
Edwards, Ky.	Johnson, S. C.	Reid	

So the motion was agreed to.

The following pairs were announced:

For the session:

Mr. ANDRUS with Mr. RIORDAN.

Mr. BRADLEY with Mr. GOULDEN.

Mr. SLEMP with Mr. MAYNARD.

Mr. YOUNG of New York with Mr. FORNES.

Mr. KENNEDY of Ohio with Mr. ASHBROOK.

Mr. HENRY W. PALMER with Mr. LEE.

Until further notice:

Mr. MOXLEY with Mr. CONRY.

Mr. SMITH of Michigan with Mr. SAUNDERS.

Mr. SCOTT with Mr. RHINOCK.

Mr. PRAY with Mr. PAGE.

Mr. MOREHEAD with Mr. LIVINGSTON.

Mr. MILLINGTON with Mr. LEGARE.

Mr. MALBY with Mr. JONES.

Mr. MCKINNEY with Mr. JOHNSON of South Carolina.

Mr. MCCALL with Mr. HOBSON.

Mr. KAHN with Mr. HAMILL.

Mr. JOYCE with Mr. GOLDFOGLE.

Mr. HOWELL of Utah with Mr. GODWIN.

Mr. HEALD with Mr. GILL of Maryland.

Mr. GOEBEL with Mr. Cox of Ohio.

Mr. FOCHT with Mr. ESTOPINAL.

Mr. FORDNEY with Mr. CRAIG.

Mr. FOULKROD with Mr. CANTRILL.

Mr. FOELKER with Mr. WALLACE.

Mr. CALDER with Mr. BOEHNE.

Mr. BURLEIGH with Mr. WILLETT.

Mr. BROWNLOW with Mr. WEISSE.

Mr. BARTHOLDT with Mr. THOMAS of North Carolina.

Mr. ANTHONY with Mr. TAYLOR of Alabama.

Mr. SWASEY with Mr. STANLEY.

Mr. WOODYARD with Mr. SMALL.

Mr. OLMSTED with Mr. JAMES.

Mr. HANNA with Mr. BROUSSARD.

Mr. WILSON of Illinois with Mr. POU.
Mr. MCMORRAN with Mr. CLAYTON.
Mr. SPERRY with Mr. CRAVENS.
Mr. MARTIN of South Dakota with Mr. GILLESPIE.
Mr. CAPRON with Mr. GILMORE.
Mr. HUGHES of West Virginia with Mr. LINDSAY.
Mr. SNAPP with Mr. REID.
Mr. VREELAND with Mr. PADGETT.
Mr. SMITH of Iowa with Mr. PETERS.
Mr. BUTLER with Mr. GREGG.
Mr. COOK with Mr. HUMPHREYS of Mississippi.
Mr. GRONNA with Mr. JAMIESON.
Mr. GRAHAM of Pennsylvania with Mr. FLOOD of Virginia.
Mr. LAFEAN with Mr. MCHENRY.
Mr. ENGLEBRIGHT with Mr. BARTLETT of Nevada.
For the day:
Mr. BENNET of New York with Mr. HARRISON.
From June 18 until June 21, inclusive:
Mr. GAINES with Mr. SHARP.
From June 17 until adjournment:
Mr. ALEXANDER of New York with Mr. RANSDELL of Louisiana.
From June 20 until June 23, inclusive:
Mr. PRATT with Mr. COVINGTON.
Mr. BATES with Mr. KORBLY.
Until June 23, inclusive:
Mr. LANGHAM with Mr. WILSON of Pennsylvania.
From June 21 until adjournment:
Mr. DOUGLAS with Mr. ANSBERRY.

Mr. JAMES. Mr. Speaker, has the gentleman from Pennsylvania, Mr. OLMSTED, voted?

The SPEAKER. He did not.

Mr. JAMES. I have a general pair with him, and I wish to withdraw my vote in the affirmative, and answer "present."

Mr. KENNEDY of Ohio. Mr. Speaker, did the gentleman from Ohio, Mr. ASHBROOK, vote?

The SPEAKER. He did not.

Mr. KENNEDY of Ohio. I voted "no." I wish to withdraw that, and answer "present."

The result of the vote was then announced as above recorded.

The SPEAKER appointed the following conferees on the part of the House: Mr. TAWNEY, Mr. SMITH of Iowa, and Mr. FITZGERALD.

MONONGAHELA RIVER BRIDGE.

Mr. MANN. Mr. Speaker, this morning the House passed the bill S. 8668, a bridge bill, similar to a House bill. The House bill was correct, but there is an error in the date of the general dam act in the Senate bill, and I ask unanimous consent to take from the table the motion which I entered to reconsider, and have passed the following order which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the table the motion to reconsider the vote whereby the House passed the bill S. 8668.

Mr. MANN. And pass the following order.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the order.

The Clerk read as follows:

Ordered, That the Clerk be directed to request the Senate to return to the House of Representatives the bill (S. 8668) amendatory of the act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County."

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

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed, without amendment, bills of the following titles:

H. R. 4738. An act for the relief of the estate of James Allender, deceased;

H. R. 13448. An act amending the statutes in relation to the immediate transportation of dutiable goods and merchandise;

H. R. 16222. An act for the erection of a replica of the statue of General Von Steuben;

H. R. 27010. An act to permit William H. Moody, an associate justice of the Supreme Court of the United States, to retire; and

H. R. 20487. An act to provide for sittings of the United States circuit and district courts of the eastern division of the eastern district of Arkansas at the city of Jonesboro, in said district.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 18978) to authorize the Secretary of the Interior to issue a patent to the city of Anadarko, State of Oklahoma, for a tract of land, and for other purposes.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 5035) granting cumulative annual leave of absence to storekeepers, gaugers, and storekeeper-gaugers, with pay.

OVERTIME CLAIMS OF LETTER CARRIERS.

Mr. PRINCE. Mr. Speaker, I offer the following conference report for printing.

The SPEAKER. The gentleman from Illinois offers the following conference report (No. 1689) for printing under the rule, the title of which the Clerk will report.

The Clerk read as follows:

A bill (S. 3638) entitled "An act to provide for the payment of overtime claims to letter carriers excluded from judgment as barred by limitation."

The SPEAKER. To be printed under the rule.

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3638) entitled "An act to provide for the payment of overtime claims of letter carriers excluded from judgment as barred by limitation," 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 amendments of the House, and agree to the same.

GEO. W. PRINCE,
C. A. LINDBERGH,
H. M. GOLDFOGLE,
Managers on the part of the House.

HENRY E. BURNHAM,
REED SMOOT,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House, at the third conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3638) entitled "An act to provide for the payment of overtime claims of letter carriers excluded from judgment as barred by limitation," submit the following written statement in explanation of the effect of the action agreed upon and submitted in the accompanying conference report of the amendments of the House, namely:

The Senate recedes from its disagreement to the amendments of the House, and agrees to the same.

Amendment No. 1 is as follows: Page 1, line 12, after "cents," insert: "and said sum of two hundred and eighty-two thousand nine hundred and forty-three dollars and eighty-eight cents is hereby appropriated out of any money in the Treasury not otherwise appropriated." The Senate recedes.

Page 2, line 9, after "limitations," insert: "*Provided*, That no agent, attorney, firm of attorneys, or other person engaged, heretofore or hereafter, in preparing, presenting, or prosecuting any claim or claims named in Senate Document Numbered Two hundred and sixteen, Fifty-sixth Congress, first session, and Senate Document Numbered One hundred and fifty-eight, Fifty-sixth Congress, second session, above referred to, shall, directly or indirectly, demand, receive, or retain for such service in preparing, presenting, or prosecuting such claim, or for any service or act whatsoever in connection with such claim, a sum greater than five per centum of the amount of such claim, and any person who shall violate the above provision shall be guilty of a misdemeanor, and upon conviction thereof shall for each and every offense be fined not exceeding five hundred dollars or be imprisoned not exceeding one year, or both, in the discretion of the court." The Senate recedes.

GEO. W. PRINCE,
C. A. LINDBERGH,
H. M. GOLDFOGLE,
Managers on the part of the House.

RELIEF OF SAGINAW, SWAN CREEK, AND BLACK RIVER BAND OF CHIPPEWA INDIANS IN THE STATE OF MICHIGAN.

Mr. BURKE of South Dakota. Mr. Speaker, I present the following conference report for printing under the rule.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. 16032) for the relief of the Saginaw, Swan Creek, and Black River band of Chippewa Indians in the State of Michigan.

The conference report (No. 1690) was read, as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 16032 having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recedes from its disagreement to the amendment of the Senate and agrees to the same with an amendment as follows:

"SEC. 1. That jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal to the Supreme Court of the United States, to consider and adjudicate any claim, arising under treaty stipulations or otherwise, which the Saginaw, Swan Creek, and Black River band of Chippewa Indians, of the State of Michigan, have against the United States; and such suit or suits as may be instituted hereunder shall, upon notice, be advanced upon the docket of either of said courts for trial, and be determined at the earliest practicable time.

"SEC. 2. That upon the final determination of such suit or suits the Court of Claims shall decree such fees as the court shall find to be reasonable upon a quantum meruit for services performed, to be paid to the attorney or attorneys employed by the said band of Indians, and the same shall be paid out of the sum found to be due said band of Indians when an appropriation therefor shall have been made by Congress: *Provided*, That in no case shall the fees decreed by the court amount in the aggregate to more than 10 per cent of the amount of the judgment recovered, and in no event shall the aggregate exceed $10,000.

"SEC. 3. That the Secretary of the Interior be, and he hereby is, authorized to permit any religious or missionary organization having lands reserved for mission and school purposes on the Yuma Reservation, in California, to select irrigable lands on said reservation equal in area to, and in lieu of, lands so reserved, and to issue a patent in fee therefor."

And the House agree to the same.

Amendment of title: That the House recede from its disagreement to the amendment of the Senate amending the title; and the House agree to the same.

CHARLES H. BURKE,
P. P. CAMPBELL,
JOHN H. STEPHENS,
Managers on the part of the House.

NORRIS BROWN,
JOSEPH M. DIXON,
R. L. OWEN,
Managers on the part of the Senate.

STATEMENT.

The bill passed by the House conferred jurisdiction upon the Court of Claims under the Bowman Act to report the facts upon the claims of the Saginaw, Swan Creek, and Black River band of Chippewa Indians in the State of Michigan against the United States. The Senate adopted a substitute by conferring jurisdiction upon the court to consider and adjudicate any claim with said band of Indians, and also added a provision—section 3—permitting the Bishop of Monterey and Los Angeles to select irrigable land upon the Yuma Reservation, in California, equal in area to lands now held and reserved by him. The bill agreed upon in conference does not change section 1 as passed and contained in the amendment of the Senate. Section 2 authorizes the court to find the value of the services of attorney or attorneys upon a quantum meruit basis, limiting the same to not more than 10 per cent and in the aggregate to not exceeding $10,000, and section 3 authorizes the Secretary to permit any religious or missionary organization having lands reserved for mission and school purposes in the Yuma Reservation to select irrigable lands in lieu thereof.

The amendment of the title is agreed to.

CHARLES H. BURKE,
P. P. CAMPBELL,
JOHN H. STEPHENS,
Managers on the part of the House.

CONFERENCE REPORT ON NAVAL APPROPRIATION BILL.

Mr. FOSS of Illinois. Mr. Speaker, I call up the conference report on the naval appropriation bill (H. R. 23311) and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Illinois calls up the conference report on the naval appropriation bill and asks that the statement may be read in lieu of the report. Is there objection? [After a pause.] The Chair hears none.

The statement was read.

[For conference report and statement, see House proceedings of June 20, 1910.]

Mr. FOSS of Illinois. Mr. Speaker, I move the adoption of the report, and I desire to say a few words. This is a complete agreement on all matters of disagreement between the Senate and the House. The bill will carry $131,350,854.38. Now, I do not desire to say anything upon this report, but if there are any questions anyone desires to ask I will be glad to answer them.

Mr. HULL of Iowa. Mr. Speaker, I desire a little information on amendment No. 6. How many chiefs of bureaus are there in the department?

Mr. FOSS of Illinois. There are eight.

Mr. HULL of Iowa. Wherein does this change the present law?

Mr. FOSS of Illinois. This does not change the present law only in this respect, that where an officer has been a chief of bureau and does not retire, but afterwards serves on the active list, he shall not be demoted, so to speak, or reduced to a grade lower than that of chief of bureau.

Mr. HULL of Iowa. It goes a little further than that.

Mr. FOSS of Illinois. And then it allows anyone who is a chief of bureau to retire as though he retired from that position.

Mr. HULL of Iowa. That is the present law.

Mr. FOSS of Illinois. After thirty years' service.

Mr. HULL of Iowa. That is the present law. I would like a little time on this, and I would like to tell the House my idea of what it is. I do not like to antagonize any committee's conference report, but it seems to me this is a very far-reaching change of existing law. I recognize the fact that the gentleman is entitled to control the time, and he may move the previous question at the expiration of his hour.

Mr. FOSS of Illinois. I will yield five minutes to the gentleman if he so desires.

Mr. HULL of Iowa. I can not explain it in five minutes. Give me at least ten minutes.

Mr. FOSS of Illinois. I yield the gentleman ten minutes.

Mr. HULL of Iowa. We have unlimited time if the previous question be voted down, but I have no desire to do that. But, Mr. Speaker, I want to call the attention of the House to this amendment that I conceive to be of very far-reaching importance—

The pay and allowance of chiefs of bureaus of the Navy Department shall be the highest shore duty pay and allowances of the rear-admiral of the lower nine—

And corresponds to the grade of brigadier-general of the army.

Mr. FOSS of Illinois. That is the law at the present time.

Mr. HULL of Iowa. As it is now and it is the same law as it affects the army—

And all officers of the navy who are now serving or shall hereafter serve as chief of bureau in the Navy Department and are eligible for retirement after thirty years' service, shall have, while on the active list, the rank, title, and emoluments of a chief of bureau, in the same manner as is already provided by statute law for such officers upon retirement by reason of age or length of service, and such officers, after thirty years' service, shall be entitled to and shall receive new commissions in accordance with the rank and title hereby conferred.

The first part of this is the present law and corresponds to the law governing the army. But when it goes beyond that it provides that any officer serving as a bureau chief, whose detail shall expire, shall continue to have the pay and allowances of a brigadier-general of the army or rear-admiral of the navy of the junior grade, no matter what position he may fill in the line. That is a radical change from any law we have ever had before. And, then, it goes further than that. It provides that after thirty years' service, and I assume there are very few bureau chiefs that have not had at least thirty years' service—the large majority of them have had their thirty years' service—shall receive their grade of rear-admiral direct, and then the promotion comes to them by seniority to become rear-admiral of the senior grade. Now, I want to read what the law is with reference to the army, just to show the wonderful difference in that.

Mr. FOSS of Illinois. The gentleman does not mean that they will retire with the grade of major-general? They retire with the grade of rear-admiral of the lower nine.

Mr. HULL of Iowa. It does not say so. It says after thirty years' service, when they are eligible to retirement, they shall be commissioned as rear-admiral of the junior grade, and the commission as rear-admirals of the junior grade makes each offi-

cer take his place among the rear-admirals of the line. He ceases to be a staff officer when he gets his new commission.

Now, the present law only provides for their having the rank of rear-admiral while serving as bureau chief. This amendment makes it a permanent office, no matter where they may be ordered. The law in regard to the army is as follows:

When the vacancies shall occur in the position of chief of any staff corps or department the President may appoint to such vacancies, by and with the advice and consent of the Senate, officers of the army at large not below the rank of lieutenant-colonel, and who shall hold office for terms of four years.

There is no limitation as to term in this naval amendment. They could appoint one every year to each of the nine bureaus if they wanted to do so, retiring them at once with the grade of brigadier-general, no matter where they came from. There is no limitation as to where they are selected from.

I will read further:

When a vacancy in the position of chief of any staff corps or department is filled by the appointment of any officer below the rank now provided by law for said office, said chief shall, while so serving, have the same rank, pay, and allowances now provided for the chief of such corps or department.

It says "while so serving." The law provides that when he goes back to his lineal grade in the army he takes the pay of the lineal grade. I know it may be said that none of them have gone back. That is true. But it is because they have been redetailed each time, but whenever any President refuses to redetail them they are compelled, under the law, to go back. By keeping satisfactory officers in as chiefs the number of brigadier-generals on the retired list is kept at a minimum.

Mr. FOSS of Illinois. But they never do it. They are promoted.

Mr. HULL of Iowa. Oh, no; they are not. They are not promoted by virtue of the law.

Mr. FOSS of Illinois. Frequently they have been promoted.

Mr. HULL of Iowa. Now, the gentleman says, as an argument for this, that the Congress itself has given certain bureau officers of the army the grade of a major-general, and that is true; but it is not the general law, and no one proposes to limit the power of Congress. There were four men during the last Congress who were promoted from brigadiers on retirement to major-generals. I do not think it is good policy to thus make special promotions. If the navy has some members, as I have no doubt they have, who should receive such recognition and distinction, let them come before Congress, as did the officers of the army, and let Congress pass on whether they will give them a promotion or not. At this session Congress refused to promote five brigadiers of the army to major-generals on retirement, some of them bureau chiefs and some of them generals of the line, all of them officers of long and distinguished service. Now, I want to see these two branches of the service kept somewhere near the same in law.

Mr. MANN. Will the gentleman yield for a question?

Mr. HULL of Iowa. Oh, yes.

Mr. MANN. We had but recently before us a bill which the gentleman referred to, which would have retired, among others, just for example, General Marshall as a major-general. Is that right?

Mr. HULL of Iowa. Yes; if the law had passed he would have gone on the retired list as a major-general.

Mr. MANN. And if a law similar to the provision now in the conference report on the naval bill were upon the statute books as to the army, would that have given General Marshall retirement as a major-general?

Mr. HULL of Iowa. In my judgment, it would have done this: It might have made General Marshall a brigadier of the line; or if the President wanted to make him a major-general he would have given him that rank. The army and the navy are not exactly the same as to general officers. In the navy they have lineal promotions up to rear-admiral of the senior class. In the army they have lineal promotions up to and including the grade of colonel; and the President can make any officer of the army a general officer if he desires. In the navy it would have more effect than in the army, because after thirty years, on being commissioned a rear-admiral of the line, the officer would take his place in the junior grade and be eligible to promotion to the senior grade, and he would get it by lineal promotion.

Mr. MANN. What is the difference between one of the junior grade and one of the senior grade?

Mr. HULL of Iowa. A rear-admiral of the senior grade has equivalent rank to a major-general and of the junior grade to a brigadier-general.

Mr. MANN. Is their promotion automatic, due to seniority?

Mr. HULL of Iowa. That is not true in the army, but it is in the navy.

Mr. FOSS of Illinois. It is not true of the staff corps.

Mr. HOBSON. I would like to say to the gentleman that the staff corps do not have the rank of rear-admiral.

Mr. HULL of Iowa. I understand that.

Mr. HOBSON. It is limited to the rank of captain, and it is only while holding the office of a chief of a bureau that the grade of rear-admiral exists on the staff corps.

Mr. MANN. They would be receiving the rank of rear-admiral under this provision.

Mr. FOSS of Illinois. Only while happening to be chief of a bureau.

Mr. MANN. They could put everybody through that hole, just as they did with the army officers who were put through the hole where they authorized men to be retired.

Mr. HOBSON. I will ask the gentleman from Illinois, in that connection, when considering the duties that devolve upon the staff corps of the navy, like those of the staff corps of the army, should they receive higher grades of promotion? Moreover, does he think it would be unfair, or even unwise, to have the officers of the staff corps of the navy where they could reach the grade of rear-admiral?

Mr. MANN. I am not expressing any opinion about that.

Mr. HULL of Iowa. I want to say to gentlemen of the House that the present law gives each chief of a bureau of the Navy Department the pay and allowance of a rear-admiral of the junior grade.

Mr. PADGETT. While holding the office.

Mr. HULL of Iowa. It provides absolutely that when he shall be retired he shall be retired with that grade.

Mr. HOBSON. If the gentleman will allow me to correct him, only if he retires while holding that grade.

Mr. HULL of Iowa. Then, why not correct that without going to the other extreme?

Mr. HOBSON. If he should be assigned to any other duties before retirement he can not possibly have retirement with the rank of rear-admiral, and it is just that injustice to him that this provision is intended to meet.

Mr. HULL of Iowa. If the gentleman would bring in an amendment to this provision providing that on retirement they shall retire at that grade I will have no objection to it, but I understood the chairman of the Committee on Naval Affairs to say that that was the law now.

Mr. HOBSON. It is the law only if they are holding the position of chief of bureau just at the time of retirement, and that is the failure of the law which is the sting in this.

Mr. HULL of Iowa. That is where you could change it, so as to make it the same as in the army, without any injustice. But you provide here, no matter what grade he may hold, if not redetailed he may draw the pay of a rear-admiral and go on the retired list as a rear-admiral of the junior grade.

Mr. HOBSON. After thirty years.

Mr. HULL of Iowa. No; he draws the pay anyhow; then you provide that after thirty years he shall be commissioned as such. When commissioned as such he takes his place in the line. The army officers are never commissioned as chiefs. They are assigned for terms of four years, and the law does provide that whenever they reach the age of retirement they are retired with the grade of chief of the bureau, which is that of a brigadier; but if they are relieved from their duty, if a major or lieutenant-colonel or colonel is assigned to that duty and relieved, and another man takes his place, he draws the pay of the grade that he is filling until he reaches the age of retirement, and when retired gets the pay of his rank as a bureau chief.

Mr. HOBSON. If the gentleman will permit me—the gentleman is very gracious to do so—I will point out to him the difference between the two services. The staff officer of the army who is holding the staff office when he ceases to be the chief of a bureau is still in line for promotion to grades as high as brigadier-general or major-general, whereas in the navy he would be limited to the grade of captain, and it tends to equalize rather than to make dissimilar the differences in the two services.

Mr. HULL of Iowa. When you assign them in the line you take the men out of their grades. Now, we in the army have changed our entire personnel so that the promotion really comes from the line. The staff and line have been molded together so that all appointments in the permanent staff corps are worked out or soon will be. It all comes from the line.

Mr. HOBSON. And that is the defect in the navy.

Mr. HULL of Iowa. I do not mean all from the line, because the Medical Corps, for example, is different. That is purely staff. There is only one position that reaches the grade of brigadier-general in that, and that is the chief of the bureau.

Mr. HOBSON. He retains it, does he not?

Mr. HULL of Iowa. He retains it.

The SPEAKER. The gentleman's time has expired.

Mr. FOSS of Illinois. I yield to the gentleman two minutes more.

Mr. HULL of Iowa. He retains it while he is serving there. Now the argument comes back that he is never relieved, because he is redetailed. That is a question of administration, not affecting the law, and it could be just the same with the navy as with the army; but in this case you make every man who *goes from* these bureaus a major-general on retirement after thirty years' service. He would have almost a sure thing on retirement to the grade of senior. You change the law radically in another case, that where a man serves and goes back to his place in the line he still retains the pay and allowances of a brigadier-general, no matter if he may be discharging the duties of a lieutenant-commander.

Mr. KEIFER. Is it not the rule that if you have a substantive commission it does not make any difference about the assignment? When the officer retires, he retires with the rank given him in his commission.

Mr. HULL of Iowa. Oh, yes; but then in the navy they all have practically thirty years' service, and after thirty years' service a man is commissioned the same as any other admiral of the junior grade, and then if there is a vacancy above that he goes automatically into the next grade above.

Mr KEIFER. Something was said about the effect of an assignment, but if a man were commissioned as a rear-admiral it does not make any difference about the assignment.

Mr. HULL of Iowa. No; not if he is commissioned; but I think the gentleman may misunderstand this part of it—that no bureau chief of the army is commissioned as a brigadier. He only has his assignment to duty by order of the President, and the law provides that while so serving he shall have the rank, pay, and allowances of a brigadier.

Mr. KEIFER. I understand, but if he is commissioned to a particular office, no matter how he is assigned after that, he has his retirement as of the rank fixed in his commission.

Mr. FOSS of Illinois. I yield to the gentleman from Texas [Mr. SLAYDEN] two minutes.

Mr. SLAYDEN. Mr. Speaker, I have always objected to the peculiar language with which many of these measures that provide for promotion and pay of officers in the military and naval service of the United States is written. Here is a shining illustration of the vagueness of such acts, of the difficulty that the ordinary layman encounters in trying to interpret them:

> The pay and allowances of chiefs of bureaus of the Navy Department shall be the highest shore-duty pay and allowances of the rear-admiral of the lower nine.

As I understand, a captain or a lieutenant-commander might be detailed to be chief of a bureau. Is that true or not? The gentleman says that it is. Assuming that this lieutenant-commander or captain corresponds in rank with the rank of colonel in the army, then he becomes, ipso facto, rear-admiral of the lower nine.

Mr. PADGETT. That is the law.

Mr. SLAYDEN. I am complaining of the language of the law:

> And all officers of the navy who are now serving or shall hereafter serve as chief of bureau in the Navy Department and are eligible for retirement after thirty years' service, shall have, while on the active list, the rank, title, and emoluments of a chief of bureau, in the same manner as is already provided by statute law for such officers upon retirement by reason of age or length of service, and such officers, after thirty years' service, shall be entitled to and shall receive new commissions in accordance with the rank and title hereby conferred.

Mr. Speaker, that makes a mill for grinding out rear-admirals, and there is no reason in the law as proposed here why the President could not keep a steady stream of them, just as we had a few years ago after the Spanish-American war, in the making of brigadier-generals, when we had brigadier-generals who served all the way up from thirty minutes to thirty days. It is not for the service, but for the promotion, that such laws are written.

Mr. FOSS of Illinois. Mr. Speaker, I desire to say a few words on this proposition. This provision is substantially the the law in the army as it is now administered by the army. The Senate amendment provides that the chief of bureau shall have the highest rank of rear-admiral, which corresponds to major-general, but the conferees reduced the rank so that the chief of bureaus should have the rank of rear-admiral, junior nine. That is the same as a brigadier-general in the army.

Some years ago we wiped out the grade of commodore, which corresponded to the grade of brigadier-general, and inserted the grade of rear-admiral, junior nine. Mr. Speaker, this provides that the chiefs of bureaus, including the staff bureaus, shall have the rank and pay of rear-admiral of the junior nine; that is the same as it has been for the last dozen years. That is the same as the army to-day has it.

Mr. HULL of Iowa. That is right.

Mr. FOSS of Illinois. Now, we provide in this amendment that where the chief of bureau might be removed from that position and serve on the active list that he shall not be demoted, that is, reduced to a captain or a lieutenant-commander, but while on the active list shall have the rank that he held as chief of the bureau of the junior grade, corresponding to the brigadier-general. That is the provision, and when he retires he shall retire as of that grade. It prevents his demotion, and nothing more and nothing less. What is the practice in the army to-day with regard to chiefs of bureaus? They are detailed as chiefs of bureaus, detailed every four years; and after they are chiefs of bureaus, do they go back to the grade from which they came and to that of colonel or lieutenant-colonel? What has been the record and experience? They do not. I do not believe the gentleman from Iowa [Mr. HULL] can cite a single instance in all his congressional service when a chief of the army department or bureau ever went back to the grade from which he was taken.

Mr. HULL of Iowa. But let me ask you, Suppose he is retired, what becomes of him? Does not he go back?

Mr. FOSS of Illinois. Yes; but he never goes back.

Mr. HULL of Iowa. They have been all redetailed, every one of them.

Mr. SLAYDEN. And the gentleman knows the detail system has been in operation only a short time.

Mr. FOSS of Illinois. Let me show what you are doing in the army. You stand here and say you want these two services on an equal basis. Now, let me show you what you have been doing with your chiefs of bureaus or departments in the army. They are in law on the same basis, brigadier-generals and rear-admirals, lower nine. What have you done? J. C. Breckenridge, Inspector-General, brigadier-general as chief of bureau. He was made a major-general in April, 1903—that is, promoted one grade—and then he was retired in the same month and probably went out a few days after his promotion.

Mr. HULL of Iowa. The gentleman does not intend to convey to the House that that was the result of the law?

Mr. FOSS of Illinois. It was done as the result of some law.

Mr. HULL of Iowa. It was done as the result of presidential action.

Mr. FOSS of Illinois. I do not care whether it was the result of presidential favor or a special act of Congress. The army does not stand up to the same basis as that of the navy. They are not standing for equality in those positions. Now let me give you another example: General Ludington was Quartermaster-General and his rank as chief of bureau was that of brigadier-general, but in April, 1903, he was promoted to a major-general and was retired as major-general; a chief of a staff department or bureau, with the rank of brigadier-general, retired as major-general. Let me give you another illustration of what you are doing with your bureau chiefs, and whether they go back to the grade from which they came or not: General Gillespie, Chief of Engineers, a brigadier-general as chief of that department, and in January, 1904, he was promoted to major-general and retired in June, 1905, at his own request. Let me give you another example: General Weston, at the head of the commissary department for a great many years as chief of bureau, a brigadier-general, and not supposed to go up any higher, but in October, 1905, he was promoted to a major-general and retired in November, 1909. There was General Bates, who was Paymaster-General, and as chief of bureau had the rank of brigadier-general. What happened to him? In January, 1904, he was promoted to major-general, and in January of that year he was retired as major-general at his own request. There is the case of General Greely, who for so many years was at the head of our Signal Corps—a brigadier-general. He was put in command of the department out in San Francisco, and was promoted in February, 1906, and in March, 1908, was retired as major-general. Then there have been other cases by special acts of Congress; for instance, General Mackenzie, Chief of Engineers; Doctor O'Reilly and General Humphrey, who were retired by a special act of Congress and made major-generals. The gentleman can not point to one single instance where a chief of a staff bureau in the navy was promoted to the senior grade of rear-admiral, and here are a great many cases which I have taken out of the army register, showing that the chiefs of bureaus in the army have been promoted——

Mr. HULL of Iowa. Will the gentleman yield——

Mr. FOSS of Illinois (continuing). To the higher grade of major-general.

Mr. HULL of Iowa. Will the gentleman inform the House that those gentlemen to whom he referred are the old civil-war veterans and permanent brigadier-generals commissioned

to those places, except where we acted by special act of Congress and changed them?

Mr. FOSS of Illinois. I do not know whether they are civil-war veterans or not.

Mr. HULL of Iowa. They are. They were all there before the detail system went in. You are now providing a method by which you grind them out as rapidly as you want to.

Mr. FOSS of Illinois. Not in the least; in the staff corps of the navy the highest grade is that of captain. You can not get any higher than captain. In the line you can get up to that of rear-admiral, senior nine. But at the head of each staff bureau is one man called the chief, who has the rank and pay of a rear-admiral of the junior nine, which corresponds to that of brigadier-general, and he retires with that rank. Neither by presidential favor nor by special act of Congress has ever a chief of a staff bureau in the navy gone up and retired in the senior grade of rear-admiral that I can now recall. So this provision is practically the same as the army provision as it is now administered by the army, only it is not as favorable, because, under presidential orders, these army officers, chiefs of staff bureaus, somehow or other crawl up to the very highest grade.

Mr. HULL of Iowa. Does not the gentleman know that there has been no Chief of Staff that has been taken from the staff grade? Does he not know that every Chief of Staff has been taken from the line? The Chief of Staff does not mean a staff officer at all. It means a line officer that has control of all the operations of the army.

Mr. FOSS of Illinois. The gentleman knows that I am referring to chief of staff bureaus, and that is this proposition here. It is the chief of staff bureau that we are talking about.

Mr. HULL of Iowa. Does not the gentleman know that, since the detail system went in, not a single chief of bureau has been promoted above the grade of brigadier, that is provided by law, except by special act of Congress in the case of four?

Mr. FOSS of Illinois. I know by some methods which I am not able to discern, by some peculiar mystery, these chiefs of staff bureaus have crawled up to another grade, and I will stand here with the gentleman and insist on equality between the staff bureaus in both army and navy, but I want to have the army live up to the agreement. That is all.

Now, Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, I want these five minutes to say that I have been actively engaged for the last ten years in trying to eliminate grade crossings and grade occupation in the District of Columbia by steam railways. Congress appropriated, directly and indirectly, about $4,000,000 in money and property for that purpose and for the purpose of abolishing eyesores and death traps and beautifying the city. Only one trouble remained, and that was the occupation of Canal and K streets by a branch of the Pennsylvania Railroad connecting with the navy-yard. Two years ago or more a law was passed requiring the Pennsylvania Railroad Company to build a track to the navy-yard. It absolutely ignored the law. There was no penalty or forfeiture connected with it. The amendment put on in the Senate in the present bill was for the purpose of allowing two years' further occupation, which was disagreed to by the House. I want to express my approval of the conference agreement as to amendment No. 12, which has been effected by the House conferees in response to the well-known wishes of the House to eliminate the dangerous occupation of K and Canal streets by the steam railway tracks, which practically ruined, so far as values were concerned, the adjacent territory and which continued to menace life and limb in that section.

If I understand this amendment, it only gives a license to occupy the rights of way now owned or hereafter to be acquired by the Government, the right to repeal or amend remaining, which gives Congress the right at any time to remove that track absolutely or to place conditions upon its further use. Furthermore, I was anxious that there should be a provision in the law that any other railroad company building a spur to this track should have the right to use it upon such terms as might be agreed upon by the Pennsylvania Railroad Company and any other railroad company building to the track to be constructed by the Pennsylvania Railroad Company or as might be determined by the courts of the District of Columbia in the absence of an agreement. That does not appear in this amendment.

I do not know that it is absolutely necessary. I think we have the power to force such an agreement in favor of any road that might come in. So I am not complaining on that score. And I want to congratulate the conferees that they finally have succeeded in consummating what has been the effort of Congress to complete and to carry out for ten years.

There is just one question remaining, and I do not know whether the conferees can settle that or not, and that is, Will this railroad company build this road or will it continue to ignore the laws of Congress and the wishes of Congress as they have heretofore? As to the provision that the cost of construction shall not exceed $92,500, I want to ask the gentlemn from Illinois [Mr. Foss] why that was put in. Why should we limit the railroad company in the cost that it may wish to assume? What difference does it make with Congress whether it costs $92,500 or $192,500, provided the Government or the District of Columbia does not have to pay any part of it? I have no doubt there are reasons for it, and I would be glad to have them explained.

Mr. FOSS of Illinois. Well, that was the estimated cost for putting in that switch.

Mr. SIMS. I know that is true, but the language used in the report provides that it shall not exceed that sum. Now suppose that the estimates made by the engineers in this case should exceed that sum, will that justify the railroad company in not building the spur into the yard that is required by this act? I do not know what assurance the gentleman had from the representatives of the road that the company will build the spur.

Mr. FOSS of Illinois. They will build the switch all right. That is the estimated cost, and it was inserted here, the same as the cost of the purchase of the land.

Mr. SIMS. It is not intended to furnish the railroad company an excuse for not building it——

Mr. FOSS of Illinois. Not at all.

Mr. SIMS (continuing). Provided it does take more money. I want it well understood, so that hereafter they can not come up with the excuse that the cost of construction will exceed the amount named in this act, and that they have not built it because it will cost more than that amount.

I want to say that in this fight that I have waged for ten years I have been ably assisted by the gentleman from Massachusetts [Mr. KELIHER], the gentleman from New York [Mr. FITZGERALD], and the gentleman from Iowa [Mr. DAWSON]. I fear I should have failed in this effort but for the help on the part of the House conferees in the contest I have made for a long-suffering people who have sought to be relieved from this dangerous grade crossing. [Loud applause.]

Mr. FOSS of Illinois. I yield to the gentleman from Massachusetts [Mr. KELIHER].

Mr. KELIHER. Mr. Speaker, I wish to join with the gentleman from Tennessee [Mr. SIMS] in congratulating the conferees on the naval appropriation bill for their excellent accomplishment. It is refreshing to me, as it must be to the House, to have an opportunity to vote in commendation of their splendid efforts in solving the vexatious grade-crossing question of the District in conference. It is refreshing, also, to feel that the Pennsylvania Railroad, after years of successfully juggling this measure in Congress, succeeding, as it has, in keeping its navy-yard spur track at grade upon the streets, has at last been forced to recognize and respect the law of Congress, and must remove its tracks from the southeast section and lay a spur at its own expense to the navy-yard over land owned by the Government. A $15,000,000 investment in the Washington Navy-Yard will, with the expenditure of about $135,000 by the Government, be for all time protected, so far as ability to obtain material by rail is concerned. Thanks to the skill and determination of the naval conferees, Messrs. Foss, LOUDENSLAGER, and PADGETT, this perplexing and annoying problem is solved and the Government's position greatly improved. They deserve the thanks of the people of the southeast section who have agitated for years for relief from an obnoxious railroad upon their streets. I congratulate these gentlemen upon their excellent work.

Mr. FOSS of Illinois. I yield to the gentleman from Texas [Mr. SLAYDEN].

Mr. SLAYDEN. Mr. Speaker, I thank the gentleman for his courtesy, and in the liberal allowance of time I am given on this conference report I will be frank to say that my few remarks will have nothing to do with the naval bill or even the promotion of rear-admirals. But, gentlemen, I want to speak of another feature of the Government, that ought to appeal to every man on the floor of this House. Although a humble member of the minority, I do occasionally have some business that ought to be transacted in the Post-Office Department. Unfortunately, under the practices that obtain in that department, I have not been able to execute it. I am as much barred as if I were not a Member of this House and a representative of the people.

In December I called at the office of the Postmaster-General on business of importance to my district, or to one community

in that district. I was met by an employee; what his rank was I do not know, but certainly his manner suggested that he could not be anything less than assistant President. After waiting an indefinite time, I was advised that it was not convenient for the Postmaster-General to see me. I went away and I have never been back since. But this morning I received a letter from my district, explaining an embarrassing situation out there, which arises frequently under the law governing rural-route service. That law has been suspended, and that, too, in communities where all the facts suggest that the routes should be established. They have not been established because of the ipse dixit of the Postmaster-General or some other official in the department, who entirely disregards the interests of the people or the mandates of law.

I decided, upon the receipt of this letter this morning, to smother my indignation at my treatment on the previous occasion, and telephoned down to ascertain if I could see the Postmaster-General this afternoon; but, of course, I could not get into communication with his excellency. That, I suppose, would be asking too much. I finally got the attention of a clerk in the office, who said that he would let me know in half an hour.

Some forty-five minutes afterwards I was advised that the Postmaster-General could not see me. On inquiry then as to when he could see me, back came the information from his office, "he could see me after the adjournment of Congress." Let me suggest it will be a long time after the adjournment of Congress before he will see me.

The SPEAKER. The time of the gentleman has expired.

Mr. SLAYDEN. I ask the gentleman for just a half minute more.

Mr. FOSS of Illinois. I yield to the gentleman.

Mr. SLAYDEN. Mr. Speaker, there is never any difficulty in getting into the presence of the President. He is genial always, and friendly, and he transacts the business of the United States promptly, and in such a way that Members feel that they have gone into the presence of a gentleman who appreciates the dignity of his office as well as the importance of theirs. [Loud applause.] But I have never yet been able to penetrate that impassable barrier that surrounds the august presence of the Postmaster-General. [Applause on the Democratic side.]

Mr. FOSS of Illinois. I yield five minutes to the gentleman from Iowa [Mr. DAWSON].

Mr. DAWSON. Mr. Speaker, I desire to reecho the sentiments expressed by the gentleman from Tennessee [Mr. SIMS] and the gentleman from Massachusetts [Mr. KELIHER] with regard to the settlement of the much-vexed question which has surrounded the railroad connection with the Washington Navy-Yard. I think the committee has made a wise solution of this question, a solution which does justice to the southeast section of the city. So long as the track remains as it is now it is a matter of unfairness and injustice to that section of the city of Washington, but this amendment will settle the whole controversy, I hope, and settle it right.

But I rise to congratulate the committee of conference on its solution of amendment No. 10 in this conference report, which relates to the distribution of the duties among the bureaus in the Navy Department. One of the most important questions now under consideration in connection with the Navy Department is the question of the reorganization of administering the affairs of the Navy Department. It is a subject to which the Naval Committee has given much attention during the past three or four years, and I am glad so say that considerable progress is being made in the direction of increasing the efficiency and economy of naval administration. The provision in this bill will give the Secretary of the Navy an opportunity to try out fairly the plan which he has adopted for the better administration of the Navy Department, and particularly the navy-yards of the United States. A trial has already been had of another plan under his predecessor as Secretary of the Navy. It seems to me that the Committee on Naval Affairs, at the beginning of the next session of Congress, will have in its hands ample evidence on both sides of this great question, after a trial of the Newberry plan and a trial of the Meyer plan, so that the committee can do that which I had hoped it would do before this, and that is, settle this whole question by law.

It never will be settled right until Congress itself settles it. The experience of men in the navy on this subject is of value to Congress, but I have never found naval officers imbued with those ideas of rigid economy which Congress desires in the conduct of the industrial business of the navy. So if it is ever to be settled upon the basis of economy, as well as that of efficiency and sound administration, it must be done by the Congress of the United States. I am hopeful that at the beginning of the next session of Congress, or perhaps a few weeks before the next session of Congress convenes, the Naval Committee of the House will have in hand the necessary information which will enable it to prepare a measure that will settle, and settle right, on the basis of economy and efficiency, this vexed question of naval administration.

Mr. FOSS of Illinois. Mr. Speaker, I call for a vote on the adoption of the report.

The question being taken, the conference report was agreed to.

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

THE TAVENNER LETTERS ON THE TARIFF.

Mr. SISSON. Mr. Speaker, in order that they may become a matter of record, and thus be preserved, I intend to read a number of what many hundreds of thousands of American newspaper readers have come to know as "The Tavenner letters on the tariff," of which Mr. Clyde H. Tavenner, writer, thinker, and traveler, is the author.

These letters were printed in a number of American newspapers during August and September of 1909. Mr. Tavenner had watched with unusual carefulness the making of the now-famous Payne-Aldrich bill by Congress, remaining in Washington all the time the special session was meeting. Hearing many Republican speakers argue to the effect that disaster swift and terrible would descend upon American industries if the tariff should be placed upon a revenue instead of a protective basis—indeed, that this dire calamity would be visited upon us if we even so much as revised the Dingley schedules downward—the curiosity of Tavenner was aroused as to how Great Britain was able to remain upon the commercial map with not one of its industries or workmen receiving any protection whatsoever. Tavenner resolved to visit Great Britain and personally to seek the answer to this most perplexing fiscal conundrum. The answer is his letters, which followed his first-hand study of conditions in England. His investigation was later extended to France, Germany, and Italy.

Among the newspapers in which these letters appeared were the St. Louis Republic, the Kansas City Post, the Buffalo Times, the Rock Island (Ill.) Argus, the Savannah (Ga.) Press, the Fort Dodge (Iowa) Chronicle, the Helena (Mont.) Independent, the Tucson (Ariz.) Star, the Appleton (Wis.) Crescent, the Albany (Ga.) Herald, and the Elmira (N. Y.) Star-Gazette, in addition to about 30 others. The letters attracted many favorable editorial notices. The Kansas City Post commented on them, editorially, as follows:

TAVENNER ON THE TARIFF.

There is now running in the Post a series of articles that every citizen ought to read carefully and put away for future reference. They are written by Clyde H. Tavenner, of Washington, D. C., now in Europe studying the tariff situation from a comparative standpoint, and have to do with the Payne-Aldrich tariff bill passed at the recent special session of Congress. Some of the contrasts between American and European conditions presented by Mr. Tavenner are illuminating and startling. Each and every article from his pen contains fresh, first-hand information of great value to the Democratic voter and the Democratic worker.

Mr. Tavenner is a writer of long and varied experience and for many years has made a special study of economic conditions as affected by the tariff laws. He gets his information at first hand and carefully verifies it before committing the results to paper for publication. He has a reputation to maintain, and can not afford to permit errors or misstatements to enter into his work.

The fact that the cost of living has increased 49 per cent in the past twelve years and that the prices of all staple commodities are still on the up grade should make every patriotic citizen a student of the tariff problem. The tariff affects the earning capacity of a man; it enters into the expenses of the home builder and the housekeeper, the prices of the children's clothing from hats to shoes are fixed and determined by it, and therefore it is of the utmost importance that husbands and wives, fathers and mothers, should acquaint themselves as fully as possible with the subject.

Read the partisan Republican press and try to find how the reasons for a high-protective tariff affect you personally. It is only fair to study both sides of a question. There is much food for thought and reflection in everything that Mr. Tavenner writes. Our readers should not miss a single one of these articles.

I am herewith appending some of the Tavenner letters from abroad, which, I believe, will especially interest the masses of the American people, who are particularly interested just now in knowing to what extent protection really does affect the cost of living, wages, and business in general.

[Reprinted from the St. Louis Republic.]

CONDITIONS IN ENGLAND AND HOW TARIFF WORKS.

(By Clyde H. Tavenner.)

NOTE.—This is the first of a series of articles that Clyde H. Tavenner, Washington newspaper correspondent and traveler, is writing on European tariff systems for this newspaper. Mr. Tavenner "covered" every step of the making of the Payne-Aldrich bill, and then proceeded to England to study the effects of free trade. The result of his work abroad is herewith being published for the first time in America.—Editor.

LONDON, *August 9.*

An almost total lack of trusts and monopolies!

To Americans this stands out as one of the most striking blessings of England's "free-trade" system. Here the law of supply and demand really rules in the business world.

But not having had experience with tariff trusts, such as are important factors in American politics, the leaders of the Liberal party of Parliament do not lay particular emphasis on the absence of monopolies as being one of the chief advantages of "free trade."

They point more particularly to the conditions of the British workingmen, directing consideration to the fact that in "free-trade" England workers receive higher wages and work shorter hours than in high-protection France, Germany, and Italy.

Here wages are not as high as in the United States, when measured by the number of dollars received for a week's work. But when the purchasing power of a dollar is taken as the basis of comparison in conjunction with the wage, the American is paid less for his services that the Briton. For instance, the English laborer can buy the necessaries of life for one year with two hundred and five days' labor. The American can do so with two hundred and twenty-five days' labor.

British real wages, as measured by the rates of weekly wages and wholesale food prices, increased between 1890 and 1906, 18 per cent. In the same period German real wages increased only 10 per cent.

Thus the British Board of Trade, using official figures, contrasts the conditions of the workingman in England under "free trade" with those of the workingman in Germany under protection.

Incidentally the board of trade shows that while wages increased 18 per cent in England and 10 per cent in Germany, the increase in wages in the United States in the same period was 3.8 per cent.

Here are a few other contrasts between "free-trade" England and high-protection Germany, as brought out by the board of trade:

Where a Briton earns $1.20 in wages a German earns 90 cents.

Where a Briton works one hundred hours a German works one hundred and eleven hours.

Where a Briton pays $1.20 in rent a German pays $1.47.

Where a Briton spends $1.20 on food and fuel a German spends $1.41.

By revising its tariff upward on sugar, wheat, and meat, the German Government has put these necessities almost out of reach of the laborer. The only possible explanation for the fact that the wholesale price of sugar per hundredweight (112 pounds) is $3.76 in England and $6.90 in Germany is the latter Government's high duty on sugar.

As to the consumption of meat in Germany consular reports show that increased protection has resulted in a corresponding reduction in the per capita consumption.

Between 1901 and 1905, for instance, according to the report of the United States consul at Dresden, there was a decrease of over 22 pounds per head in the amount of meat consumed in Germany, and according to the British consul at Frankfort the increase in the duties on meat in the new German tariff of 1906 was followed by a further fall in consumption of 5 pounds per head in that year.

In contrast to the cry of American manufacturers that free trade spells ruin, England's trade records are unsurpassed by those of any nation. Protection was abolished in England in 1846. English imports were first recorded by the customs-house in 1854. Starting with that year the official records of British commerce under "free trade" run like this:

	Imports.	Exports.
1854	$760,000,000	$485,000,000
1870	1,515,000,000	1,000,000,000
1880	2,055,000,000	1,115,000,000
1890	2,105,000,000	1,260,000,000
1900	2,615,000,000	1,455,000,000
1907	3,230,000,000	2,130,000,000

There is probably no more remarkable and conclusive proof of the growth of British prosperity under "free trade" in recent years than the facts collected by the income-tax commissioners relating to the growth of British incomes. The records referred to are published every year, and from them is taken the following figures:

	All incomes.	Incomes, trades and professions only.
1869	$1,993,970,000	$865,270,000
1876	2,221,855,000	1,359,865,000
1896	3,285,455,000	1,702,795,000
1902	4,334,965,000	2,438,655,000
1906	4,625,925,000	2,543,320,000

The first column relates to all sorts of rents and profits, while the second column is a direct test of business prosperity, for it relates to trades and professions only. Between 1869 and 1896 (twenty-seven years) British profits grew by $837,500,000. Between 1896 and 1906 (only ten years) business profits grew by $840,000,000.

WHICH BENEFITS THE WORKINGMAN MORE?

(By Clyde H. Tavenner.)

MANCHESTER, ENGLAND, *August 19.*

Protection, or tariff for revenue; which benefits the workingman the more?

This question has been answered by the British Board of Trade, which has very recently made extensive investigations of conditions in England and Germany.

Although generally spoken of as a free-trade nation, England imposes what is practically a tariff for revenue on such articles as tobacco and spirits. In Germany the tariff system is very similar to that of the United States. There is a high protective tariff on all the necessaries of life.

That a comparison of conditions in free-trade England and high-protection Germany is a much fairer test of the policy of tariff for revenue than a comparison of conditions in England and the United States is patent. Money values run higher in the United States than they do in England or any other European country for the same reason wages and the cost of living are greater in Alaska than the United States.

The natural resources of the United States are unbounded. The United States produced $94,000,000 worth of gold last year; only a nominal amount was produced in all Europe. The United States produced $38,000,000 worth of silver; Europe did not produce one million. The United States has over half the world's supply of copper, so far as is known; Europe has none to speak of. The United States has 194,000 square miles of coal lands; England has 9,000, Germany 3,600, France 1,800. The United States has as much corn-producing land as all the rest of the world, and more cotton-producing land than all the rest of the world, furnishing the greater part of the world's corn and four-fifths of the world's cotton.

Great Britain has neither gold nor silver nor copper, except in minute quantities. It has no corn land, no tropical fruit land, no turpentine, rice, sugar cane, or tobacco land, against America's very abundant supply of all these.

Great Britain's density of population is over thirteen times as great as that of the United States. The United States has 25.6 persons to the square mile; Great Britain, 341.6; Germany, 270; France, 190; Italy, 293.5; Belgium, 588.

In making comparisons of the conditions of the workingmen of England and Germany the board of trade found that the workingmen of Great Britain not only receive higher wages in all trades and professions than those of Germany, but that the cost of foodstuffs, wearing apparel, and rents is much lower.

Here are a few comparisons in wages which tell their own story:

Occupation.	Free-trade England.	Protection Germany.
Bricklayers, per week	$9.72	$7.50
Carpenters, do	9.44	7.50
Fitters, do	8.64	7.68
Compositors, do	7.92	6.00
Masons, do	9.44	7.50
Plumbers, do	9.54	6.88

HOURS OF EMPLOYMENT.

	Hours.	*Hours.*
Bricklayers, per week	52½	59
Masons, do	52½	59
Carpenters, do	53	59
Plumbers, do	53½	58
Painters, do	53½	59
Engineering trades, do	53	59½
Printing trade, do	52½	54
Laborers, do	52½	59½

The difference in the cost of living in Great Britain and Germany is in favor of the former.

And as between Great Britain and the United States the difference is still more marked. As to wearing apparel the difference is so great that most Americans visiting England take back as much clothing as they can get past the American custom-house officers free of duty.

A tailor-made suit of clothes costing from $25 to $30 in the United States can be purchased in any British city for from $12 to $16.

A pair of ladies' or gents' shoes that cost $4 and $5 in the United States can be bought in London for from $2.50 to $4. Ladies' or gentlemen's gloves costing $1.25 to $1.75 in the States can be purchased in England for from 30 to 75 cents.

THE HEALTHY COTTON INDUSTRY UNDER BRITISH FREE TRADE.

(By Clyde H. Tavenner.)

MANCHESTER, ENGLAND, *August 23.*

Free trade has not spelled disaster and ruination for the cotton industry in England.

Busy, prosperous Manchester, hub of the great Lancaster cotton manufacturing region, has not only managed to keep fires beneath the boilers without a protective tariff but is putting in new boilers every year. In other words, this great manufacturing city, which is sending out manufactured goods to every nation of the earth and making money at it, is a standing refutation of the logic of Senator ALDRICH that free trade, or even revision downward of the cotton schedule, spells ruination, speedy and absolute, for everything and everybody connected therewith.

The British and American official records of exports of manufactured cotton goods show how England is beating the United States by making better use of American cotton under free trade than the United States can under protection.

Here are the facts as to exports for three years:

[In millions of pounds.]

	United Kingdom.	United States.
1905	92	11.3
1906	99.6	8.6
1907	110.4	5.3

British exports of manufactured goods in 1907 were about twenty-one times as great as those of the United States. Yet America is the best and chief source of the raw material.

The explanation is that plant and materials are so dear in America, owing to the high tariff rates, that the United States is denied cheap production. To produce cotton goods cheaply, not only cheap cotton is needed, but cheap building materials and plant, and cheap iron, steel, leather, and oil.

The American manufacturer is handicapped at every point by protective taxes.

At the end of August, 1907, all the world possessed about 114,000,000 cotton spindles. So extraordinary is the British lead in the cotton trade that at the same date the United Kingdom possessed nearly 51,000,000 out of the 114,000,000 spindles of all the world.

How free-trade England compares with other nations will be seen from the following table, which is compiled from figures carefully col-

lected by the International Federation of Master Cotton Spinners' and Manufacturers' Associations:

THE WORLD'S COTTON SPINDLES.

[On August 31, 1907.]

	Spindles.
United Kingdom	50,680,000
United States	26,242,000
Germany	9,339,000
France	6,800,000
Russia	6,500,000
Balance of world	14,100,000
All the world	114,100,000

This table, however, does less than justice to the British position. In greater proportion than in any other country the British spindles are spinning fine counts, i. e., producing a greater value of output per average spindle employed.

An indication of the present prosperity of the cotton industry is the fact that manufacturers have agreed to give spinners and card room workers an advance in wages representing about $1,558,000 per annum; and the total increase in wages since 1900 in the spinning section alone will amount to about $3,688,000 per annum. During the same period weavers' wages have increased by about $4,374,000 per annum.

MILL WORKER IN ENGLAND BETTER OFF IN MANY WAYS THAN IN THE UNITED STATES.

(By Clyde H. Tavenner.)

MANCHESTER, ENGLAND, *August 24.*

While the average workingman in free-trade England receives less in wages than the American worker, the Briton's wages go further than the American's when it comes to purchasing foodstuffs, clothing, and shoes, and also when it comes to paying rent.

At the end of the year the employee of the British cotton mill, receiving $4.48 a week (the average wage when the earnings of women, boys, and men are included), is better off than the employee of the New England cotton mills, who has received $5.85 a week, which is the average weekly wage in the cotton industry in the United States when women and children are included.

A comparison of living conditions of mill workers in Manchester, England, or any of the surrounding mill towns, with those of Lowell, Mass., shows beyond question that the English workers under free trade live in better houses, wear better clothing, and eat more wholesome food than the mill workers in the New England States under protection.

In New England more than half the cotton-mill workers are foreigners. The mill owners have for years been systematically crowding Americans out of their factories to make places for foreigners, who live under conditions that the average American could not tolerate.

A foreigner is seldom seen in the British cotton mill. More than 90 per cent of the cotton-mill employees are British.

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In Massachusetts, Connecticut, and Rhode Island it is different. Just how different can be best shown with the words of Representative AUGUSTUS P. GARDNER, of Massachusetts, who has made a thorough investigation of the conditions of New England mill workers.

Mr. GARDNER, speaking on the floor of the House one day on the subject of immigration, gave a graphic description of how the highly protected New England cotton mills import large numbers of the cheapest class of foreigners.

"For example," said Mr. GARDNER, "suppose I am a Syrian conducting a Syrian boarding house in the city of Lowell, Mass. Perhaps some mill sends down to me for hands. I furnish them at a somewhat lower rate of wages than is expected by ordinary citizen help (American help). I find recurrent opportunities to supply the cotton mills with Syrians.

"Soon I hear that another mill is about to make an extension, so I say to myself, 'Back there in Syria is quite a profitable mine for me.' Perhaps I go to the mill treasurer and get an advance of money. Perhaps I have the money myself.

"I return to Syria or I send some trusted agent, very likely a Syrian resident of the United States. In Syria a number of emigrants are gathered together, and they come to America, and either by direct or indirect route, finally arrive at my boarding house in the city of Lowell. I tell them that if they do not pay me back the money advanced I will have them arrested; that they must hand over the full wages that they get in the mill on penalty of imprisonment. Everyone knows how easy it is for a stranger to break the laws or the ordinances in a land where he does not understand the language, and they are held in terror of the police.

"Meanwhile I take all their wages while I feed them and keep them alive just as I would feed and keep a horse alive that I had imported for use in a livery stable."

In the textile trades of Great Britain 1,171,216 persons are employed. Manchester itself is a great city of 543,000, and within a radius of 10 miles of Manchester is located a half dozen cotton-mill cities having populations of more than 100,000 each. You can search the great Lancaster cotton-mill district from end to end and be unable to duplicate the conditions described in Congress by Representative GARDNER.

Yet the cotton manufacturing industry is one of the most highly protected trades in the United States, the New England manufacturers at every revision of the tariff asking for and receiving higher duties on the plea they are protecting the "American" workingman.

PROTECTIVE TARIFF BLAMED FOR DECREASE IN SHIPPING.

(By Clyde H. Tavenner.)

LIVERPOOL, ENGLAND, *August 30.*

Cotton-manufacturing Manchester did not look like "ruination and disaster" to a stranger, and neither does Liverpool.

From the great Liverpool docks, the biggest and most modern in the world, some seagoing freighter loaded with British-made goods is leaving almost every hour of the day. Ships are docking at all hours, too. No vessel is turned away from Liverpool by the high-tariff walls.

Without the least difficulty England is maintaining her mastery of the world's shipping, year after year, under free trade. While Britain has been piling up her ocean tonnage at the wonderful rate of 1,000,000 to 2,000,000 tons per decade (more than 2,000,000 tons have been put on the last seven years) the United States, under protection, has seen her once proud shipping dwindle to insignificant proportions.

It is not pleasant to record this contrast, but it is the fact. That the ever-increasing high-protection policy of America is the chief reason for the decay of American shipping can hardly be denied, even by protectionists.

Here are the facts in figures, taken from the British and American official records:

Comparative progress of British and American shipping (1860–1905).

	British.	American.
	Million tons.	*Million tons.*
1860	4.5	2.5
1870	5.6	1.5
1880	6.6	1.3
1890	7.9	.9
1900	9.3	.8
1906	11.2	.9

So overwhelming is British maritime supremacy that to set out the shipping tonnage of the other leading nations is to make their figures look ridiculously small:

Ocean tonnage of the leading maritime nations, 1906.

	Tons.
Great Britain	11,167,000
Germany	2,516,000
United States	939,000
France	1,214,000
Italy	922,000
Russia	1,083,000
Norway	1,392,000

Since 1900 British steam-merchant shipping has increased by 2,404,403 tons and its sailing tonnage has decreased by 541,179 tons, the net increase being 1,863,224 tons.

England has become, to some extent, the carrier not only of the greatest portion of her own exports and imports, but of a considerable part of the exports and imports of other countries. Besides her regular liners running to the United States, Canada, the West Indies, to China and Japan, to India, and other places, amounting, roughly, to 1,300 vessels, she has also an immense fleet of steamers and sailing vessels known as tramps, numbering more than 14,000. These go everywhere.

The amount of shipping passing through the Suez Canal is a thermometer by which may be gauged the trend of the world's maritime commerce. Between 1900 and 1906 the gross tonnage of vessels passing through the canal increased from 13,699,237 to 18,810,713 tons, or a total increase of 5,111,476 tons. Of this increase 3,721,933 consisted of British tonnage and 975,537 of German.

British ships are carrying American exports and imports extensively. The United States even found it necessary to charter British steamers to coal the battle fleet from the Atlantic to the Pacific, and in case of war would have to avail itself of foreign bottoms for the transportation not only of coal, but of supplies.

The absence of American shipping from the great ports of the world is more than noticeable. The United States consul-general at Calcutta reported in 1906: "Not a single American ship, so far as I can learn, has been in any Indian port for years."

Says the United States consul in Glasgow: "Not a single American freight or passenger vessel entered or left this port during the year 1906."

PROTECTION V. FREE TRADE IN SHIPPING AND SHIPBUILDING.

(By Clyde H. Tavenner.)

LIVERPOOL, ENGLAND, *August 28.*

If low tariff rates spell ruin, why is it that England, the only one of the great nations having free trade, leads the world in shipping and shipbuilding?

And why is the United States, under high protection, the possessor of fewer ships than Germany, France, Russia, and even Norway?

The favorite answer of the protectionists that England is making greater gains in the maritime industries than the United States because of her colonial trade is not the correct answer. This can easily be shown.

In 1907 England's total foreign trade amounted to $5,657,040,000. Of this amount, 74 per cent represented trade with foreign countries, while only 26 per cent represented trade with British possessions. This shows that Great Britain would still lead the world in shipping if she had no colonial trade. England's foreign trade between 1903 and 1908 has increased five times as much as her colonial trade.

The shipping of the United States engaged in foreign trade, which amounted to 2,600,000 tons in 1861, had fallen to 940,000 tons in 1906, a decrease of nearly two-thirds.

In 1905–6 only two steamers, of 6,000 tons each, were built in the United States for foreign trade. In 1906 England built 815 steamers, of 1,800,000 tons in all.

America's natural resources should give the United States a position in maritime commerce equaling that of Great Britain. The United States is the wealthiest country in the world, is the greatest producer of iron, steel, and coal, and possesses a seacoast of thousands of miles, with great bays and gulfs extending into the interior, which ought to make us great shipbuilders and carriers.

Why the contrast between England and the United States? That high protection is principally to blame is quite plain. The building of ships in the United States is practically prohibited by the increased cost of iron, steel, and other materials. It costs about 50 per cent more to build a vessel in the United States than in England. Even if an American ship is only repaired abroad, the owners must pay a tax on the amount of the repairs before the vessel can return home.

Lloyd-George, the leader of the Liberal party in Parliament, gives two reasons for the supremacy of the British shipping over American:

First. England's free-trade policy, which makes Great Britain the market place of the world, at the same time giving British shipbuilders and manufacturers the advantage of cheap raw materials.

Second. America's high-protection policy, which shuts out imports, thereby shutting in exports.

A third reason (recognized in Great Britain) why the American merchant marine for the last fifty years has, in comparison with other countries, been little known upon the ocean is our barbarous naviga-

tion laws. There is in the statutes of the United States a law handed down with few changes from the eighteenth century prohibiting the American registry of any ship built in a foreign country. A foreigner may invest in any industry in the United States, but if he has an interest to the amount of $1 in a ship, it can not be registered in America.

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"I would greatly regret to hear of a change in the American registry laws," said an eminent Scotch shipbuilder. For the last thirty years America has permitted us to build, and largely to own, nearly all the ships that the ocean carrying trade requires; and Americans have caused a loss of about $200,000,000 annually of freight money that they might have appropriated to themselves. A policy of free ships, if adopted in America now, would unquestionably benefit our shipyards for one or two years, but the competition to which American shipwrights would be forced would soon enable them to divide with us the shipowning of the world, in both of which industries they have heretofore so kindly given us the practical monopoly."

ALL CLASSES IN ENGLAND ARE OPPOSED TO PROTECTION.

(By Clyde H. Tavenner.)

LONDON, *August 30.*

Not only the British trades unions stand out almost solidly against the suggestion that free trade be laid aside for protection, but the leading bankers, merchants, and business men of London are equally antagonistic to a change.

At a meeting held recently in Queen Victoria street and attended by the best-known British financiers and the most prominent merchants of London, there was formed a City Free Trade Association. This body will remain independent of political parties, concentrating all its strength and energy to perpetuating England's free-trade policy.

The best indication of the British workingman's views on the tariff question is that there is no labor member in the House of Commons who is not in favor of free trade, and no single trades union has declared for protection. At the trades-union congresses held during the last few years resolutions in favor of free trade have been carried by enormous majorities.

The position of the bankers as to tariff reform in England is set forth in an interesting manner in the manifesto issued at the meeting in Queen Victoria street, which, in part, reads as follows:

"We feel strongly that no case has been made out for a reversal of the policy of free trade. It has been alleged by those who wish to return to protection that our foreign trade is declining, that we are becoming impoverished as a nation, and that our industries are being ruined by the competition of our rivals. We reply that since the adoption of free trade our foreign commerce has progressed as it never did before; that our exports—we take a single example—which amounted in 1850 to $300,000,000, amounted last year to $1,885,000,000, far exceeding those of the great protected states; that, so far as our being excluded from protected markets, even high tariffs can not and do not keep out British goods, while in neutral markets free trade gives us advantages such as no protected country can secure; that instead of becoming impoverished, we have steadily and rapidly increased in prosperity and wealth; and that the development of our industries as a whole has made immense progress since we cast aside the shackles of protection (in 1846).

"It is doubtless true that other nations have prospered also, and it is to our interest that they should do so. It is equally true that this prosperity has in some cases come to pass under a protective system. But when we consider that of all nations now adopting such a system there are but two or three whose prosperity is in any way comparable with our own, it becomes obvious that protection can not be the dominating factor in this result.

"Apart from the objections of principle to which protection is open, there are also, in our judgment, serious practical objections to it. The proposed taxation of imported food and manufactured articles would not only raise the price of the necessaries, the comforts, and conveniences of life, but it would impose on the consumer a burden far beyond the revenue raised; for, if a duty is imposed on articles partly imported and partly produced at home, part only of the tax paid by the consumer finds its way into the coffers of the state; the rest goes to swell the profits of the producer. It would diminish the purchasing power of the home market, upon which national industry and employment mainly depend. And in so far as it checked our imports, it would automatically restrict our exports and diminish the volume of our foreign trade. We reject as contrary to common sense and experience the contention of protectionists that the foreigner would pay the duties we impose. Taxing foreign goods is by no means synonymous with taxing the foreigner, since duties, with slight and temporary exceptions, raise prices and are paid by the consumer."

HOW HIGH TARIFF DUTIES HIT AMERICAN CONSUMERS.

(By Clyde H. Tavenner.)

LONDON, *August 15.*

While declaring to the American public that they must have a high tariff duty to prevent foreign competitors from underselling them and driving them out of home markets, more than 175 American manufacturers are secretly selling their products cheaper to foreign consumers than to American consumers.

President Taft in one of his preelection speeches declared that where foreigners were given a lower rate than American consumers "through all seasons of the year," "it must be admitted the tariff rates are excessive and should be reduced." The President's description hits each of the more than 175 American manufacturers, because each of them is selling his wares cheaper to foreigners than to American consumers throughout the three hundred and sixty-five days of the year.

The fact that an industry regularly sells its products abroad at lower than domestic prices not only shows that the industry is overprotected, but that the American consumer is being made the victim of something similar to a confidence game by being overcharged.

But, hush, Mr. Average American Citizen. You are not supposed to know anything about the fact that you are being overcharged for nearly every manufactured article you buy. That is a trade secret.

The fact that your local merchant pays $4.25 for a Stevens No. 105 shotgun that is sold to the foreigner for $2.80 is not supposed to be any of your concern. Nor that the local retailer must pay $8.40 per dozen for Fray's genuine "Spofford" No. 107 braces when the foreigner can have the very same article for only $6.30 per dozen. In the case of braces the British consumer thus saves 33⅓ per cent as a direct result of not having his market curtailed by a protective duty. The extent to which the American consumer is being overcharged is revealed by a comparison of the discounts given to foreigners by American manufacturers.

These telltale discount sheets are not to be secured in the United States, and are hard to obtain even in Europe, so anxious are the tariff beneficiaries to conceal the fact that as a result of having a monopoly on home markets they are forcing American consumers to pay more than consumers not at their mercy.

Lower prices to foreigners than to home consumers for American-made goods is not confined to steel rails, as the Republican leaders have inferred, but is the general custom.

The following table shows the difference between export and home prices of certain specified articles, it having been thought best in most cases not to publish the names of the manufacturers whose prices are quoted:

	Export price.	Home price.
Auger bits:		
Irwin's solid center, 4-16 ... per dozen	$1.30	$1.80
Irwin's solid center, 16-16 ... do	2.92	4.05
Auger handles, Gunn's, No. 5 ... do	9.75	11.48
Bird cages, Hendryx's, No. 316 ... do	13.00	18.20
Bolt clippers, Easy, No. 1 ... each	1.71	2.03
Bolts:		
Carriage, ⅜ by 6 inches ... per hundred	.60	.75
Machine, ⅜ by 4 inches ... do	.57	.68
Tire, ⅜ by 6 inches ... do	.65	.76
Braces:		
Fray's ratchet, No. 81 ... per dozen	10.44	14.50
Fray's ratchet, No. 62 ... do	6.90	11.50
Fray's plain, No. 306 ... do	3.60	6.00
Bunghole borers, Enterprise, No. 1 ... do	.74	.94
Can openers, "King's" ... per gross	4.50	6.00
Coffee mills, Enterprise, No. 1 ... each	1.22	1.35
Harness snaps:		
"Trojan," 1½ loop ... per gross	2.70	3.60
"Yankee," 1½ loop ... do	2.90	3.98
"Derby," No. 733 ... do	2.70	3.75
Lamp chimneys:		
Macbeth's, No. 502 ... per dozen	.40	.68
Macbeth's, No. 504 ... do	.50	.82
Lawn sprinklers, Enterprise, No. 2 ... each	1.76	2.10
Levels, Starrett's 24-inch bench ... do	1.28	1.42
Plumbs and levels, Disston, No. 12 ... per dozen	5.82	10.08
Rifles:		
Steven's "Little Scout," No. 14 ... each	1.35	1.75
Steven's "Favorite," ... do	3.47	4.50
Saws:		
Disston's hand, 30-inch, No. 7 ... per dozen	13.74	17.48
Disston's framed wood, No. 60 ... do	6.00	9.00
Screws, flathead brass wood:		
Size ¼ inch ... per gross	.07	.13
Size ⅜ inch, No. 6 ... do	.08	.19
Size ½ inch, No. 6 ... do	.10	.25
Watches:		
Elgin movement, twenty-year gold-filled case	7.98	10.23
Elgin movement, silveroid case	3.04	4.47

It is true, of course, that low prices to consumers in England increases the sale of American goods here. Lower domestic prices on the same goods would also increase the sales in America, thereby increasing the output and the employment of labor, and tending to increase the wages of the workers. An illustration of this view appears in the recent experience of the steel trust. Notwithstanding the panic of 1907 in the United States, it rigorously maintained its prices and kept up its price agreements there with the so-called independent steel manufacturing concerns, who followed the trust's policy of keeping up prices, until, in February, 1909, presumably in order to influence proposed tariff legislation, it made with great public announcements a sweeping reduction in prices, which the "independents" had already for the most part been quietly making with the consent of the trust.

The result was a prompt and very marked revival of activity in the domestic sales of iron and steel products, leading to the planning and building of many new bridges, buildings, and other structures, and the renewal of operations in many industries requiring iron and steel.

If American manufacturers of lead, oil, chemicals, hardware, harvesting machinery, watches, typewriters, typesetting machines, would give Americans the same prices extended to foreigners, there is no reason why their markets would not be vastly enlarged, as were those of the steel trust. The American people constitute the greatest purchasing possibilities in the world.

Experience with American trusts, however, justifies the view of downward revisionists that the manufacturers in the United States will not reduce their domestic prices to anywhere near the level of the prices extended to foreigners until they are forced to do so by real downward revision of the tariff.

WILL ENGLAND GIVE UP ITS FREE-TRADE POLICY?

(By Clyde H. Tavenner.)

LONDON, *August 10.*

Will England abandon its "free-trade" policy for protection?

Joseph Chamberlain and other brilliant leaders of Parliament have spent five busy years endeavoring to secure "tariff reform," which amounts to protection. So far the "tariff reformers" have been unable to convince the masses that high protection would be beneficial.

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The English workingman, like the American, is always anxious to improve his condition, but he is afraid of increased living expenses, which Mr. Chamberlain tacitly admits will follow high protection.

Looking to the United States, the Unionist free trader is told that the industries which receive the greatest amount of protection, such as the steel and cotton manufactures, pay lower wages than the industries which receive no protection at all.

Looking to Germany, France, and Italy the Britisher sees that his wage averages, under free trade, from one-fourth to one-half more than that of the workingman of the high protection countries. Foodstuffs, wearing apparel, and rents, too, are cheaper in England than in any country in Europe.

Dispatches from Germany also tell the Briton that under high protection the "kartells," or trusts, are becoming almost as efficient price-boosters as American trusts.

These are some of the reasons why that while for a time Joseph Chamberlain appeared to be making headway, his cause now seems doomed. It is practically certain that for many, many years to come, or until more encouraging reports come from high protection countries of Europe, England will remain content with free trade.

Protection was at one time a part of the fiscal system of England. This country has not yet forgotten the conditions which prevailed prior to the repeal of the corn law in 1846, under the lead of Sir Robert Peel.

A review of the conditions in Britain under protection, such as have been recalled to the minds of the workingmen here by the Chamberlain movement for a return to that system, explains why Mr. Chamberlain has been unable to secure the complete confidence of the people for his plan. The following references all refer to the period when Great Britain was under protection:

In 1820 the Edinburgh Review wrote:

"It is universally admitted that a falling off in the foreign demand for British manufactures is the immediate cause of the present want of employment. In Lancashire the weavers are nearly destitute of fuel and clothes."

In 1829, according to Spencer Walpole, the historian, "labor was so cheap that men were employed to do the work of horses and oxen. In Sussex, the laborers were employed at 5 and 8 cents a day."

In 1830, according to Walpole, "one-seventh of the population of Liverpool and one-tenth of the population of Manchester lived in cellars."

Of 1841 Mr. Macaulay said: "So visible was the misery of the manufacturing towns that a man of sensibility could hardly bear to pass through them. Everywhere he found filth and nakedness and plaintive voices and wasted forms and haggard faces."

In 1842, according to Harriet Martineau, "the distress had now so deepened in the manufacturing districts as to render it clearly inevitable that many must die."

In 1843 Sir Robert Peel wrote: "We are on the brink of convulsion."

Of 1844 Mrs. John Mills wrote: "The hardly earned flour, often so bad, so rotten, that when put into the oven to bake it soon came thick and warm trickling on to the hearth, was grabbed by little hands, and eaten in a trice, with father and mother standing by hungry, helpless, and heart-broken."

In 1844 Daniel O'Connell said at Covent Garden Theater: "What is the meaning of protection? Protection means an additional sixpence for each loaf; that is the Irish of it. The real meaning of protection is robbery of the poor by the rich."

Historians practically agree that a revolution was near at hand when in 1846 the corn law, or protection, was repealed. From the day free trade came into existence England began to prosper. From a nation of starving people, it was not long in capturing the commerce of the world.

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WHAT PROTECTION IS DOING TO GERMANY.

(By Clyde H. Tavenner.)

BERLIN, GERMANY, *September 18.*

The story of how high protection has increased the price of bread in Germany goes a long way toward explaining why the poor of this great Empire are embracing socialism in constantly increasing numbers.

The story is not a long one to relate, because it is simply another instance of increased tariff rates begetting increased living expenses.

After it is explained that the German duty on wheat is $2.84 a quarter (480 pounds), four paragraphs will suffice to show how the bread tax is plundering the German workman:

1. At the beginning of August, 1908, the Berlin workman paid for a quarter of wheat $10.48. At that time the price of wheat per quarter in free-trade England was $7.64. Thus it will be seen that the Berlin consumer paid the English price and the amount of the tariff. This is not all, because tariff beneficiaries are seldom satisfied to allow the consumer to escape by paying simply the amount of the tariff in excess of the prices that prevailed previous to the advance of rates. They invariably demand a small percentage of commission in excess of the amount of the increase.

2. In the middle of October the Berlin consumer was forced to pay $10.56 for his quarter of wheat. This amount represented $7.48, the average English price of wheat at the time, the German tariff of $2.84, and a shilling extra. This chapter of the narrative shows how protection puts a fictitious value on an article. While the price of wheat fell in free-trade England, it increased in high-protection Germany.

3. At the end of November the price of wheat in Berlin wos $11.04, which means that the Berlin consumer was paying the prevailing English price of $7.72, the tariff of $2.84, and in addition making a donation of 48 cents to the German agrarians that were taking advantage of the hight-tariff wall to hold him up. And even this is not all.

4. On March 10, 1909, the Berlin consumer was forced to pay $11.78 for a quarter of wheat. This represented the prevailing English price of $8.36, the $2.84 tariff tax, and 58-cent steal.

In 24 of the principal wheat markets of Germany the price of "good, marketable native wheat" on June 9, 1909, ranged from $12.84 to $14.58 per quarter of 480 pounds. The price of English wheat at Mark Lane in the week ending June 14 ranged from $9.84 to $10.74.

Last year the wheat harvest was short, and the price rose all over the world. But while the price reached $8.52 per quarter in free-trade Great Britain, it went to $11.56 in high-protection Germany.

Between October, 1905, and March, 1908, the price of bread rose 32 per cent in Berlin, and subsequently advanced still higher.

The importance of a 32 per cent increase in the price of bread may be understood at its full value when it is considered that the official Prussian income tax statistics show that 21,000,000 out of 38,000,000 Prussian people are below an income line of $4.14 a week. What adds to the gravity of the situation is that not only has the price of bread advanced since the German tariff schedules were revised upward a few years ago, but the price of meat and practically all foodstuffs has likewise gone up.

In Germany, as in all protection countries, the tariff schedules are not framed for the benefit of the people, but for the benefit of the interests in control of politics.

In Germany, the agrarians, a class whose greed and unscrupulous political methods compare favorably with those of the American oil, steel, and sugar trusts, dominate the Reichstag sufficiently to dictate occasional upward revision of the tariff on grain and meat. These men are not farmers in the American sense of the word, but landlords in possession of vast tracts of land that have been handed down to them from past generations. Some of the agrarians assert ownership to their estates by divine right. While keeping their tenants in practical serfdom, they take advantage of their strength as a group by having laws passed which compel German consumers to pay them tribute on every morsel of bread or meat consumed.

The agrarians began with a 48-cent per quarter duty on wheat in 1879. In Germany, as elsewhere, protection begets protection. A tariff, like a growing tree, is ever increasing in size and throwing out fresh branches. The German tariff on wheat now is $2.84.

When the agrarians demanded increased duties on grain and meat, the manufacturers of Germany, piqued at being left out in the cold, arose in their wrath and protested that the poor of Germany could not stand further increases on foodstuffs. So the agrarians relented and offered no opposition to revision upward on manufactured articles. The result was revision upward all along the line.

[Reprinted from the San Francisco Star.]

WHY ITALY IS A POOR COUNTRY.

(By Clyde H. Tavenner.)

WASHINGTON, *May 4.*

Why do protectionists never point to Italy as an illustration of how excessive tariff rates "protect" the common people?

Italy is one of the most highly protected countries of Europe. It is famous as a country "flowing with milk and honey."

Yet they never talk about Italy, do the upward revisionists.

While in Italy last summer the writer learned at first hand some of the reasons why our protectionists never say, "Look at Italy."

Italy puts heavy duties on both agricultural and manufactured imports. She pays her people exceedingly low wages. She charges them very high prices for the necessities of life. They emigrate in great numbers.

To understand the situation clearly we must go back to 1887. About that time a violent revolution in the system of Italian customs was brought about. A powerful political group of textile manufacturers joined forces for their own ends with a powerful political group of large landowners. Tariffs were heavily increased. But not on everything. That powerful band of textile manufacturers took good care that lesser manufacturers, who made articles needed in the textile factories, were not enabled to put up their prices.

Hand in hand with the powerful manufacturers the big landowners came out "for a slice of the tariff pie." In order that they should be sufficiently compensated for being in politics, the landowners had a heavy tax placed on wheat. In Italy it is only the big landowners who grow wheat. Three out of every four landowners in Italy are possessors of small properties, cultivating fruit for wine. They have to buy a considerable part of the wheat they eat. So it happened that where one large wheat farmer got bigger profits, three small fruit farmers got hit. That is the way protection invariably works out. What is one man's protection is another man's poison.

Hark, however, this further result of the Italian tax on wheat: Millions of Italians never eat wheat bread, except in cases of illness or on special festivals. They make a bread maize. In this and in other respects the standard of living of the Italian people is very low, because prices are too high.

An enormous fiscal and protective tax was also put upon sugar. The price rose so high that Italian farmers watched their "oranges, lemons, peaches, and other products of a warm and generous sun rot on their trees in order that the 33 manufacturers of the sugar syndicate might levy upon consumers a yearly tribute."

Far and away the chief of the Italian industries are silk reeling and silk throwing. These industries have been seriously hampered by protection. And Italy is the home of the silkworm.

One of the chief troubles of Italy is that the general rise in prices has so greatly lessened the purchasing power of the wages of the people that the great mass of the small dealers and the workingmen and women suffer bitterly.

It is calculated that while ten Italians lose by protection, only one stands any chance of gaining. He does not always gain, for the country does not progress. The interests of Italy are sacrificed to the one in ten.

In other words, excessive tariffs increased the cost of living to the Italian people just as the Payne-Aldrich law is increasing the cost of living in the United States.

Is it any wonder that the protectionists never ask us to "look at Italy?"

[Reprinted from Quincy (Ill.) Journal.]

DID REPUBLICANS CARRY OUT PLATFORM PROMISE?

(By Clyde H. Tavenner.)

WASHINGTON.

"Nothing was expressly said in the platform that this revision was to be a downward revision."

This declaration, made by President Taft in his speech before the New York Republican Club, entirely reopens the much-mooted question, Did the Republican party live up to its campaign promises in revising the tariff?

Democrats will no doubt accept the challenge with pleasure and make the issue raised by President Taft the leading one in the approaching Congressional campaigns.

Mark the difference in these two utterances of Mr. Taft:

Before election (at Milwaukee, Wis., September 24, 1908): "It is my judgment that a revision of the tariff in accordance with the pledge of the Republican platform will be, on the whole, a substantial revision downward."

After election (at New York, February 12, 1910): "Nothing was expressly said in the platform that this revision was to be a downward revision."

What the Republican national platform promised was tariff revision on the basis of equalization of "the difference between the cost of production at home and abroad, together with a reasonable profit to American industries."

Was the tariff revised on this basis? Taking woolens to begin with, President Taft himself admits failure. He said in his New York speech, "The one substantial defect in compliance with the promise of the platform was the failure to reduce woolens."

Woolens are important, too, particularly to the poor. Under the head of woolens come blankets; men's, children's, and women's underwear; cloth from which is made men's and women's suits; hosiery, and a great many other textile products which are necessaries of life.

Now, what about the cotton schedule? Was the tariff on cottons revised on the basis of equalization of "the difference in the cost of

production at home and abroad?" How could it have been when Congress was not permitted to know what the cost of production at home and abroad was?

ALDRICH and PAYNE did not apply the principle of equalization of the difference in cost of production at home and abroad or make the least pretense of doing so. Therefore it is utter folly for the Republicans to claim the tariff-revision promises were kept. Members of Congress voted on the various schedules—were forced to do it by the Republican leaders—without having the slightest idea of what the foreign cost of production of the articles affected really was.

Yet the figures as to the cost of production were attainable. Here they are as to cotton production:

The census of 1905 shows that the wage of the average employee in the cotton manufacturing industry in the United States is $304 a year, $25.33 a month, $5.85 a week, 97 cents a day. This astonishingly low average is due to the large number of children and women, and foreigners on the pay rolls.

In England (whence comes the greatest competition to our manufacturers of cotton) the annual wage of the average employee is $233.28; monthly wage, $19.45; weekly wage, $4.48; daily wage, 74 cents. These figures are from the official report of the British Board of Trade, based on the census of 1906. The cost of living is so much cheaper in Great Britain that, according to former United States Commissioner of Labor Carroll D. Wright, the British cotton-mill employee can purchase more of the necessaries of life with his daily wage of 74 cents than the American mill worker can with his 97 cents.

The average per cent of duty fixed by the Payne-Aldrich-Smoot law on cotton manufacturs is in excess of 40 per cent. An attempt to justify this amount of protection by the actual difference in the cost of production at home and abroad would be ridiculous. Granting that foreign goods have no cost whatever, the rates in the present tariff law on cotton goods would still be excessive.

But the Republican platform also provided for "a reasonable profit to American industries." This brings up the query: "Must the American cotton manufacturers have the present amount of protection on cotton goods to make a reasonable profit?

The amount of profit enjoyed by the beneficiaries of the cotton schedule is the best answer to this question.

Here are a few of a multitude of similar illustrations which could be given:

The Bates Manufacturing Company, of Lewiston, Me., capitalized at $1,200,000, with a surplus of $1,100,000, had net earnings in 1907 amounting to 41.87 per cent, and declared a dividend of 35 per cent.

The Pepperell Manufacturing Company, of Biddeford, Me., has declared dividends averaging 24 per cent for the last nine years; in 1905 its dividends were 47 per cent, and in 1906, 62 per cent.

The Algonquin Printing Company, organized in 1893, and capitalized for $500,000, had in 1907 an earned surplus of $750,000. During the last nine years its net earnings have aggregated 607 per cent, or six times the entire amount of the capital invested.

LEAVE TO WITHDRAW PAPERS.

By unanimous consent, on the request of Mr. GORDON, leave was granted to withdraw from the files of the House, without leaving copies, the papers in the case of Fred M. Jones, Sixtieth Congrsss, there being no adverse report thereon.

WITHDRAWALS OF PUBLIC LANDS.

The SPEAKER laid before the House the bill (H. R. 24070) to authorize the President of the United States to make withdrawals of public lands in certain cases, with Senate amendments thereto.

The Senate amendments were read.

Mr. MONDELL. Mr. Speaker, I move that the House concur in the Senate amendments.

Section 1 of the Senate substitute and section 1 of the original bill, while differing in phraseology, accomplish practically the same thing. In addition to that, section 2 of the Senate substitute contains some exceptions which were not in the House bill, which I believe are entirely proper and which I believe the House ought to accept. I do not care to take the time of the House in discussion of the matter unless some gentleman wants to ask a question.

Mr. MANN. Mr. Speaker, I think the gentleman ought to make a clear statement to the House of what the differences are between the Senate amendment and the House bill, which is a matter that every Member of the House is not only interested in, but one with which he wants to be familiar when he goes away from here. The gentleman ought to let us know exactly what it does.

Mr. ROBINSON. Will the gentleman yield to me?

Mr. MONDELL. I will yield to the gentleman in a moment. Section 1 of the Senate substitute differs in phraseology, but in substance accomplishes what section 1 of the House bill accomplishes. It gives the President of the United States full and complete control over the public domain. It gives him the power to withdraw public lands from all forms of entry at any time. It provides that these withdrawals shall remain in force until revoked by the President or by an act of Congress. So it places in the hands of the President, as the House bill did, full, complete, unrestricted control over the public domain. To that extent the bill is as sweeping as the most ardent conservationist could desire.

It places in the hands of the President a tremendous power and vast authority. Section 2 of the bill contains some limitations. It provides, in the first place, that the lands withdrawn shall at all times be subject to exploration and entry under the laws relating to the mining of metalliferous minerals, or, as the bill states, all minerals except coal, oil, gas, and phosphates. In other words, under the provisions of the bill, withdrawals would not prevent mining, prospecting, and exploration, and the patenting of land under the mining laws, if valuable for metalliferous minerals.

The bill contains a provision under which those who were in possession of lands at the time of the withdrawal under the placer-mining laws for the purpose of exploring or drilling for oil or gas, and were in diligent prosecution of the work leading to such discovery at the time of the withdrawal, that their operation shall not be affected or impaired by the order of withdrawal so long as such occupant or claimant shall continue in diligent prosecution of said work.

That provision is necessary by reason of the very peculiar conditions which surround the exploration and drilling for oil and gas on public domain.

The locations are made under the placer-mining law, but there is ordinarily nothing on the surface of the land to constitute a discovery, such as is necessary to fix and establish a legal right, and therefore, while the entries are made in the best of faith, there is no legal right in the entryman until he has made his discovery, which is oftentimes after he has drilled a 1,000 or 2,000 feet and spent $5,000, $10,000, $20,000, or $50,000 on a single well.

Now, to protect the men who are in possession under the laws and are diligently prosecuting the work of discovery on their land, the provisions I have just read are inserted in the bill.

The Senate substitute also provides that the act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights to claims instituted upon any oil or gas bearing lands after a withdrawal made prior to the passage of the act. There is also a provision exempting from the operation of withdrawals lands embraced at the time of withdrawal in an entry under the homestead law or under the desert-land law or lands upon which a valid settlement had been made. At the close of the bill is a provision as follows:

Hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming except by act of Congress.

That is not a change of law; that is the present existing law, and the necessity for it, if we are not to change the present law in that regard, arises from the language of the first section, under which the President is allowed to withdraw lands for forest purposes.

Mr. STAFFORD. May I ask the gentleman when did the Congress enact a law forbidding the extension of forest reserves in the States just mentioned?

Mr. MONDELL. By an amendment to the agricultural appropriation bill, I think, three years ago, so that that provision does not change the law. It simply was intended to leave the provision of law with regard to forest reserves, or law in regard to reserves, as it now exists. Now, as I stated, Mr. Speaker, the law is a very broad one—all embracing. It confers vast power and authority upon the President. At the same time there were some exceedingly reasonable limitations. Frankly, from my own standpoint, I think the bill gives more power to the President than it ought to—more power than he ought to have. Frankly, from my own standpoint, I do not think the limitations are as far-reaching as they ought to be. I do not think the entryman and locator is as fully exempt from the effect of the withdrawals as he should be; but I realize, and those who agree with me realize, that the House will not follow our views in this matter. We have earnestly sought to grant to the President the authority which he has asked and which a majority of the American people seem to believe he ought to have. Under this law he will have that authority, except as limited in a very minor degree by the exceptions of section 2 of the substitute bill. Now I yield to the gentleman from Iowa [Mr. DAWSON].

Mr. DAWSON. The gentleman in his explanation omitted an explanation of the second proviso of the Senate bill, which reads:

And provided further, That this act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawal of lands made prior to the passage of this act.

Mr. MONDELL. Will the gentleman yield for a moment? The gentleman stated I did not call the attention of the House to that——

Mr. DAWSON. I did not hear the gentleman's explanation.

Mr. MONDELL. I simply read it. I did not think that required a special explanation.

Mr. DAWSON. I simply want to inquire if that operated to legalize those claims which the President in a public speech at Chicago complained of; that after he had withdrawn some 3,000,000 acres of oil lands. I think in California—that is,

after he had promulgated the proclamation withdrawing those lands—certain financial interests, or at least certain men who are backed by large financial interests, had gone into those lands for the purpose of trying to establish some rights even after the President had withdrawn them from entry.

Mr. MONDELL. I think the intent of the language is very clear. Its intent evidently is not to affect the status of those claims, whatever they may be, but I will say to the gentleman that it seems to me that is entirely superfluous because it is utterly impossible to raise the question as to the rights of those who have gone on with development after withdrawal except before the Interior Department.

And I want to say to the gentleman that the President evidently had reference in that speech to conditions in southern California, and in a full and complete hearing which we had with reference to conditions in southern Californinia in the oil fields, before the Committee on Public Lands, I think the members of the committee who attended that hearing were unanimously of the opinion that there was very little of the sort of effort made to which the President referred, in that oil field.

In other words, the development that went on after withdrawal was that of men who were there in possession, with their derricks erected, many of whom had been spending many thousands of dollars before the orders of withdrawal were issued. And everybody realizes it is an entirely meritorious thing for a man who has gone upon the public land under the law, and in accordance with law, to develop the mineral resources of the country.

Mr. MANN. Will the gentleman yield for a question?

Mr. MONDELL. I will be glad to do so.

Mr. MANN. Is the power given to the President in the Senate amendment just as broad as it was in the bill as it passed the House?

Mr. MONDELL. Well, I am inclined to think it is broader.

Mr. MANN. Is there any limitation imposed upon the President in the Senate amendment which was not imposed upon him in the House bill?

Mr. MONDELL. There is. All the limitations in the Senate amendment——

Mr. MANN. I am not speaking of all the limitations in the Senate amendment, but on the President.

Mr. MONDELL. In the power of withdrawal?

Mr. MANN. Any limitation in the Senate amendment that was not in the House bill?

Mr. MONDELL. I think not.

Mr. MANN. What rights are given to settlers or to claimants on land in the Senate amendment, which were not given in the bill as it passed the House?

Mr. MONDELL. First, the provision that the mining laws shall apply without regard to withdrawals, so far as they affect metalliferous minerals.

Mr. MANN. That is a new proposition?

Mr. MONDELL. That is a new proposition. Second, the provision applying to those who are drilling for oil or gas——

Mr. MANN. Prior to the time of the passage of this act?

Mr. MONDELL. Who were engaged actively in the prosecution of the work of developing oil or gas at the time of withdrawal. Third, entrymen——

Mr. MANN. Those people are permitted to continue?

Mr. MONDELL. They are. Third, the homestead or desert entryman who was upon the land at the time of withdrawal——

Mr. MANN. May remain?

Mr. MONDELL. May remain and perfect his entry under the law, according to the provision of the law. I think they are the only limitations except the limitation just referred to by the gentleman from Iowa [Mr. DAWSON], which is not a limitation but——

Mr. MANN. You mean about forest reserves?

Mr. MONDELL. No; that nothing in this act shall be construed as a recognition, abridgment, or enlargement of ascertained rights.

Mr. MANN. Just what provision was it we had in the House bill in reference to the rights of the entrymen?

Mr. MONDELL. We had a provision in the House bill, which went out in the House, which was rather broader in its protection of those in possession at the date of withdrawal than any provision in the Senate bill.

Mr. MANN. Did we leave nothing in as the bill passed the House?

Mr. MONDELL. The House left nothing in. It was stripped as bare as a mast of any provision protecting the settler or entryman.

Mr. MANN. I notice the Senate amendment has a provision about forest reserves in Washington, and so forth, and some other States, to the effect that the President, I think, shall not create forest reserves. I had been led to assume, from statements heard on the floor of the House, that there was no land left in the State of Washington that was not included in a forest reservation. I presume that is an error, and that there is some land left there that is not in a forest reservation.

Mr. MONDELL. I understand that there are a few small tracts remaining, and I presume it was in order to retain those few tracts for settlers these provisions are put in, which preserve the law as it is now.

Mr. SMITH of California. By natural accretion new land is being made from year to year.

Mr. MONDELL. I yield five minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. MADISON. Will the gentleman from Arkansas indulge me just a moment in order to ask a question of the gentleman from Wyoming [Mr. MONDELL]?

Mr. ROBINSON. Yes.

Mr. MADISON. Is it not a fact that the act as it passed the House contained a provision ratifying all previous withdrawals?

Mr. MONDELL. It did.

Mr. MADISON. And forever settling any question about the regularity of the withdrawals made by President Roosevelt?

Mr. MONDELL. Settling it so far as a law passed now can.

Mr. MADISON. Now, is it not also true that there is no provision of that kind in the Senate bill?

Mr. MONDELL. It is true that there is no specific provision of that kind, but there is a proviso as to the first portion of it:

Provided, That the right of any person who at the date of any withdrawal heretofore made or hereafter made—

And so forth.

That is an indirect recognition of the validity of past withdrawals. There is no specific provision such as was used in the House bill.

Mr. MADISON. Does not the gentleman think——

Mr. ROBINSON. I can not yield further.

Mr. Speaker, I think if there was any question about whether this bill should go to conference, it would be apparent to gentlemen who have heard the discussion on this motion to agree to the Senate amendment that the Senate amendment is very different from the House bill. In some particulars, in my judgment, the Senate amendment is an improvement upon the House bill; in others it is very far inferior to the House bill. Section 1 of the Senate amendment is almost identical in language with section 1 of the House bill. But there is this difference that I want to call to the attention of the gentleman from Wyoming and others in charge of this bill: In the first section of the House bill the President is expressly authorized to withdraw from "filing, location, sale, and entry public lands," and so forth, but in the Senate amendment the word "filing" is omitted. So that in the Senate amendment the limitation upon the power of the President is to withdraw from settlement, location, or entry. Some gentlemen think that the omission of the word "filing" is immaterial. Other gentlemen think that by permitting "filings" persons may avail themselves of the privilege and acquire claims prior to others, if the lands be subsequently restored, notwithstanding the withdrawals.

I desire to call the attention of the House to another difference in section 1 of the Senate amendment and section 1 of the House bill, the President being required by the Senate amendment to specify the purpose of the withdrawal in the order. There is nothing else in that section very materially different between the House bill and the Senate amendment. There is another marked difference between the House bill and the Senate amendment, to which the gentleman from Kansas has called attention. Gentlemen who were present when the House bill passed will remember that some of us who discussed it then insisted that the proper thing about ratifying the former withdrawals was for Congress to get full information upon the subject and then ratify those withdrawals that were proper and refuse to ratify those that were not proper. Within a week after the House passed that bill the House Committee on Public Lands had a public hearing which disclosed the fact to the satisfaction of the committee that withdrawals had not only been improvidently made in southern California, but made in such a way as to absolutely forfeit and sacrifice the rights of the Government, and in this way: The title to large areas of lands in the oil regions long ago passed to a railroad in alternate sections, and some of these were being operated by the railroad and its grantees.

The undisputed evidence before our committee was that in the process of the development of oil by the railroad and its grantees on the alternate sections if the withdrawals were validated the result would be that part of the oil in the remaining alternate sections so withdrawn would be obtained by those

developing the railroad lands. That is the reason why any attempt to ratify the withdrawals heretofore made has been abandoned.

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

Mr. ROBINSON. Certainly.

Mr. MADISON. Had anybody acquired vested rights in these withdrawals?

Mr. ROBINSON. The railroad had acquired title to the lands, and were disposing of them and operating them.

Mr. MADISON. I would like to ask the gentleman to explain how they acquired any rights over any withdrawal from entry.

Mr. ROBINSON. I tried to make it clear that they owned the alternate sections of these oil lands. The Government withdrew its oil lands from entry, and the railroad and its grantees were operating their oil lands on the alternate sections, and in that way drawing a material part of the oil from the government lands in the alternate sections by the process of development.

Now to proceed. There is another thing about this I do not understand. There was not a man on that committee that claimed that locations of oil lands after the withdrawals were made should be validated.

The evidence before the committee showed that notwithstanding the withdrawals, as the President himself has stated, in many instances filings and locations have been made and operations have proceeded in spite of the withdrawals.

Now, it may appear to some gentlemen here that if there is any conservation in this measure, if the withdrawals were made for conservation purposes, then it might have been fair to have validated the withdrawals, when the lands were entered in defiance of the withdrawals, and after they were made.

The SPEAKER. The time of the gentleman has expired.

Mr. ROBINSON. I should like two or three minutes more to complete my statement.

Mr. MONDELL. I yield to the gentleman two minutes more.

Mr. CRAIG. Are not the opponents of this measure entitled, as a matter of right, to some time?

The SPEAKER. That depends. The gentleman from Wyoming is entitled to one hour.

Mr. CRAIG. Are not the opponents of the measure entitled to any time?

Mr. MONDELL. I shall be glad to yield to the gentleman.

Mr. ROBINSON. Under the rule the time for one hour is under the control of the chairman.

Mr. KAHN. Will the gentleman yield for a question?

Mr. ROBINSON. I regret that I can not yield. I have only two minutes.

Under this bill if any land is claimed under desert-land entries or for homestead entries, the withdrawals are not valid and the entries can be completed. I want to ask the House if under that provision every water-power site in the United States can not be taken up and the Government lose the value of it under homestead and desert-land entries? I yield back my time to the gentleman from Wyoming, with the request that he yield to the gentleman from Alabama [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, this bill started out to give the President the right to withdraw lands. When the bill was before the House I stated that under the decisions of the Supreme Court the President had that right. The Senate has evidently recognized the fact that he has the right, and it has gone in to limit him in the exercise of it. The Senate has cut out the validation clause that was in the House bill, and has deliberately limited the President in the withdrawals that he shall make by putting into the bill the provision that the withdrawals shall not operate against certain parties.

The Senate bill further deliberately leaves out the word "filing" in the first section. The result of this will be that, although lands are withdrawn by the President from entry, location, and settlement, nevertheless they may be filed upon, and when they are restored to entry those who have made filings will undoubtedly have priority of some kind. If the leaving out of this word "filing" does not mean something, then why is it left out?

Going further, the House voted overwhelmingly to strike out of the House bill the following amendment:

> That such withdrawals shall not affect the legal rights of any settler or entryman initiated prior to such withdrawals.

And also the following amendment:

> Upon restoration of any such lands in the United States, the equitable rights shall attach of any bona fide claimant who prior to such withdrawal initiated a claim thereto and made valuable improvements thereon.

The House struck out these two committee amendments to the House bill by an overwhelming majority. The Senate has not put those amendments back in so many words, but they have certainly put them back in effect. The second section of the Senate bill provides that the lands, although withdrawn, shall be open to exploration and purchase for the mining of all minerals except oil, gas, and phosphates; and goes further and says that this act shall not be construed as a regulation, abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawals of such lands and prior to the passage of this act.

Now, if men who knew that withdrawals had been made went upon oil-bearing lands and filed claims of any kind under this amendment, not necessarily an oil or a gas claim, but if they went there and filed any kind of a claim, knowing that the President had withdrawn the land, then they are not affected by the withdrawals, but are left right where they were.

I say that the Senate has not only cut out the clause validating past withdrawals, but has gone further and limited the President in withdrawals that he shall be able to make.

Now, the act goes further and says that hereafter no forest reserve shall be made in the States of Oregon, Washington, Idaho, Montana, Colorado, and Wyoming except by act of Congress. That is already the law. In the agricultural appropriation bill of 1907 that exact provision was enacted into law. Then, why in the name of common sense put in the same States again? Is it a balm to be given for the souls of the gentlemen from those States who are expected to vote for this bill? Is it put in for the purpose of letting them go home and say that no further forest reserves can be made in their States, no further forest reserves can be authorized without an act of Congress? I say that the language is surplusage.

This bill ought not to be adopted as it stands. It ought to go to conference and let us find out whether or not we gave the President what he wants, or whether we are to limit him in the power he already has.

Now, the other provision in this bill which seems to be harmless, but is not, is the one allowing homestead entries on withdrawn lands.

Mr. SMITH of California. The gentleman does not mean to say that it allows the homestead after withdrawal?

Mr. CRAIG. Oh, no.

The SPEAKER. The time of the gentleman has expired.

Mr. CRAIG. I ask for three minutes more.

Mr. MONDELL. I yield the gentleman two minutes.

Mr. CRAIG. Mr. Speaker, under this provision, if the homestead entry and desert-land entry have been made prior to any withdrawal, then that homesteader is not affected by the withdrawal, but is to be allowed to perfect his title. What is to keep every water-power site on the public domain from being appropriated under this section?

Mr. SMITH of California. Have they not already been withdrawn?

Mr. CRAIG. I do not know. I tried to get the House to pass a classification bill so that the House might be informed as to the character of withdrawn lands, and the gentleman from California and his party associates voted against it. [Applause on the Democratic side.]

Mr. SMITH of California. Oh, no; that is not so. Will the gentleman yield for a question?

Mr. CRAIG. No; I decline to yield further. I have only two minutes. Some of the worst legislation on the statute books today in reference to the public domain has been passed in the name of the homesteader and the hardy prospector. [Applause on the Democratic side.] But when we get down and find out what is at the bottom, it is not the homesteader nor the hardy prospector, but the man who does not want to see any conservation of our natural resources who is being benefited.

You will never have any conservation under this bill. You might have had it under the House bill. We ought to send the bill to conference and preserve the dignity of the House, if for nothing else, by attempting to get back some of the provisions that we placed in the House bill after a full, fair consideration and debate.

Mr. MONDELL. I yield to the gentleman from California [Mr. SMITH].

Mr. SMITH of California. I think there is going to be some opposition, and I would rather speak after those remarks have been made.

Mr. MONDELL. I yield five minutes to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, the gentleman is anticipating correctly; there is going to be some opposition to this bill. This House, on April 20, 1910, entered into the careful consideration of, and, I may add, considered carefully and well, this question of conservation, and at that time they simply wanted the House bill stripped of jokers and provisos, and yet in the substitute the Senate strikes it all out. What happened? The

bill goes to the Senate and over there the Senate strikes out the provision of the House bill and sends it back now, an entirely new bill, full of wonders and bewilderments, and then they come in here on a motion to concur in the Senate amendment, and we are to discuss the bill only for a few minutes. This bill ought to be sent to the Committee on the Public Lands and be considered carefully and well. It is a new bill. It is too important to pass without full consideration.

Mr. MANN. The gentleman wants to kill it.

Mr. FERRIS. No; I am not in favor of killing it.

Mr. MANN. The gentleman voted against the bill we passed.

Mr. FERRIS. No; I did not. I voted for it. The gentleman is mistaken. I voted to correct the bill and make it a good bill——

Mr. MANN. I thought the gentleman voted against it; most on that side did.

Mr. FERRIS. No.

Mr. RUCKER of Colorado. Only three voted against it.

Mr. FERRIS. The gentleman is entirely in error; only three. I voted for it then, and I would vote for it again if we can get it in good shape, but I will vote against it if we do not. I do not propose to vote for a bill that is absolutely new to this House, a bill that few understand, a bill that is bad in present form.

Mr. MANN. Did not the gentleman vote on the railroad bill and swallow it whole without reading any of it?

Mr. FERRIS. Oh, no; I read it.

Mr. MANN. Oh, the gentleman did not read it. The gentleman could not have, and I say this in the interest of the gentleman's intellectual integrity.

Mr. FERRIS. The gentleman is evidently qualified to speak on railroad matters, but he is not fitted to speak on this matter more than I am. I have given this matter some attention, and I have been on the Committee on the Public Lands and have given a great deal of study to it.

Mr. MANN. And I have often followed the gentleman.

Mr. FERRIS. I hope the gentleman will not undertake to inject some foreign parliamentary situation that happened in regard to the railroad bill in a matter as important as this which affects the entire country. If I may proceed for a few moments I would like to call the attention of the House to the Senate bill and its provisions as compared with the House bill. That is only a fair proposition and a comparison will reveal some change in things. Every provision of the House bill was debated and scrutinized carefully by this House. We have the right and we ought to take and compare the House bill with the Senate bill. Let us go to the first provision.

The first provision in the House bill reads like this:

That the President be, and he hereby is, authorized to withdraw from location, settlement, filing, and entry of areas of public lands in the United States, including the District of Alaska, for public uses or for examination and classification to determine their character and value; and the President is further authorized, when in his judgment public interest requires it, to withdraw from location, settlement, filing, and entry areas of public lands in the United States, including the District of Alaska, whether classified or not, and submit to Congress recommendations as to the legislation respecting the land so withdrawn.

Now, let us read the Senate bill:

That the President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States and the Territory of Alaska and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an act of Congress.

Mr. MONDELL. Will the gentleman read the other portion of the bill, in which the President——

Mr. FERRIS. I hope the gentleman will not interrupt me, as I have only five minutes. If the gentleman will give me the time, I will be glad to discuss this question at length.

Reading on down in the bill, the House bill said that when the public interest required it the President of the United States might make the withdrawal. The Senate bill says this:

For water-power sites, irrigation, classification of lands, or other public purposes, to be specified in the orders of withdrawals.

Mr. Speaker, I want to submit to this House that there is a limitation that will absolutely dethrone, disable, and disembowel, I might say, the President of the United States in making these withdrawals that Congress is presumed to give him.

The SPEAKER. The time of the gentleman has expired.

Mr. MONDELL. I yield five minutes to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. I want to call attention to one thing further. When the President makes a withdrawal, he has to go further than the public interests require. He has to specify what he does it for, and I submit to you that that is imposing on the President more than this Congress ought to impose upon him. Why? Because it is an impossibility for the President, at the time he withdraws land, to say at the psychological moment the purpose for which he withdraws it.

Mr. MONDELL. Does the gentleman want the President of the United States to withdraw lands and not know what he does it for?

Mr. FERRIS. The gentleman in his exuberance has asked a question that answers itself. This House debated long and at length and gave him that power by an overwhelming vote on the 20th of April of this year. That reply will be sufficient to the gentleman, I am sure. Let me go a little further.

On page 3, line 6, we find this proviso:

Provided further, That this act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claim initiated upon any oil or gas bearing lands, after any withdrawal of such lands, made prior to the passage of this act.

You see, gentlemen, instead of that ratifying what the President, the Secretary of the Interior, and the Forester have done, it absolutely invalidates it. This bill ought to go to conference or to the Committee on Public Lands and have these errors corrected. It is not asking too much, even though it be late in the day and late in the session.

I want to call your attention to another limitation, in line 14, on page 3:

There shall be excepted from the force and effect of any withdrawal made under the provisions of this act all lands which are on the date of such withdrawal embraced in a lawful homestead or desert-land entry theretofore made or upon which any valid settlement has been made.

I do not have any material objection to that. I think that will reach the cases of the gentleman from California [Mr. SMITH], and I think they ought to be reached.

Mr. COOPER of Wisconsin. The House bill did expressly ratify the previous withdrawals?

Mr. FERRIS. It did; and it is notoriously absent from this bill.

Now, going further, this bill says:

But the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: *And provided further*, That hereafter no forest reserve shall be created, nor shall any addition be made to one hereafter created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress.

Now, I am not one of those citizens who believe that large areas of a State ought to be piled up for forest reserves. If this House is going to pass a conservation bill and purports to give the President of the United States some power, I am not in favor of inserting nine or ten provisos that this House knows nothing about and taking from him every power that we presume to give him.

Mr. MARTIN of Colorado. That last proviso is the law now.

Mr. FERRIS. I understand that. Then, why put it in this Senate substitute?

Mr. MARTIN of Colorado. It might be construed to repeal it.

Mr. FERRIS. I think so, and perhaps it may not be the law. The bill we passed did not become a law. It was merely a House provision. The demand on the part of the conservationists, so called, ought to send the bill to conference. It ought to send it to the committee, and I will repeat, although it is late in the day and late in the session, no one wants to be hampered or have time consumed unnecessarily, I hope when the question is put to send this bill to conference it will receive unanimous support.

The chairman of the committee ought to support it himself. He knows this bill is as foreign to the House bill as day is to night. The country will expect more of this Congress than to pass a makeshift such as the Senate substitute. They are demanding something substantial, something tangible, not fanciful; something real, not feigned; something sincere, not full of jokers and provisos to destroy the usefulness of the bill.

Mr. MONDELL. Mr. Chairman, I yield three minutes to the gentleman from Kansas [Mr. MADISON].

Mr. MADISON. Mr. Speaker, I hope the gentleman will not suffer any because of the generosity displayed in giving me three minutes to discuss this question. [Laughter.] I do not want to raise any question here that has no foundation in fact, and it may be that the objections I have can be dissipated by an explanation of the proposed Senate amendment. No one is more ready to receive it than I. This House, believing in the wisdom of the action of President Roosevelt, wrote into the House bill that the prior withdrawals were ratified. That meant that the men who had located on lands when they were, in fact, more valuable for water sites, and were trying to prove up the lands under the homestead law had to remain where they were. They could not go any further. It meant that men who were wrongfully endeavoring to acquire mineral, oil, or gas land under the homestead law or through other forms of entry had

to stop. Why? Because, whether or not those acts of withdrawal were with authority, Congress has the right to ratify them, and has the right to make those withdrawals legal, so far as such ratification did not involve vested rights.

We have gone, more or less, into this question as to the legality of these withdrawals, and those of us who have gone into them understand that there is at least a question. Now, gentlemen, I feel that we are about to do a thing without due consideration that every one of us may regret in the future.

You will see that under the provisions of this Senate amendment it is specifically provided that a man who has located upon land previous to an order of withdrawal and has taken it up for oil or gas or taken it for homestead purposes, shall be permitted to complete his entry and obtain patents, notwithstanding the withdrawal. That is written specifically in the amendment, and if you now leave out of the bill the provision ratifying the prior withdrawals and they should be held by the courts to have been without authority, then it may be that many power sites and perhaps a large amount of mineral land may be forever lost to the people and go into the possession of those not lawfully entitled to them. It is my understanding that there are many men who are trying to acquire water-power sites behind the mask of the homestead law and many who are trying to acquire coal lands under the pretense of other forms of entries than those provided for by the mineral-land laws, and I fear that the provisions of this Senate amendment will prove an aid to the furtherance of their unlawful designs, and I protest against it.

Mr. MONDELL. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has thirteen minutes remaining.

Mr. MONDELL. I yield five minutes to the gentleman from California.

Mr. SMITH of California. Mr. Speaker, it seems to me that the matter of ratifying previous withdrawals is not going to distress the mind of the House. An act of Congress passed June 21, to take effect September 27 of the year preceding, is not a very popular way of legislating in the United States of America.

Now, the gentleman from Kansas suggested that a water-power site might be obtained under the homestead law. That is true. And suppose it was? Suppose you wanted a right of way across a homestead—the land had been patented, and you wanted the water power—what would you do? You would go to the man, and if you could not buy it you would go into court and condemn it, and get it. There is nothing so tremendously sacred about a narrow strip of 100 feet along the side of a mountain that may be underlaid by oil or coal that would despoil the settler of his homestead rights in order to get it, because under the state law in every State of the Union you can exercise the power of eminent domain and condemn a little strip for the right of way which you need. As to his patent in coal lands under the homestead law, that is not within the power of the law. The consideration of the subject of withdrawal would have nothing to do with that. Now, what are the actual facts here, and I think they are plain as day? In each bill we gave the President the right to withdraw and the right to restore; we also gave Congress the right when once withdrawn. Now, then, I do not discover why the Senate rewrote the section, but it was their pleasure to write it in different language.

And there is not a gentleman across the aisle who can shut his eyes and turn around three times and let me hand him one of these first sections and tell me whether it is the section of the House bill or the Senate bill. They are as nearly alike as two peas. There is no difference in their meaning and intent. Why do we sit here in the heat and parley about a mere matter of verbiage, when in either case the President is given the right to withdraw and to protect and conserve the best interests of the country?

Mr. ROBINSON. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. BUTLER. Let me have it plainly in my mind, if you please——

Mr. MONDELL. I yield to the gentleman from Pennsylvania.

Mr. ROBINSON. Mr. Speaker, I think I addressed the Chair first.

The SPEAKER. Yes; and the Chair yelled. [Laughter.]

Mr. ROBINSON. The Chair performed his whole duty. Will the gentleman from Wyoming yield to me?

Mr. MONDELL. I shall be glad to yield to both gentlemen at once, if there is any way in which I can do it. I will yield first to the gentleman from Pennsylvania.

Mr. BUTLER. I think the gentleman is well informed, and so I ask him this question. There is some doubt expressed about the authority of the President to withdraw public lands. The President of the United States has withdrawn these lands. It seems to be in the mind of everybody that the withdrawal of these lands should in some way be legalized. Is it not possible that by rewithdrawing them, if that is the proper term, he can make absolutely certain that which may now be uncertain?

Mr. SMITH of California. That is exactly what I was about to say, that if the President has any doubt as to the sufficiency of his withdrawals he can renew his order.

Mr. BUTLER. How can this Congress ratify an illegal act if he has done one?

Mr. SMITH of California. I do not think it can make an ex post facto enactment.

Mr. ROBINSON. Accepting the gentleman's challenge to distinguish between the two sections——

Mr. SMITH of California. I am not going to yield for a speech.

Mr. ROBINSON. I call the gentleman's attention to two material differences in the first section of the Senate amendment and the House bill.

Mr. SMITH of California. I do not know of any.

Mr. ROBINSON. The Senate amendment omits the word "filing" and the House amendment specifically says the President shall specify the purpose of the withdrawal.

Mr. MONDELL. I yield three minutes to the gentleman from Colorado [Mr. TAYLOR].

Mr. TAYLOR of Colorado. Mr. Speaker, no one particularly relishes hearing the expression "I told you so," and I do not claim to belong to that ancient order. Nevertheless, I can not resist the temptation at this time to preface my brief remarks upon his motion by a reference to the RECORD, and to the occasion of the debate upon this bill when it originally passed the House, on the 20th of last April. At that time I opposed the bill as vigorously as I could for a number of reasons. My remarks appear on page 5066 of the RECORD.

I offered several amendments, which were inserted in the RECORD on page 5101, and I urged their adoption; but all of them were rejected by an overwhelming majority. I offered an individual minority report and had to make the fight alone. It is therefore with some degree of personal satisfaction that I now call the attention of the House to the fact that practically every one of the amendments adopted by the Senate after two months' deliberation is either literally or in substance the same as the amendments that I offered and endeavored to have accepted by this House. I feel like congratulating the Senate upon its good judgment in approving my amendments. I am also gratified to note that while I was alone and unable to secure recognition at that time for these absolute and inherent rights of the West, that, regardless of party affiliations, all of the distinguished Senators from that portion of this country, as will appear by their speeches and votes, unanimously supported and secured the adoption of these most fair and just provisions. The Senate ought to have gone a little further, but they have made this a much better bill than it was, and I am therefore heartily in favor of the adoption of this motion to accept each and all of those amendments.

Mr. CRAIG. Will the gentleman yield for a question?

Mr. TAYLOR of Colorado. My dear sir, I certainly do not want to be discourteous to my colleague on the Public Lands Committee, but I am only allowed three minutes, and I must decline.

The first amendment requires the executive withdrawals to be only temporary. That is as it should be. If the President is going to be authorized to vacate and set aside our public-land laws, it certainly ought to be only temporary. Moreover, this amendment requires the President to specify the purposes of the withdrawal in each order. That is unquestionably right. The citizens of the locality and the general public have a right to know for what purpose a withdrawal of public land is made.

Secondly, this amendment protects the miners and prohibits interference with exploration, discovery, occupation, and purchase under the mining laws of the United States, so far as the same applies to minerals other than coal, oil, gas, and phosphate. That is eminently just and right. Nothing should interfere with the legitimate development of the precious mineral resources of the West. This language is almost identical with section 4 of the substitute which I offered. These amendments also preserve the rights of persons who at the date of any order of withdrawal were bona fide occupants or claimants of any oil or gas bearing lands, and who at such date were diligently pursuing the work leading to the discovery of such oil or gas. The way this bill passed the House, it practically permitted a high-handed outrage and confiscation of the initiated but not perfected rights of settlers and occupants upon the public domain,

who had gone onto the land in good faith under the then existing laws. This amendment is almost in the same language as section 2 of the amendment I offered. The Senate amendment also contains the provision that withdrawals shall not embrace or interfere with any homestead or desert-land entry theretofore made, or upon which any valid settlement or improvements have been made. I urgently appealed for that provision, and it is so palpably just that I will not discuss it. We certainly have no right to confer upon the President more power than the Congress has itself; and Congress has no right to legislate a man out of his property rights, legally acquired, on the public domain. This amendment also contains the provision that is already contained in the existing law, act of March 4, 1907 (34 Stat., 1271), which provides:

That hereafter no forest reserves shall be created, nor shall any additions be made to one heretofore created, within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress.

I earnestly insisted that the people in those States do not want that law repealed, and if you are going to consider the wishes and welfare of those people I again insist that that amendment should be adopted and that the present law upon the subject should remain intact. The bill as it passed the House superseded that law. If the people of any of those States want any of the forest reserves therein increased, they can readily apply to their Senators or Representatives and an act of Congress can be expeditiously passed for that purpose. I am confident that all our conservation friends will gladly join in almost any bill that will withdraw from entry any of the public land of the West; at least that is my impression from the experience I have had during this session; but there is so little public land left in any of those States that has not already been withdrawn that I apprehend we will not be burdened with applications of that kind. These Senate amendments are, to my mind, the only redeeming features of this bill.

Mr. Speaker, I believe the bill is unnecessary and an unwise policy, and I am not in favor of it, even with these Senate amendments; but if they are adopted the measure will be very much less harmful to the West. The Senate acted wisely and deliberately for the welfare of our country, and I believe the House will now concur and that the amendments that were rejected will become the chief safeguards and benefits of this law.

Mr. MONDELL. Mr. Speaker, how much time have I remaining?

The SPEAKER. Eight and one-half minutes.

Mr. MONDELL. I yield to the gentleman from California [Mr. ENGLEBRIGHT].

Mr. ENGLEBRIGHT. Mr. Speaker, I am strongly in favor of concurring in the Senate amendment, or substitute, for the House bill. The bill as it passed the House was a sweeping measure, giving no consideration to the rights of the people of the West, who are the people most directly affected by its provisions.

Much complaint has heretofore been made about the indiscriminate withdrawal of public lands, which has resulted in the practical suspension of the land laws and a total disregard of the rights of the settler and the miner.

Thousands of entries and applications for patents have been held up by the land offices and the foundation laid for endless litigation, which has seriously retarded the development of the Western States.

We believe in conservation and yield to the popular demand that a bill should be passed in the interests of conservation, but insist that such a bill should be on practical lines, so that when Congress acts, it does so with an eye to justice and gives proper consideration to the valid rights of the entryman and locator.

I have lived for thirty-two years in the gold-mining sections of California, during which time a miner had the right to go anywhere on the public lands and prospect for the precious metals, and if he found anything he had the right to locate his claim under the mining laws of the United States, and unless the Senate amendment to the bill is passed he is in danger of losing that right.

I have here a letter from the Commissioner of the General Land Office regarding one of the withdrawals made a few months ago, which reads as follows:

TEMPORARY POWER-SITE WITHDRAWALS NOS. 84 AND 88, CALIFORNIA.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, April 27, 1910.

Hon. WILLIAM F. ENGLEBRIGHT,
House of Representatives.

DEAR SIR: In compliance with your recent personal request, I have the honor to inform you that temporary power-site withdrawal No. 84, under date of December 11, 1909, embraces 1,006 acres of land lying along the North Fork of Feather River, in Tps. 20 and 21 N., R. 4 E., M. D. M., Sacramento land district, California, and that temporary power-site withdrawal No. 88, under date of December 20, 1909, embraces 14,521 acres of land lying along Yuba River, in T. 16 N., R. 6 E.; Tps. 18 and 19 N., R. 7 E.; and T. 7 N., Rs. 7, 8, 9, 10, and 11 E., M. D. M., Sacramento land district, California.

These withdrawals were made on recommendations by the Director of the Geological Survey in the following form, viz:

In aid of proposed legislation affecting the disposal of water-power sites on the public domain all public lands in the following list are temporarily withdrawn from all forms of entry, selection, disposal, settlement, or location, and all existing claims, filings, and entries are temporarily suspended. All valid entries heretofore made may proceed up to and including the submission of final proof, but no purchase money will be received or final certificate of entry issued until further orders.

Very respectfully,

FRED DENNETT, *Commissioner.*

The largest portion of this withdrawal is in my home county and is rough mountain land. It is a power-site withdrawal, taking in all the unpatented land for miles on each side of mountain streams that are torrents in winter and nearly dry in summer. There is not a reservoir site on any of this land; if there had been, it would have been used years ago; and the only possible use the land can have in connection with water-power sites would be for right-of-way purposes, a mere line over a number of disconnected pieces of land.

Nevada County, Cal., is an old settled community, whose history dates back to the days of forty-nine, and it has been one of the richest and most prominent gold-mining sections in the world, where millions of dollars of gold have been taken from the ground and a thousand million yet remains to be mined.

On the land included in this withdrawal are large numbers of unpatented mining claims and the homes of many miners. Yet here, in that order, by a mere sweep of the pen, their rights are ignored, entries and applications for patents are suspended, and their property put in jeopardy.

The miner is refused the privilege he has always had of making a location under the mining laws of the United States because some employee of the Geological Survey has looked over a map and noted that a stream crossed through this section of the country and immediately recommended the withdrawal of all unpatented land for all purposes to protect a possible water-power site, which needs no protection except in the imagination of some one recommending the withdrawal, with the result—as very few people have ever heard of the action of the department—the prospectors go ahead with their locations, spend their money, and if they find anything of value they are in trouble with the land office.

In the whole history of the United States the prospector has always been the first and taken the lead in opening up new country. He would take his pick and shovel and, with patience and perseverance, toil day by day with an unflinching earnestness, far from civilization, until success crowned his efforts, and the others, following in his footsteps, would come on and develop the country to which he had led them, and he was protected in his property rights if he had complied with the law in making his location.

But where withdrawals are made covering hundreds of thousands of acres, following a stream for a hundred miles, unless the prospector is protected in this bill his vocation is gone, and the development of our mineral resources will be hindered and the settlement of the West retarded.

The Senate substitute, while giving the President ample authority in the interests of conservation, protects valid rights, which is only just and fair. I will read it:

Be it enacted, etc., That the President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States, including the District of Alaska, and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an act of Congress.

SEC. 2. That all lands withdrawn under the provisions of this act shall at all times be open to exploration, discovery, occupation, and purchase, under the mining laws of the United States, so far as the same apply to minerals other than coal, oil, gas, and phosphates: *Provided*, That the rights of any person who, at the date of any order of withdrawal heretofore or hereafter made, is a bona fide occupant or claimant of oil or gas bearing lands, and who, at such date, is in diligent prosecution of work leading to discovery of oil or gas, shall not be affected or impaired by such order, so long as such occupant or claimant shall continue in diligent prosecution of said work: *And provided further*, That this act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawal of such lands made prior to the passage of this act: *And provided further*, That there shall be excepted from the force and effect of any withdrawal made under the provisions of this act all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: *And provided further*, That hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress.

SEC. 3. That the Secretary of the Interior shall report all such withdrawals to Congress at the beginning of its next regular session after the date of the withdrawals.

The area of the United States is 1,903,461,000 acres. Of this area there yet remain 555,000,000 acres of public land. Of the latter area 195,000,000 acres are included in national forest reserves; 360,000,000 acres are yet unappropriated public domain, to which this bill applies.

Under the laws of the United States the area is open to exploration, and the discoverer of gold, silver, copper, lead, zinc, and other minerals has the right under the mining laws of the United States to locate a claim if he finds what he believes to be of value, and to obtain a title by complying with the mining laws.

The mining laws are very strict, and before patents are issued for claims $500 have to be expended on each location, which, with a provision that requires $100 to be expended annually thereon as assessment work, effectually prevents land grabbing, so that the present laws, that have stood the test for years, are ample in this respect.

The Senate substitute to the bill gives the President ample authority to withdraw any of these lands for proper purposes, and all the ideas of conservation are fully provided for.

While there has been much discussion in the press of the country regarding coal, oil, gas, and phosphate lands, there is no demand that the mining laws of the United States should be set aside. The bill as amended in the Senate fully protects the miner and prospector, the homesteader and the bona fide occupant or claimant of oil or gas bearing lands. There is nothing in the Senate amendment which is not proper, just, and right, and I hope the House will concur in the Senate amendment.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

Mr. MONDELL. Mr. Speaker, if there are any real objections to the Senate amendments, they certainly have not been pointed out by gentlemen on the other side. They lay great stress on the absence of the word "filing." Now, anyone who knows anything about the public-land laws knows that no right can be acquired by a mere filing, and the absence of the word "filing" is entirely immaterial. But we pass land laws time and again in which we provide for all kinds of entries and settlements without ever using the word "filing." It has not any force of fact with regard to attaching rights to the public land, and it was very properly omitted.

Mr. BUTLER. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. BUTLER. If this bill should pass, would the President have authority to withdraw these lands that he desires to withdraw?

Mr. MONDELL. Mr. Speaker, the President has wider authority under this bill, far wider authority than he asked in his message to Congress on the subject. I think I am justified in saying to the House that the bill as it passed the Senate and as it is now before the House is entirely satisfactory to the President, and, in his opinion, gives him all the authority he desires and ought to have.

Mr. BUTLER. Will he have the authority after the lands are withdrawn, after the authority has been given him by this law, will he then have the authority to dispose of these lands and all the property in them for all that they are worth? That is what the country demands.

Mr. MONDELL. He will have the right of withdrawal and then to recommend to Congress the changes in the law that will accomplish that purpose.

Mr. KENDALL. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. KENDALL. It was understood when this measure was introduced that it represented the desire of the administration. These Senate provisions are all limitations on the President's authority. Why were not they in the original bill that was presented here representing the policy of the administration?

Mr. MONDELL. The original proposition presented to the House as an administration bill contained wider limitations than this bill, much wider limitations. The bill introduced by Mr. PICKETT did not contain these limitations, and there was no question raised as to what limitations ought to be placed on that bill. I want to say that Congress has never, in all the history of the Nation, changed a public-land law and at the same time deprived the entryman upon the public lands of his right legally initiated. We give the President under this bill the right of withdrawal, more power than Congress itself ever exercised in changing the public-land statutes.

The limitations placed on the bill are less in effect than Congress has always placed on any changes it has made itself in land statutes. In other words, we have not only given the President absolute power over public domain and withdrawing it from entry, but we have placed less limitations on him than we have exercised ourselves or Congress has exercised when it changed the law.

Mr. HITCHCOCK. Does the bill as supported by the gentleman now and adopted by the Senate give the President as much power as the bill gave which we passed through the House?

Mr. MONDELL. My opinion is it gives him more, if possible—the first section—because our bill, if the gentleman will remember, only gave him authority to withdraw from classification and to recommend changes of laws. The Senate provision is broader than the provision in the House bill, much broader.

Mr. HITCHCOCK. The first section of it——

Mr. CRAIG. But the gentleman leaves out the most material part of the House bill, which gives the President power to withdraw for public uses, which covers all purposes.

Mr. MONDELL. And the Senate bill says "and other public uses."

Mr. CRAIG. And then goes on and limits him.

Mr. MONDELL. Why, certainly. The gentleman from Alabama would ask Congress to solemnly obligate the Government of the United States to a settler on the public domain and then he would give the President of the United States the power ruthlessly to drive him from his home. That is his purpose, and I am glad to know that it is the gentleman on that side of the Chamber that makes that suggestion.

Mr. CRAIG. The gentleman is very much mistaken; he knows we are opposing just that proposition.

Mr. MONDELL. The gentleman would give the President the right to take them off. Mr. Speaker, I move the previous question.

The SPEAKER. The gentleman from Wyoming moves the previous question on the adoption of the conference report.

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

On a division (demanded by Mr. FERRIS) there were—ayes 95, noes 54.

So the previous question was ordered.

Mr. FERRIS. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FERRIS. If we vote against this proposition, it only sends the bill to conference. Am I correct in that?

The SPEAKER. This is a motion to concur.

Mr. FERRIS. If we vote down this motion, then it would be in order to move to disagree and send the bill to conference?

The SPEAKER. If the motion is voted down.

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

On a division (demanded by Mr. ROBINSON) there were—ayes 101, noes 71.

Mr. ROBINSON. Tellers, Mr. Speaker. I withdraw the demand.

The SPEAKER. The ayes have it, and the motion to concur is agreed to.

On motion of Mr. MONDELL, a motion to reconsider the vote by which the conference report was adopted was laid on the table.

RECLAMATION BILL.

Mr. DALZELL. Mr. Speaker, I submit the following privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Pennsylvania submits a report (No. 1694) from the Committee on Rules, which the Clerk will report.

The Clerk read as follows:

House resolution 827.

Resolved, That immediately on the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 18398, a bill to aid in the reclamation of arid and semiarid lands of the United States; two hours shall be allowed for general debate, which shall be confined to the subject-matter of the bill, one-half of the time shall be controlled by the chairman of the Committee on Ways and Means and one-half by the senior minority member thereof; two hours shall be allowed for amendment under the five-minute rule, at the end of which time, unless sooner concluded, the committee shall rise and report the bill to the House with amendments, if any; and thereupon the previous question shall be considered as ordered on the bill and amendments, if any, to final passage.

Mr. DALZELL. Mr. Speaker, this rule provides for the consideration of what is known as the reclamation bill, the prominent features of which are the issue of $20,000,000 of certificates to aid the reclamation fund, the expenditure of the money real-

ized by those certificates on the continuation of work already in progress, and the repeal of section 9 of the original irrigation bill.

Mr. HUGHES of New Jersey. Will the gentleman yield?

Mr. DALZELL. I will.

Mr. HUGHES of New Jersey. If this rule is adopted, it will carry the consideration of the bill over until to-morrow?

Mr. DALZELL. It will.

Mr. HUGHES of New Jersey. To-morrow is calendar Wednesday.

Mr. DALZELL. This would not interfere with calendar Wednesday. Calendar Wednesday business can only be interfered with by a two-thirds vote on an affirmative motion. It is not intended to interfere with calendar Wednesday. The intent is to finish this bill before we leave here to-night.

Does the gentleman from Alabama [Mr. UNDERWOOD] desire any time?

Mr. UNDERWOOD. Just five minutes.

Mr. DALZELL. I will yield five minutes to the gentleman.

Mr. UNDERWOOD. I have no objection to this rule, although I am opposed to the proposition that brings out the rule. But I recognize the fact that a large number of the Members of this House desire this piece of legislation to be considered, and under those circumstances I think they are entitled to opportunity to consider the legislation. But it proposes to appropriate $20,000,000, and it is a new venture, going into new fields, and I think under those circumstances it ought to be carefully considered and that we ought to have a quorum of the House present when it is considered. For that reason I intend to demand a division, and if a quorum is not going to be present I intend to make a point of order that a quorum is not present; but it is not that I am opposed to the rule.

Mr. DALZELL. Mr. Speaker, I demand the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

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

Mr. UNDERWOOD. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 143, noes 25.

Mr. UNDERWOOD. I make the point of order that there is no quorum present.

The SPEAKER. The Chair is inclined to think there is a quorum present. The Chair will count. [After counting.] Two hundred and eight Members are present, a quorum. The ayes have it, and the resolution is agreed to.

Under the rule the House is in Committee of the Whole House on the state of the Union, and the gentleman from Massachusetts [Mr. MCCALL] will take the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for consideration of the bill H. R. 18398, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 18398) to aid the reclamation of arid and semiarid lands of the United States.

Mr. PAYNE. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Chairman, I want to say to the Members of the House that if you will stay by us we will pass this bill to-night, and if we do not pass it to-night I think it will be impossible for the House to adjourn this week.

Mr. MANN. What is more important, does the gentleman think it will be possible to adjourn this week if we do stay by him?

Mr. PAYNE. I think it will be possible; yes.

Mr. MANN. Then we will stick.

Mr. PAYNE. Mr. Chairman, this bill was referred to the Committee on Ways and Means early in the session, and we have had a number of prolonged hearings on the subject. We have heard everybody that desired to be heard, and heard them as long as they desired to talk, and some of them improved their opportunities in that respect.

The bill which is reported is the bill introduced by Mr. MONDELL, except that we have stricken out all after the enacting clause and substituted language which is proposed by the Committee on Ways and Means, and also have taken another bill into consideration in the formation of our new bill. The bill provides for the issue of bonds to aid the irrigation project. The President and the reclamation authorities all recommended an issue of $30,000,000 of bonds.

I am disposed to say I told you so. However vigorously we prophesied that this thing would come about in all reason when we entered upon this irrigation project there are various causes which have brought about the present condition of affairs. In the first place, it was provided in the original act, in section 9, in substance, that the money expended for irrigation should be expended on feasible projects in a State where lands were sold from which this fund came, but in proportion to the funds realized from the sale of lands in those States for the lands. And while it was not a hard-and-fast rule for the first ten years, it was provided at the end of ten years they should make this apportionment as near as possible among the States. The ten-year period will expire in 1912, and the authorities have been endeavoring to apportion this fund among the States. In doing so they have been led to undertake some irrigation projects which never ought to have been undertaken and which are not feasible. The fact was that in some of the States where there were public lands being sold there was not sufficient water in sight to irrigate the lands. In one case they attempted to irrigate it by tapping what was supposed to be an underground stream. When they got down to the stream they found there was not sufficient water there to carry out the project, and some money was wasted in an endeavor to get water and irrigate those lands. Again, in another State where lands had been sold they prospected for water, and they were unable to find it in sufficient quantities to irrigate the lands. They could find no feasible project in those States for irrigation, but money has been expended by way of experiment and in trying to find water.

After they had begun the work the enterprising American citizen rushed to pick up these lands, counting on the project being finished much more quickly and in a much shorter time than was possible to carry out the plans of the Government. Sometimes an enthusiastic employee of the Government sought to put a limit upon the time the Government would have the water with which to irrigate these lands, and many hundreds and thousands of people located upon lands where the project was hardly commenced, where nothing more was done than setting the stakes of the engineers upon the land, and the people took out their entries, trying to live there during the five years until they could get title, and then trying to subsist for a subsequent period until the Government had so far completed the irrigation project that the water could be brought to the land so that they could have something upon which to live. Some of these people have lived along by working for the Government upon these projects, and the money which they received has enabled them to support their families. Others have sought a vacation, such as was proposed by the bill passed through the leadership of Mr. REEDER, of Kansas, to-day, and they have taken vacations sometimes that lasted a whole year. They counted a half a day for the year that was passed and half a day for the year in the future, in order to hold their residence. Of course they sought to find a way to cheat Uncle Sam, but these things have passed away, and they are now required to reside upon the premises. Being required to reside upon the premises has brought about great hardships to many of these people.

Some of them from time to time have suffered for the necessaries of life from day to day, and it is this condition of affairs which the President discovered on one of his trips in the West that induced him or convinced him that something should be done by the Government of the United States to help out these people who had anticipated what Uncle Sam wants to do in regard to irrigation and had settled early upon these various projects on the land to be irrigated and had got themselves into this difficulty. It has been contended by some Members of Congress that appeared before the committee that some officer higher up in the Reclamation Service had held out these inducements to these people, but the exact truth possibly was that some people without authority spoke and had spoken enthusiastically to these American citizens. The enterprising American citizen goes ahead of American civilization and seeks the land of the public domain, as they have for years and years, where sturdy pioneers seek an opportunity to better themselves, and, glad to grasp at any opportunity, received at more than the face value any representation that was made to him by anyone in the employ of the United States. However that may be, they are there, and the question came about how to relieve them.

We have spent $50,000,000 from this fund building dams and canals and carrying the water to the land to be irrigated, and still there is hardly a project that can be said to be complete. There are many projects where water can not come for several years, perhaps five, on which a number of people have already

located their claims and are trying to make a living. There seems to be a strong appeal to the people of the United States in behalf of these, our citizens, who have gone there to build up their homes and build up the West.

The first request was for $30,000,000, to be raised by the issue of bonds, in order to speedily complete these various projects and to give water to the settlers.

Mr. STEPHENS of Texas. I see a provision in here that no portion of this appropriation is to be expended on any new project. It seems that this money is all to be spent on projects already in existence.

Mr. PAYNE. I hope the gentleman will not attempt to divert me from my speech. I would be glad if this debate did not last as long as the rule provided for, that we might close up this bill as soon as possible and provide for some other business.

Mr. HITCHCOCK. Will the gentleman state how many people have located on these projects upon which some $50,000,000 has been expended?

Mr. PAYNE. That is not in my mind. I do not think I have ever figured it up, although we have had statistics, and they appear in the hearings—a number of people on various projects. I do not think I have ever figured that up. There are a large number of them, many thousands of people.

Mr. STEPHENS of Texas. Why is it that the army officers are to have control of this irrigation fund?

Mr. PAYNE. I wish the gentleman would wait——

Mr. STEPHENS of Texas. I think that is a very important question.

Mr. PAYNE. Well, there are three or four hours to discuss that. Will not the gentleman let me finish my speech? He will not help any, or accelerate any, or save any time by asking these questions in advance.

Now, Mr. Chairman, I will not deny that I was opposed to this proposition when it first came up. I thought they could get along with the law as it was. I thought we could go on and complete the work and give these people employment and thus sustain life, and they might live until they got the water, but it would entail upon some of them added years of suffering. The credit of the United States is good, and then when I came to investigate this irrigation law and the manner in which it had been enforced, I thought we might also throw some safeguards around the enforcement of the law and possibly amend the law so as to avoid the mistakes in the future that had been made in the past, and we figured how much was necessary properly to accelerate the completion of these various projects. The committee finally agreed upon the amount of $20,000,000. Some were for $10,000,000, some were for $15,000,000, but we compromised on the amount of $20,000,000.

I want to say to the gentleman that this bill, like most bills that come before the House or that pass Congress, is in a measure a compromise bill. Some gentlemen seem to think that they must have perfection according to their standard before they can vote for a bill, and if a bill is not perfect according to their standard, although it may be perfect according to the standard of a majority of the House, they will vote against it. Of course that is their privilege; but my experience has been that the very best legislation that comes out of Congress comes as a matter of compromise, where men get together and settle their differences in the form of a bill.

Now, we have provided for the issue of these bonds. The provisions are copied from the provisions for the Panama bonds in the tariff bill which was passed on the 5th of August last, and so the provisions represent the highest wisdom of Congress for the last thirty or forty years in reaching that perfect state that is attained in that law passed on the 5th of August last. [Applause on the Republican side.]

The bonds are very well guarded. It is provided that they be paid, principal and interest, in gold coin, and they are to be issued from time to time as the needs of these reclamation projects become manifest, and they are to be paid commencing after a period of five years, and at the end of five years half of the money received into the reclamation fund is set aside for the payment of those bonds. In the last three years the average money paid into the reclamation fund has been something over $7,000,000, and very little has been received up to three or four months ago for the water turned into the ditches and furnished to the settlers—I think something like about $1,000,000 a year; but that has increased.

I think for the next five years there will be at least $40,000,000 turned into this fund from the sale of lands and from the sale of water rights under this bill. We provide that half of it shall be set aside until the bonds and interest on the bonds are paid.

Now, we have voted in some restrictions, and if my friend from Texas has not gone away I will speak of some things he asked me about. I hope he has not gone, because he will ask me when he comes in and I will have to go all over it again. He asked about the projects that are far advanced that we have tried to appropriate for in this bill.

We do that because we want the bonds, when they go into circulation funds, to be the best, and that these projects which can be completed and furnish water to the settlements which are begun shall be completed first, in order that they may enable them to begin to pay for the water rights as well as pay for the land, thus increasing the fund from which the reclamation is to go on. We have provided, before any of this borrowed money shall be used, that the project shall be inspected by a board of army engineers appointed by the President, and be approved by this board and the President of the United States. We wanted to get the best return for the money, and we thought it best to have army engineers. That was suggested not by myself, but they were insistent upon it—to have army engineers review the work, the work itself having been laid out by civilians. It would be fair to all and fair to the Treasury of the United States to have this investigation made and these projects approved before the money raised from the sale of the bonds should be used.

The money raised from the sale of the lands we have not interfered with. We have left that as it was before, except that we repeal section 9 of the reclamation act of 1902.

As I said before, this section 9 apportioned the money among the States according to the money received from the sale of public lands in those States. We did not regard that as a wise or good provision. It has led to much confusion in the carrying out of this project. It has led to the waste of a good deal of money in carrying out these projects. It has led to the attempt to make projects which are not feasible or practicable, which will not result in the reclamation of arid lands in several States. We wanted to take out that hamper that was put on the reclamation officials and allow them to select with a free hand the projects on which we spend the money at first.

After the feasible projects are taken care of, the consideration of less feasible projects will come before the reclamation side of the committee, and under the law they will follow it up until all the feasible projects will be exhausted, and then there is no reason why Uncle Sam should spend any money on projects that are not feasible.

Now, we can spend $20,000,000 in the next three years in accelerating and finishing the work on various projects where there are many settlers, and others who will become settlers, by enjoying the benefits of the irrigation.

I will not attempt to paint the benefit of that. I will not attempt to paint the picture. I will not attempt to paint the gardens which were pictured to us where happy farmers, with 40 acres or even 10 acres of irrigated land, were living better than the farmers in my own State who owned 200 or 300 acres and making a better success in living. These pictures were undoubtedly true, if they were somewhat exaggerated in the exuberance of the imagination of gentlemen of the West who have pictured them, but they are undoubtedly in the main true. And this irrigation project has done this thing. It has set private enterprises to work. Irrigation companies have been established in many parts of the United States that would never have been established except for the example that was set them by the Government. Before the Government went into that work the farmer was apt to quarrel with the men or corporations who had built dams and built the canals, and all that sort of thing, about the price, and be skeptical about the amount of money expended which the corporations there were trying to get back; but since the United States has been there and our engineers have put in these expensive works, and they have compared the cost to the Government of the United States for building the works with the cost and expense to these private corporations in building their works, they have been more glad to accept lands and waters from these private corporations, and so it has boomed them, and I am told that the enterprises of the private corporations have been multiplied fivefold since the Government went into this reclamation business.

Now, I have said pretty much the whole of this thing as it appears in this bill. We did seek to tie it up but not to hamper it, but to tie it up in the interest of the settler, in the interest of the people of the United States and of the Treasury of the United States, so that this fund may be properly guarded and properly used for the greatest good to the greatest number. And we think we have got a pretty good bill here, and I should like to see it pass through this House without the crossing of

a "t" or the dotting of an "i," because I doubt very much whether gentlemen who have not considered the subject are apt here in the Committee of the Whole to improve this bill which has been so carefully gone over by the committee after these extensive hearings.

Mr. Chairman, I reserve the balance of my time. [Applause.]

Mr. CLARK of Missouri. Mr. Chairman, I want to make a brief statement; I do not want to make a speech. There is no bill that has been brought into this House that has been more thoroughly and conscientiously considered than this one has. We worked at it a long time. For various reasons it seemed necessary to pass it. It is a thoroughly guarded bill. I am for it, and I am going to vote for it. [Applause.] I yield ten minutes to the gentleman from Colorado [Mr. TAYLOR].

Mr. TAYLOR of Colorado. Mr. Chairman, in the limited time allowed to this debate I will not enter upon a general discussion of the operations of the reclamation act nor attempt to give but a few of the many good reasons for the passage of this bill. In my statement before the Ways and Means Committee on March 11, 1910 (pp. 107 to 127 of printed hearings on reclamation bonds), I gave a detailed description of the two reclamation projects in the State of Colorado, and I will not now take the time to repeat that description.

The gentleman from New York [Mr. PAYNE] has very clearly stated several of the reasons why we of the West need this legislation, and I will only recapitulate very briefly the situation from personal knowledge of our conditions. There seems to be a disposition to find fault with somebody or to complain or criticise us for urging this measure.

As a matter of fact, neither the reclamation law nor the Reclamation Service is to blame for this situation. Neither are the civil engineers, in my judgment, subject to criticism. I do not think there is any ground for criticism anywhere in connection with this matter. As has been repeatedly stated, section 9 of the reclamation law contemplated that the major portion of the money derived from the sale of public lands in each one of the 15 Western States and Territories should be expended by the Government in irrigation enterprises in each of those States. This law had been exhaustively discussed and the West had been urgently appealing for its enactment for several years before it was adopted. Immediately after its passage, June 17, 1902, there was a very insistent and just demand from all of those States to have irrigation works commenced at once therein by the Reclamation Service. The service had no right to show favoritism, and it started work in nearly all of those States. Some 34 different projects were started. With one possible exception, which has not yet been fully determined, every one of those projects appears to have been practical. Those projects were all started within from one to four years after the law went into effect, and the Reclamation Service, I think, substantially, correctly estimated the cost of all of them, based upon the price of materials and labor at that time, and also considering the amount of the annual receipts from the sale of public land coming into that fund.

And if that condition had continued to exist there is no question in my mind but what these works would have been completed out of that fund, possibly not as soon as anticipated, but without requiring additional relief. But as has been conclusively shown here, soon after the projects were started the cost of everything commenced going up, and has been going up ever since. Labor became scarce and consequently high, so that within the past five years the cost of construction of these projects has been increased from 60 to 75 per cent. This certainly has been through no fault of anyone connected with this reclamation work. These matters were set out at great length and detail at the hearings before the Ways and Means Committee, showing the difference between the cost of rock work, cement, lumber, mules, equipment, and labor. In fact, it was shown that this same condition applies to all other public works. The Panama Canal, originally estimated at $140,000,000, is going to cost nearer $600,000,000, and many other similar examples were given. Many contractors on these government projects became bankrupt. The noted firm of Orman & Crook, in my State, lost nearly a half million dollars on the Gunnison Tunnel. However, the work progressed diligently and economically, until at the present time something over $50,000,000 have been received in that fund and expended upon these projects.

But we have not only been disappointed by the vast increase in the cost of construction and the consequent imperative need of a much larger sum of money to complete these works, but the policy of the Government in withdrawing from all forms of entry some 200,000,000 acres of the public domain and placing it in forest reserves, and withdrawing something like 40,000,000 acres additional from all forms of entry as coal land; besides, the numerous withdrawals for power sites and oil land, and the stricter policy of the Government in relation to the disposal of the public domain that is not withdrawn, have all very greatly and seriously prevented from coming into that reclamation fund the amount of money we were naturally anticipating from the disposition of the public domain. So that the necessary requirements of the work on account of increased cost of construction are met by an unforeseen reduction in anticipated receipts, and the result is that many of those projects have been forced to practically shut down and await further receipts from this fund or governmental aid.

None of these projects are completed, although some of them are nearing completion. In their present condition they are necessarily going to deteriorate, and unless work is resumed at once there will be a very great loss to both the Government and the settlers under these projects.

It has been very clearly shown that, purely as a business proposition, it is of the utmost importance that the Government should, as soon as possible, resume and continue these projects to completion, to save and prevent loss of both water rights and property, but more especially to put the projects upon a paying basis. The Government is not receiving a dollar and can not do so until the projects are substantially completed and made available for irrigation purposes, and so that the settlers can use the water and commence making the money with which to repay the Government for the investment.

There are something like 3,000,000 acres of good irrigable land under these projects lying absolutely idle all this time, and the water available to irrigate that land is running to waste; and the hundreds of thousands of people who are exceedingly anxious to make their homes upon the land and build up the country are unable to do so by reason of the existing conditions. The land under the two projects in Colorado is as fine fruit land as there is on this globe. Most of it will be worth $1,000 an acre as soon as it is in bearing orchards. The present situation is a continuing and very great waste, so that purely as a business proposition there is every reason why the credit of the Government should be advanced to complete these works and put them on a paying basis at the earliest possible moment. It is estimated that besides the $50,000,000 already spent it will require approximately $75,000,000 more to complete these projects. At the present rate of income, which is not likely to be increased, from the sale of public land of $7,000,000 a year, it would take at least twelve years to complete these projects. As a matter of fact, the loss to the Government and the loss to the people under these projects, and the West in general, would be, I believe, ten times the amount we are asking by this bill to have the Government loan us.

It is estimated that with the $30,000,000 originally provided for in this bill, including the natural receipts to that fund, all of those projects could be completed within from two to three years. With the amount reduced to $20,000,000, as provided for in this bill, I should say the projects ought to be substantially completed within from four to five years. That would mean not only the saving of priority water rights and preserving our international water rights with Canada and Mexico and keeping faith with those countries, but there is no possible investment that this Government could make with an equal amount of money that would pay such marvelous returns as will be received from the completion of these projects.

SETTLERS' RIGHTS.

But, Mr. Chairman, there is an equitable and humane side to this question that appeals to me much stronger than the financial side of it. When these reclamation projects were originally surveyed by the government engineers and located, the press of the country and the public in general knew about it and were correspondingly delighted and enthusiastic. The announcement of a reclamation project being approved by the Government was heralded far and wide, and the pioneer settlers, the people who were looking for homes, the kind of men and women who have built up this country, immediately rushed to these projects and settled upon the land. The lands were opened to settlement; people were encouraged to take it; their filings were received, and they were given to understand that they could expect work, if they desired it, upon these projects, and that the canals would be constructed and water furnished within two or three years, when they would be allowed to commence paying the Government whatever the charges were in ten annual equal payments. The people went upon those lands in the utmost good faith. I have no patience with, and little respect for, anyone who charges those settlers with locating in bad faith. Some one has stated that they were taking a gamble. That is a cruel and utterly unjustifiable slander upon those thousands of

men who are honestly trying to obtain homes for their families. They are enterprising and hard-working men trying to better their conditions. In one sense we all took a gamble when we went to the West and staked everything we had in the world upon the upbuilding of the country; but it comes with ill grace to say that because a man is relying upon Uncle Sam to keep faith with him he is thereby taking a gamble.

The settlers were told and believed that these projects would be speedily completed. They relied upon the Government, correctly estimating its capacity and ability to do the work. Hundreds of thousands of those settlers have, with the greatest hardship and with privations and disappointments which you can not realize, been living upon that barren land for from three to seven years waiting for the Government to carry out its part of the contract with them and furnish them the water. Under the homestead law they are compelled to actually live, with their families, upon that barren land, and most of them have to haul water often many miles for even household use. The lives of the good American citizens under these 32 pending reclamation projects during the past five years have been one of the saddest chapters in the history of this country. It is an appeal to our humanity. The loss and the suffering and the privations of the men, women, and children under those projects during these years and at the present time are enough to make the heart bleed of every man who has a drop of red blood in his veins. I appeal to you, gentlemen, on behalf of those settlers. I ask you to adopt this measure and at once resume and complete those works as a matter of fair dealing and common justice to those people and as a matter of humanity. The condition of those settlers is through no fault whatever of their own. There can not be one word of blame attached to them. Their hardships are brought about by conditions for which they are in no way responsible; and the Government is morally and, it seems to me, legally and justly bound to as speedily as possible relieve their condition.

I have never yet heard one objection to this measure that seemed to me at all tenable. We are not asking you to make us a present of this money or to give us one dollar. We ask you to advance to us this money as a loan and hold as security not only all the 3,000,000 acres under these projects, but also all of the 75,000,000 acres of the desirable public domain of the West, which, as fast as sold, will reimburse that sum. Every dollar of this money will be paid back. There is no taxpayer in the United States, aside from the people under these projects, who will ever be called upon to pay one dollar of this money. The passage of this bill will make hundreds of thousands of happy and prosperous people and add many billions of dollars' worth of wealth to this country. There is no other measure before this Congress that is capable of producing so much good without the possibility of any loss to the Government or hardship to anyone.

I hope the House will pass this bill unanimously and that we, the Representatives of those 16 States and Territories, may, when we go back home, say to our constituents that the East and the North and the South extended to them this friendly greeting and token of brotherhood. [Applause.]

Mr. CLARK of Missouri. I yield ten minutes to the gentleman from Colorado [Mr. MARTIN].

Mr. MARTIN of Colorado. Mr. Chairman and gentlemen, conservation appears to occupy a great deal of the time and attention of Congress. It appears to me that a western Member can not safely step outside of this Chamber for a moment without coming back and finding you trying to do something new to us in the way of conservation; and it has been generally one brand of conservation, that which we denominate as "cold storage." There are two kinds of conservation. One is the withdrawal variety, and the other is the development variety. By a very strange coincidence two bills representing these diverse varieties are following each other on the calendar of the House this afternoon. We have just passed the presidential withdrawal bill. The principal consolation, in my mind, with reference to that measure, is that there is nothing further left to withdraw in the State of Colorado. If there is, it is an oversight, and an oversight of so minute a character that the various departments of the Government have been unable to locate it. That kind of conservation may subserve some good future purpose, but up to this good hour the withdrawal of the public domain and its resources from settlement, use, and development has never grown a blade of grass or a tree; never opened up a mine, dug a ditch; never made a farm or a home, or done anything that has added one penny to the wealth, development, and progress of the West; but under the other kind, Mr. Chairman and gentlemen, conservation of development, that rich empire was built up solely.

Government reclamation will do much for the West; but it has done nothing up to this time. Conservation may do something for the West, but thus far all that we have in the West and all that we are we owe to the fact that this Government has heretofore given the people of the West access to the lands and its resources, allowed them to go upon it, take its resources, and develop them. Just to the extent the present policy of conservation, as represented in the bill passed this afternoon and similar legislation—legislation that prevents access to the lands and their development—prevails, just to that extent will you retard the growth, development, and prosperity of that great section of the country.

But the pending bill is a true conservation measure, because it purposes to go out into the arid country and with the $20,000,000 in certificates which it carries build great reclamation projects, which are practically beyond the resources of private capital. The Government should do this work. It is not a local question; it is not a selfish question. It would surprise a great many people to be told that one-third of the United States to-day is arid or semiarid; that the States of Colorado, Utah, Wyoming, Idaho, Montana, Nevada, and the Territories of Arizona and New Mexico are all but absolutely dependent upon irrigation for their civilization and prosperity, and that the border States of Texas, Oklahoma, and Nebraska, and the Dakotas, California, Oregon, and Washington are in a measure affected by this condition, raising this question, in my judgment, to the magnitude of a national issue. There was a time perhaps in the history of this country when, during the era of low prices, it would have been a very doubtful appeal to say to the people of the East that if you will help us to put water on this land we will produce foodstuffs in the West and bring it into competition with the farm products of the East, but that argument no longer obtains, when the prices of food and the necessities of life have soared to such a height as to be a cause of national alarm, and when we consider the fact that the farming area of the United States now can only be added to by reclaiming these arid lands.

The time was when irrigation was only a local issue. In its first small beginning, before the coming of the railroads, before the opening up and development of the West, before its vast possibilities were demonstrated, irrigation concerned only the isolated settler who applied water to the land in a primitive way for local uses. The great food marts of the world did not know of his existence, and, so far as supplying them was concerned, and becoming a vital factor of supply, he did not know of theirs. But within a few years this has all been changed and irrigation has become not only a question of national importance, but, in my judgment, the greatest and the most beneficial of national policies.

I am advised that there are perhaps some 33 of these projects that will be affected by the bill—that is, projects upon which work has been undertaken and which are in a suspended or unfinished state; that it will take $70,000,000 or $75,000,000 to complete all the projects and put them in operation; and that the reclamation fund is only being increased at the rate of perhaps $7,000,000 or $8,000,000 per year, so that it will take something like ten years or more to complete the projects which have been begun or which are now suspended or unfinished through the medium of the reclamation fund alone. I do not know the status of the projects outside of the State of Colorado, and I am not conversant with the conditions surrounding them, but I apprehend that the Representatives from all these other States and Territories will truthfully state the conditions as they know them from their own personal knowledge, and as I know the conditions surrounding the two Colorado projects—the Gunnison Tunnel and Grand Valley projects—I want to assure the committee that it would be very difficult to exaggerate the case in favor of them. It would be difficult to exaggerate the great value of these projects, the absolute certainty of their success, and the certainty of the return to the Government, through the reclamation fund, of the money that it will cost to complete them and put them in operation. I noticed a statement made by Mr. Garfield, in a little pamphlet, of his opinion of the Grand Valley country, as a result of his personal visit and examination of that country. Mr. Garfield said, when he was Secretary of the Interior:

> At Grand Junction I saw a wonderful country. That part of Colorado is as near perfect as nature and the hand of man can make it.

Each State has its own just and natural local pride, and so has each section of each State, and perhaps there are people in my district on the eastern slope who might not approve of what I say, but I think that the western part of Colorado, in which the Gunnison and Grand Valley projects are located, is the

richest and most productive section in the United States, and that the time will come when it will produce a civilization not surpassed by any other place on the face of the earth.

I see my friend from Wyoming [Mr. MONDELL] is smiling. I know he has some rich valleys in his own State. But I say these valleys are not only surpassingly rich, but they are now the scene of successful farming communities, which will only be enlarged upon by whatever portion of the funds provided by this bill may be expended on the projects.

This proposition has been called a new venture. It has been objected that we are embarking on a new policy. I do not consider that to be the case. I know that in my State it is a well and successfully established system.

What the Government proposes to do there is merely to enlarge upon established and successful existing conditions. It is a fact that last year the counties of Delta, Montrose, and Mesa, in which these projects are located, produced more fruits than the States of Oregon, Washington, and Idaho. This was done through the medium of existing irrigation ditches, as absolutely nothing can be produced in that country without irrigation. The completion of these two projects would only be enlarging this condition. It would only be bringing in areas that are just on the border of the established systems of irrigation in those valleys, the land that would be brought into cultivation by these projects being not only as good as the lands in cultivation, but, in my judgment, and, I believe, in the judgment of every man who has been over the ground, better and richer than those adjoining the streams and now in cultivation.

It is true that particular communities will be benefited by the completion of these projects, but the Government can not expend money in any way without benefiting some community. Whether it builds a public building or dredges a river or improves a harbor, it is building up and directly benefiting a local community, but it is a substantial benefit to the country as a whole.

If a river is dredged in Maine, it costs you and it costs me as much as the man who owns the land upon its banks and who is directly benefited. If a harbor is improved on the coast of Florida, it costs you and it costs me as much as the man whose cotton and tobacco grow within sight of its wharves. For such purposes hundreds of millions of dollars have been expended by the National Government, and hundreds of millions more will be, but he would be a little American coming from the West who would take the position that the improvement of our rivers and harbors should not be made out of the common fund because of the special local benefits conferred and because we of the West might never directly know whether Maine had a navigable river or Florida an ocean harbor. They are the veins and ducts of the national body, as essential to its normal growth and health as the corresponding mechanism in the physical body, and we, as big Americans, as all Americans, want them placed and kept in the proper condition to perform their natural functions. But we also want the other functions of the national body performed, to the end that the ways of transportation shall have something to transport. And I think that we may well say to the East, We will help you dredge your rivers and deepen your waterways and improve your harbors, and you will help us reclaim our deserts, and with their enormous products we will give you a traffic for them.

It has been objected, and probably will be objected again, that when the Government of the United States launched out on the reclamation policy there was an understanding that these projects and this work would be kept within the means provided by Congress in the reclamation fund. I have been told that there was an understanding that this condition existing now could not be brought about, but if there was such an understanding there was no method of making it effective, such as is provided in this bill, which provides that new projects shall not be started hereafter, or even these existing projects continued to completion, without the approval of the President.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLARK of Missouri. I yield five minutes more to the gentleman from Colorado.

Mr. MARTIN of Colorado. I repeat I do not believe any gentleman should base his opposition to this bill upon the proposition that when the Government first launched out on this policy of reclamation there was an understanding that the Government would never be called upon to aid these projects; because if there was such an understanding it was never made effective, and it could only be made effective by writing that understanding into the law. I can not say to you, and you can not say to me, "Now, I am in favor of your proposition, if you will just assure me that you will never make any further calls upon me, that the Government will never be required to go any further, and that this system will be permanently self-operative and self-sufficient." Such a safeguard must be written into the law, and I maintain that it is written into this bill, because even those projects that have been suspended, and to which projects only this fund applies, can not be resumed unless and until a board of army engineer officers shall examine and approve them, and they shall further meet the approval of the President of the United States.

Considerable stress has been laid upon the obligation of the Government to the settlers on the lands that have been withdrawn in the expectation that these projects would be completed, and the general expectation to the effect that they would be completed within a short time. Now, I am willing to give due weight to that claim, but I would not ask that controlling weight be given it. I would rather lay controlling stress on the proposition that the Government, in undertaking a highly desirable and beneficial work, had, inadvertently perhaps, it being a new matter, enlarged its work beyond the proper scope and beyond the means instantly available for carrying on the work upon the scope projected, and that having done this, and having gotten its entire system of projects in this initiated and suspended condition without sufficient funds in sight to complete them within the next ten or twelve years, it ought now, for the purpose of these initiated and suspended projects, enlarge its means to the present scope of the work and complete them and put them upon a paying and earning basis, just as the Government has been compelled and will be compelled time and again in other cases, and just as business men are compelled to do. We started out to build the Panama Canal for something like $140,000,000, and it is going to cost $500,000,000 or $600,000,000, but there is no division of sentiment that it must be completed. We are going ahead with it, and we are all agreed that if it costs a billion dollars we are going to complete it.

Parts of the work on these suspended projects would materially deteriorate in the course of a few years, whereas if they were carried on to completion according to the plans, nothing that has been done would be lost, and the result would be that the period of time would be short when these projects were all, or nearly all, completed. I would not frown down the system for an occasional failure. There may be an occasional failure. I read a statement the other day by Mr. Louis Hill to the effect that the Government's reclamation plants were nothing but a lot of junk. I would like to take that gentelman through the Gunnison Tunnel, because he will not find on his father's great system of railroads as fine a piece of engineering work; and that work will not only be a grand success, but a monument to this Government for centuries to come—a monument to its foresight and wisdom in planning and carrying out to success such a great project as that.

In conclusion, there is no doubt but what if you take favorable action and pass this bill a thrill of pride and satisfaction will run through the West; and there is no question that this Government is incapable of doing any one act that will be as gratefully received and as highly appreciated by the entire West, regardless of locality, regardless of politics, as the passage of this act, which will enable the speedy completion and putting into operation of these projects.

Mr. PAYNE. I yield to the gentleman from Montana [Mr. PRAY].

Mr. PRAY. Mr. Chairman, I am deeply interested in the measure now under consideration, and at the beginning of my remarks I should like to bring to the attention of the committee some very recent and important information showing the present status of the irrigation projects. Here is a copy of a letter dated Pathfinder, Wyo., June 11, 1910, from the chief engineer of the Reclamation Service to the Secretary of the Interior. In his letter Mr. Davis states as follows:

> Since I left Washington, in March, I have inspected a majority of the reclamation projects now under construction, and have discussed details of all with the engineers in charge.
>
> The situation on most of these projects emphasizes the wisdom and necessity of your recommendation to Congress that additional funds be provided through the issue of bonds based upon the reclamation fund.
>
> In most cases the lack of funds prevents the prosecution of work in the most economical manner, or in the most desirable order.
>
> In addition to this situation the reasons still hold good which I presented to the Committee on Ways and Means in February, namely, that there are many settlers on dry land waiting for water, and the water rights on several of the projects are in jeopardy, owing to delay in construction.
>
> With the exception of those on the small steam-pumping projects, which have peculiar difficulties of their own, the irrigators have paid the charge fixed by the Secretary as required by law in all the cases which have come under my observation, the recent collections being quite large. There need be no fear on the part of Congress that the investments will not be duly returned.
>
> The proposed bond issue will greatly expedite the return of moneys already invested in storage and other large works, and I earnestly hope the bonds will be authorized by Congress.

Mr. Chairman, there is abundant authority upon which to base an argument in favor of the issuance of bonds or cer-

tificates to complete irrigation projects. After an extended trip through the Western States, President Taft very strongly recommended such a measure in his message to Congress January 14, 1910. The Senate Committee on Irrigation and Reclamation of Arid Lands, under authority of a resolution of the Senate, inspected the irrigation projects of the West and urged that additional funds be provided for their early completion, and the Secretary of the Interior and engineers of the Reclamation Service have joined in the request. And, furthermore, the Senators and Representatives in Congress from 12 Western States have united in their demand for an advance of money to supplement the current receipts of the reclamation fund by an issue of bonds, so that these projects may be completed with all possible expedition. In view of the distinguished company in which I find myself in advocating the cause I have briefly outlined, I trust that I shall be pardoned for trespassing upon the time of the House long enough to submit a few remarks on this important subject.

I am heartily in favor of the issuance of certificates of indebtedness or bonds to increase the reclamation fund for the purpose of expediting the completion of government reclamation projects in the West, if by so doing we can complete the projects and extensions thereof five years earlier than could otherwise be done with the annual receipts from the sales of public lands, and thereby hasten the return to the reclamation fund of the moneys expended on the 30 different projects throughout the country now in various stages of completion. That such a result will follow the authorization of the proposed advances to the reclamation fund can, I believe, be clearly demonstrated to anyone who will take the time to investigate the facts. In my judgment, a feasible plan has been provided. The Secretary of the Treasury, when requested by the Secretary of the Interior, is authorized to transfer from time to time to the reclamation fund, under the act of June 17, 1902, sums of money not exceeding in the aggregate $20,000,000 to complete irrigation projects already begun and such extensions thereof as the Secretary of the Interior may deem proper and necessary to the successful operation and maintenance of the projects or to protect the water rights claimed by the United States. The money authorized under the bill is to be transferred to the reclamation fund only as such money shall be actually needed to pay for work performed under existing law. In order to carry into effect the purposes before stated, and to furnish the Treasury with the money with which to make such advances to the reclamation fund, the Secretary of the Treasury is given the authority to issue certificates of indebtedness of the United States in denominations of $50 or multiples of that sum. At any time after three years from date of issue of these certificates are made redeemable at the option of the United States and are payable in five years.

The certificates are to draw interest at a rate not exceeding 3 per cent per annum and to be disposed of by the Secretary of the Treasury at not less than par, under such regulations as he may adopt. No commission shall be allowed and the certificates shall be exempt from taxation. Not to exceed one-tenth of 1 per cent of the amount of certificates issued is to be appropriated out of the Treasury to cover the expense of preparing, advertising, and issuing the certificates, but the expense thus incurred, together with interest paid on the certificates, shall be returned to the Treasury from the annual receipts of the reclamation fund. Beginning five years after the date of the first advance to the reclamation fund under this bill, 50 per cent of the annual receipts of this fund shall be paid into the Treasury, and such payments shall continue until the full amount advanced by the Treasury to the reclamation fund has been paid.

The bill in positive terms provides that all money raised on account of the issuance of such certificates and placed in the reclamation fund shall be devoted exclusively to the completion of work on reclamation projects heretofore begun and such extensions thereof as the Secretary of the Interior may deem proper and necessary to the successful and profitable operation and maintenance of the projects or to protect water rights claimed by the United States. The bill further provides that hereafter no irrigation project contemplated by the reclamation act of June 17, 1902, shall be commenced until it has been recommended by the Secretary of the Interior and approved by direct order of the President.

Mr. Chairman, soon after the passage of the reclamation act in June, 1902, investigations were made by Director Walcott, of the Geological Survey, for feasible irrigation projects, and in March, 1903, a proper showing having been made as a result of these investigations, Secretary Hitchcock, finding that $10,000,000 had accumulated in the reclamation fund from sales of public lands, recommended the construction of six projects. The Sweetwater project in Wyoming was afterwards called the Pathfinder and later known as the North Platte project, in Nebraska and Wyoming. The estimated cost of the reservoir involved in the first plan was $400,000. The dam site was afterwards changed and the cost increased. May 3, 1904, an expenditure of $1,000,000 on Pathfinder reservoir was authorized, and up to the present time $1,200,000 have been expended. The computed cost of this entire project to October 31, 1909, is $5,280,000. On the Truckee-Carson project in Nevada the first estimate of cost was $1,500,000. Since then the plans have been changed to include much larger areas, and to date over $4,000,000 have been expended; the computed cost is $6,380,000. On the Gunnison project, Colorado, the first estimate of cost for tunnel and canal system was $3,000,000. The general plans have been modified from time to time. Total expenditures are about $3,900,000 up to December 31, 1909. The tunnel has cost $2,700,000, and is not yet completed. The computed cost of the project to October 31, 1909, was about $9,865,000.

The Salt River project, in Arizona, was a storage system, the water to be held by a large dam to cost on first estimate $2,800,000. Afterwards the size of the dam was enlarged and reservoir capacity doubled, $7,800,000 having been expended on the project, and the computed total cost to October 31, 1909, was $8,640,000. The Milk River project is in Montana. The first plans here provided for the reclamation of land in the Milk River Valley, by flood waters of Milk River and by increasing the supply of water in this stream from the St. Mary lakes and river. A canal 22 miles long was to be built to carry water to the north fork of Milk River. It was also planned to construct canals and reservoirs in Milk River Valley. The total estimate cost of this system at the beginning was $2,950,000. The computed total cost to October 31, 1909, was $6,450,000, and the Hondo project, in New Mexico, will cost when completed about $345,000. The first estimate of cost was $240,000.

I have cited the six early projects undertaken in 1903 to illustrate to what extent these projects have been enlarged since the first plans were made as greater possibilities were discovered by the engineers in charge of the work. Closer observation and study disclosed greater opportunities for extending the project to cover large areas, and since that time many other projects have been undertaken. The need of additional funds is apparent in going over the figures given, which show how great is the cost of dams, reservoirs, and tunnels.

With $7,000,000 annually available from sales of public land it will be seen that if that amount could be doubled or trebled these great undertakings within the next three or four years could be finished and the land under the projects offered to settlers. If the settlement and cultivation of these lands, which will aggregate in extent about 3,000,000 acres, can be brought about three or four years earlier than otherwise could be done under present possibilities, the moneys expended in the construction of the projects would as a result return to the reclamation fund just that much quicker.

Reports show that about $50,000,000 have been expended on irrigation projects, and that the total cost of all projects will be about $119,000, which would leave $69,000,000 to be raised for the completion of the work. It is estimated that the annual receipts from sales of lands will aggregate about $7,000,000 per annum; and if to that annual supply we add $20,000,000 under this bill, it is apparent that the projects can be completed in about five years, whereas without such addition to the current receipts it will require about ten years to do the same work. Since the bill passed the Senate and the proposition has been under discussion at this end of the Capitol the question has frequently been asked what conditions have arisen to make it necessary for Congress to provide this amount of money in addition to the annual receipts in order to finish the projects within a reasonable time. I believe the facts and figures submitted earlier in my remarks concerning the original and later estimates of cost on the first six projects undertaken by the Reclamation Service will furnish a fairly satisfactory reply. The projects undertaken since 1903 have passed through a very similar experience with regard to changed conditions.

An estimate on cost of plant, supplies, and labor in 1903 would not hold good in 1905 or in 1908, and it is maintained on competent authority that a very important element to be taken into account in this connection is the increase in the cost of labor. The increase of cost is not confined solely to government irrigation projects, but is found to exist in railroad construction, in projects under the Carey Act, in irrigation enterprises in Canada, and in the building of the Panama Canal. And while it may be urged by some that fewer projects under the reclamation act should have been commenced, in view of the

provisions of the law requiring the building of projects in each State where feasible, the incessant demands from those States for assistance in reclaiming arid lands, and the changed conditions specified, surely the officials of the Reclamation Service can not be held blamable for the course they have pursued, since no man could foresee the exigencies that might arise.

Secretary Garfield, in the last administration, recognized the necessity of additional funds when he authorized the issuance of certificates. That is the only way we could get the Milk River project, in northern Montana, fairly started. Five hundred thousand dollars were needed to go ahead with the Dodson dam and ditches, and that amount could not be raised, according to reclamation officials. So it was proposed to advance $250,000 in cash and the same amount in certificates to enable the settlers to do work on the ditches and thereby reduce the cost of the water charge per acre.

The amount allotted to the Milk River project to December 31, 1910, is about $200,000. The approved portion of the project, when completed, will cost $1,857,000, and the whole project $6,000,000, according to present estimates. To go on under this plan at this rate, with the present annual receipts, it would require about nine years to complete the approved portions and about thirty years to finish the whole irrigation system contemplated in the Milk River Valley. What is true with respect to this project will also hold good as to the Sun River project, in Montana, and also generally throughout the West. I am, of course, referring to projects in like stages of completion. Thus far about $1,000,000 in water charges have been returned to the fund from settlers on completed portions of projects. This is an increasing quantity, and in the course of four or five years would furnish a considerable sum in aid of the annual receipts; but the rate of increase would necessarily depend upon the rapidity with which the projects are finished and occupied by settlers. If the sum sought by this legislation is given, it is manifestly true that the returns will be vastly greater. I do not believe that anyone can seriously question the safety of these temporary investments in irrigation projects for the reclamation of the arid lands of the West. It is estimated—and the estimate is regarded as conservative—that the lands under these 30 projects throughout the West will have a value of $239,000,000 when irrigated, and the computed total cost is placed at $119,000,000. If the present rate of increase in population in the United States should continue—and nothing short of a cataclysm can prevent it—in the judgment of well-posted men the irrigated land will be worth much more than the present estimated value.

As to the question of repayment of the money invested in irrigation projects, we need only to say that there can be but one way of escape from this responsibility—by act of Congress—and that is not probable; it will scarcely be asked. If such a thing were attempted, the pressure against it would be greater from the West itself than could be that for release from the just water charges. There is vastly more land being irrigated by private enterprise—5 to 1—than by government construction, and landholders under these private enterprises have no way of escape from their obligations, and they would seriously object to being placed at a disadvantage in the matter of market value of their land, as compared with lands freed from water charges.

The Government furnishes water only on a definite contract with the landholder, whether he be homesteader or owner of titled land. These contracts are placed on record and are a lien on the land. The department includes no lands that are not in their very nature sufficiently valuable when watered to be well worth the water charge; consequently there can be no doubt about the repayment of the cost of the work. Conditions may arise, of course, through possible crop failure or other unforeseen contingencies, where the landholder may be unable to meet the assessment on the exact date it is due and may want an extension of time, but he will ultimately repay every dollar due the Government.

Something has been said about the publicity work of the Government. Experience has already demonstrated that this work, carried on along proper lines, is essential. Where projects are completed and water is being delivered, it is largely through such means that settlers are apprised of the opportunity of securing lands for homes; and these very people are paying back into the Treasury their annual portion of the cost of these projects. It is the business of the Government to put the water on the land, but it is also very desirable that the land be occupied by people who will cultivate it and pay the water charges. It is possible that in some instances too much encouragement may have been given prospective settlers, but I venture to say that this can not be charged to those in the department nor to those in direct control of the publicity work.

The very fact of promised government construction has given encouragement to those desiring homesteads in these localities. To my mind it can make but little difference, however, as to what induced the people to make entries; the fact remains that the lands were open to entry, and have been entered, and the people are in need of immediate relief. When the law is so amended that entry can be withheld until water can be supplied, as this bill provides, then this difficulty will cease. These things could not be foreseen when the act was passed. We can easily avoid further complications of this kind, but we must deal with the present situation as we find it. We appropriate annually millions of dollars for the Indians; we do the same thing for insular possessions. We will appropriate many millions this year for rivers and harbors. The West is asking the Government to lend its credit that $20,000,000 may be provided to relieve an unfortunate condition, every cent of which will be repaid by those receiving the benefit.

Private enterprises confine their efforts very largely to lands that can be easily and cheaply reclaimed because they yield greater profit to the promoter. On the other hand, the Government is not concerned about profit in construction, but is, as it should be, desirous of developing the largest possible area in all work undertaken. This means added acres, multiplied homes, and vastly increased production and wealth for our country, something that ought to be encouraged. Placing the government reclamation work upon a sound business basis at this time is the encouragement needed. If we should allow the service to limp along as it is doing now, we will cripple its efficiency for years to come, if not for all time to come. The $20,000,000 asked to supplement the regular accretion to the fund from sale of lands, running at an average of about $7,000,000 annually, will place the service in position to make a creditable showing and will relieve the western people from an unfortunate situation.

Mr. Chairman, if this plan can be legalized promptly much work can be done this year. If there is much delay, the real purpose of the bill is, in a measure, defeated.

Mr. PAYNE. I yield five minutes to the gentleman from Oregon [Mr. ELLIS].

Mr. ELLIS. Mr. Chairman, irrigation was not initiated by the Government. It is not an original proposition. Irrigation had been carried on for years in the West, and the more feasible and cheaper projects had been taken hold of by individuals and small corporations long before the Government began its work, and thus the arid lands had been utilized; but the propositions that have been undertaken by the Government are those of a character that were so large, as said by the gentleman from Colorado, that the private individuals and private corporations could not take hold of them and push them to completion or a conclusion. We knew they were there; we have been cognizant of the fact all these years of what we had within our Territories, but we did not have the financial ability to develop them. It is no extravagant language to say that most all of this irrigated land is the richest land under the sun. It is practically worthless without the application of water. Water applied, and it becomes the most productive land in the country. There is no land anywhere more productive than these irrigated acres. Now, many of the government projects are in a half-completed state; in some instances the reservoirs are completed. In my own county there is a vast reservoir covering 1,800 acres, with a 98-foot dam forming one end of it and the water all the way from 98 feet down to 1 foot in depth. Now, we want to get the water over the land and do the other work in order to apply the water. It does but little good as long as it remains in the reservoir.

The proposition is to apply it to the land and get results. That is all we want in the West—to get this water upon the land and get the results we were promised at the time of the passage of the reclamation act. Reclamation is no experiment; it is just as certain as it is that the sun will rise that it can be done, and we have gotten so far along with these projects that it seems to me it would be a great mistake to stop the work and not complete these projects, so that within ten years these lands can go into the hands of the landholders and be paid for by them and the money returned to the Government, that it may undertake other feasible projects, even if they were expensive, as they would then have ample money. The people ultimately pay for everything they get under this act, and they are willing to do it. The land on project in my county when completed costs the people taking it about $64 per acre, and they are paying it willingly. Some of them have gotten themselves in a position where they can make the land self-supporting, but there are other cases where it is necessary to get the water on the land to render it fit for cultivation. Now, something has been said about the fund not having come up to what

the proponents of the bill promised it would at the time this bill was originally brought before the House. There are, Mr. Chairman, within my own State counties seven-tenths of which are now incorporated within forest reserves, and perhaps one-fourth at least of all that land thus set aside is capable of improvement, and being arable and tillable this land would be taken under the land laws and be put to use and swell the irrigation fund.

The timber land would have been sold and the amount of that fund would have gone back into the reclamation fund, and it would thus be replenished from time to time, but such action has been taken on the part of the Government that it makes that impossible. Now, we are asking that this loan be extended—that is all it amounts to—and that we be permitted to cover all the land that is available under the projects already undertaken, because, having begun work on projects and having a large part of them under operation, it is much cheaper to extend the projects and cover the remainder of the territory that is accessible to it than it would be to undertake a new and original project, and I am heartily in favor of this bill. I believe the Government could not do a wiser thing than to pass this promptly, and let the money be made available in order that these projects may be completed at an early date and the funds commence to flow back into the Treasury, which would undoubtedly be the case as soon as these acreages are put under proper cultivation. [Applause.]

Mr. PAYNE. Mr. Chairman, I yield one minute to the gentleman from Utah [Mr. HOWELL].

[Mr. HOWELL of Utah addressed the committee. See Appendix.]

Mr. PAYNE. Mr. Chairman, I wish the gentleman from Missouri would use the balance of his time. I do not expect but one more speech on this side.

Mr. CLARK of Missouri. If you are not going to have but one more, why not use the time now?

Mr. PAYNE. If you will use the balance of your time now, I will not have but one more speech. If I have anybody else I will notify the gentleman at once. However, first, I yield to the gentleman from California [Mr. ENGLEBRIGHT].

Mr. ENGLEBRIGHT. Mr. Speaker, as a Representative from one of the Western States in which irrigation has been a marked success, where it has been carried on to a high state of perfection, and where we know that benefits can be derived from the construction of reservoirs to hold the flood waters and the construction of canals to carry the water to our arid and semiarid land, I am strongly in favor of this bill.

The reclamation act became a law on June 17, 1902, and it provided that the moneys received from the sale of public lands in certain Western States and Territories should be set aside and appropriated as a special fund in the Treasury, to be known as the reclamation fund, to be used in the examination and survey for, and the construction and maintenance of, irrigation works for the storage, diversion, and development of waters for the reclamation of arid and semiarid lands in the said States and Territories, the lands so reclaimed to be subject to homestead entry; but the settler or owner must pay to the United States in not more than ten annual installments, without interest, his share of the money so expended in proportion to the number of acres of land held by him. The money so paid to the Government to be returned to the reclamation funds and used over and over, so as to make a revolving fund, so that the money received from completed projects would always be available for new projects.

In addition to paying the annual installments to cover the cost of construction, the annual cost of maintenance has also to be paid to the Government until such time as the Government receives payments on the major portion of the lands in a project, when the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense, under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior.

Under this law work was started on 30 different projects in the Western States and Territories, and at the present time there has been expended by the Government about $50,000,000 on them. Only a few of the smaller projects have been completed, for there have not been sufficient funds available to go ahead with the work, as more projects were started than could be completed in a reasonable time, resulting in an urgent request from the people interested in all of these projects that something should be done to give them relief.

Outside of two or three projects which have been started and may be failures, the projects will be successful and the landowners and settlers will be able to make their payments at the proper time after water has been placed upon their lands. And while considerable complaint has been made by settlers on projects that in many instances the cost has been far in excess of the original estimates, the figures have now been revised and undoubtedly the works can be completed within the estimates now given.

It is not necessary to go into the details of what has been done. The service has done a great work and has constructed large reservoirs and canals and partly constructed others, which will be of the greatest benefit to different portions of the Western States. The smaller projects have been all nearly completed, but the larger projects are all waiting for money that they may be completed.

The Government, in connection with all of these projects, has made contracts with settlers and landowners to construct the various works, and the contracts are one-sided, for while the landowner contracts to pay all the expense of the work regardless of the estimates that may have been made, the Government does not bind itself as to when it will complete the work, so that people are waiting all over the West for the Government to go ahead and finish what work that has been started and what they have contracted to pay for.

The result is that settlers and landowners are placed in a serious position without the assurance of the completion of these works and the placing of water on their lands. Their lands are valueless, they can not use them, they can not sell them, for they are tied up with binding contracts with the Government, which is a lien on their land; and they want the Government to go ahead and complete these works, so they can plant crops, use the lands, and build up their homes. It has not been a pleasant prospect for these settlers and landowners to realize that no matter what they did they can not get these works completed. Most of the projects were started years ago, and it is time that the Government went ahead and carried out in good faith the promises made to these people that the work would be completed within a reasonable time.

This bill, while it provides for the issuance of bonds to complete irrigation projects, only loans the credit of the United States to obtain funds to straighten out the business affairs of the Reclamation Service and to get it in shape so that projects will be completed and the homesteaders and landowners placed in a position to pay back to the Government every dollar that has been previously expended and to be expended.

If these bonds are issued money will be obtained at a cost of 3 per cent per annum, and this is a small rate of interest to pay for the results to be accomplished by a prompt completion of the projects. The landowners and settlers will pay this interest back to the Government, and in the end this bond issue will be of no expense to the United States either for principal or interest.

A large amount of money is now invested in these projects, which is of no use to anyone unless the projects are pushed to completion, money that is drawing no interest and doing no good, and the passage of this bill will permit of completing projects so that they will put the settler and landowner in a position to use his land and make the money heretofore expended of great benefit to the West, and the small amount of interest paid will not be worthy of notice.

Heretofore there has been an indefiniteness about what was being done by the Reclamation Service. The annual reports have failed to give a clear idea of the finances of that branch of the Government, especially as to what could be done in the future. But the hearings in connection with this bill have cleared up many points, and it is safe to assume that, if the bill is passed, hereafter definite figures will be obtained as to what can be done on any project, and when it will be completed, so that all persons interested will know how they are situated. And it is no more than right that when owners of land mortgage their land to the Government to repay the cost of irrigation works they should have full information as to all matters in connection with the same, and, furthermore, not be compelled to wait and wait for works that are started and be unable to ascertain when the Government will properly finish the work.

I have here a report of the Secretary of the Interior, made to the United States Senate under date of October 31, 1909, which gives a summary of projects, completed cost, net cost, irrigable areas, water-right charges, and repayments, which I will insert in the RECORD.

State.	Project.	Computed total cost.	Net cost to October 31, 1909.	Irrigable area of land in project.		Acreage charge for water right.	Water-right repayments to October 31, 1909.
				Total acreage to be irrigated.	Acreage now under irrigation.		
Arizona	Salt River	$8,640,000.00	$7,613,219.28	240,000	131,000	(a)	$100,000.00
Arizona-California	Yuma	5,000,000.00	3,497,686.40	90,160	7,000	(a)	
California	Orland	620,000.00	227,727.99	14,000		(a)	
Colorado	Grand Valley	2,865,000.00	59,793.90	53,000		(a)	
Do	Uncompahgre	7,000,000.00	3,783,917.01	140,000	20,000	(a)	
Idaho	Minidoka	3,500,000.00	2,574,492.00	132,031	82,018	$22.00 30.00	13,369.47
Do	Payette-Boise	15,800,000.00	2,576,199.55	348,000	60,000		
Kansas	Garden City	419,000.00	375,058.62	10,677	10,661	37.50	
Montana	Huntley	955,000.00	905,558.09	28,921	28,921	30.00	57,935.96
Do	Sun River	8,280,000.00	538,222.54	276,000	14,811	30.00	23,116.62
Do	Milk River	6,450,000.00	329,902.64	215,000		(a)	
Montana-North Dakota	Draining Yellowstone	2,805,000.00	2,752,752.84	64,021	43,348	42.50	882.00
Nebraska-Wyoming	North Platte	5,280,000.00	4,236,092.18	124,000	68,960	35.00 45.00	9,481.56
Do	Goshen Hole	5,000,000.00		100,000			
Nevada	Truckee-Carson	6,380,000.00	4,004,210.39	200,000	81,361	22.00 30.00 35.00	52,035.77
New Mexico	Carlsbad	705,000.00	678,368.38	20,073	20,073	31.00	8,709.75
Do	Hondo	345,000.00	343,116.95	10,000	2,000	(a)	
Do	Leasburg	200,000.00	188,326.58	20,000	20,000	(a)	
New Mexico-Texas	Rio Grande	9,000,000.00	226,114.62	180,000		(a)	
North Dakota	North Dakota pumping	880,000.00	791,115.22	23,171	12,097	38.00	929.85
Oregon	Umatilla	1,200,000.00	1,138,425.17	20,440	11,215	60.00	11,646.88
Oregon-California	Klamath	4,860,000.00	1,781,987.26	172,000	30,829	30.00	7,548.98
South Dakota	Bellefourche	3,000,000.00	2,165,950.38	101,967	12,023	30.00	9,282.72
Utah	Strawberry Valley	2,063,000.00	794,598.13	60,000		(a)	
Washington	Okanogan	558,000.00	518,828.97	10,000	2,122	65.00	3,375.20
Do	Yakima:						
	Sunnyside unit	5,100,000.00	2,701,957.33	100,000	17,701	52.00	74,407.06
	Tieton unit	2,400,000.00		36,000			
	Wapat unit	3,500,000.00		116,000			
Wyoming	Shoshone	6,750,000.00	3,144,423.73	131,900	46,135	45.00 46.00	61,797.81
		119,555,000.00	47,948,046.15	3,037,961	722,275		434,519.63

[a] Charges not yet fixed by the Secretary of the Interior.

A later statement, made February 28, 1910, giving a summary of the amount expended on these projects, gives a total on that date of $52,099,034.05, which includes $772,319.35 expended for examination and surveys of secondary projects, town-site development, and general expenses. About 3,000,000 acres are included in the projects under way; about one half of this land is in private ownership, the other half being public land and subject to homestead entry when the projects were started. Seven hundred thousand acres of this land have been placed under water so that it can be irrigated. In these projects during the year 1909 there was actually irrigated 405,157 acres of land, producing crops to the value of $14,038,085. Up to February 10, 1910, the account of water-right charges showed a charge against landowners and settlers, where works had been so far completed as to furnish water, to the amount of $1,093,609.31, of which $233,188.98 had been paid in services, $580,956.36 paid in cash, leaving $189,463.97 delinquent.

Strong pressure has been brought to bear on Congress from time to time to make a change in time of payment of charges, from ten to twenty annual payments. But if this bill is passed and funds provided to promptly complete the projects under way, I believe that the landowners will be satisfied and will be able to promptly comply with the present law. The receipts from the repayment of water-right charges will then amount to a large sum annually and will add quickly to the fund.

The reports show that over $50,000,000 have been expended to date on the different projects, and that it will take about $70,000,000 to complete the work laid out. With annual receipts of $7,000,000 from sales of land and the $20,000,000 which this bill will provide, it will only be a few years when the projects will be returning a large amount of money to the fund and permit the starting of new projects, and at the end of five years, when one-half of the reclamation fund will have to be used to repay the loan, there should be ample returns coming from the different projects to keep the work up in good shape.

The Reclamation Service began work about eight years ago and soon thereafter most of the projects were started. Many settlers filed on lands, and where private lands were involved many persons have purchased land in these projects and are waiting for the completion of the work so as to get water on the land. It is not a pleasant prospect to them to realize that they will still have to wait for years to have the plans carried out and put them in shape so that they can use their lands. But with the relief this bond issue should give the finances of the Reclamation Service, there is no reason why they should not get speedy relief.

This bill further provides as a new proposition that a close supervision shall be had over expenditure of the funds to be raised by this issue of bonds, and that no new project shall hereafter be started except it is approved by the Secretary of the Interior and the President of the United States. This is a wise provision and will protect not only the Government but the landowner and the settler, who will be assured that no project will be started without available funds to carry on the work, and that the project will be properly taken care of and completed in a proper time, according to proper plans, and in accordance with the contracts made with landowners and settlers, which will be beneficial to all.

The Members of this House must not think that the people connected with these projects are asking the Government to give them something for nothing, or that the projects are to be built simply to favor some person or persons. The object to be attained is the encouragement of home building by our people. In starting these projects the Government has fully protected itself, and outside of the small amount of money expended for examination and surveys every project has been started with a sufficient quantity of public land or contracts with landowners to warrant going ahead with the works, and the cost of examinations and surveys where projects are not feasible is charged against the other projects, and all that the Government is doing is loaning its money without interest to encourage home building in the arid and semiarid regions and making taxable property. Hereafter estimates will be more carefully made and complaints should not be received of the excessive cost of construction in variance with estimates made when contracts were signed and which has forced the raising of the charges to be paid and the making of new contracts to provide for the completion of the work.

In a recent communication that I received from the Commissioner of the General Land Office he estimates that there are 2,500,000 acres of public land in the State of California that has been reserved for reclamation purposes. Now, this land has been tied up for years, doing no one any good. If it is to be used in connection with the reclamation act, it is time something was done, and if the Government is not going ahead and make use of it, it is high time that it should be restored to entry, so that it can be opened to settlement and taken up under the land laws of the United States. The land reserved for reclamation purposes in the State of California is nearly as

much as the area included in the combined projects that have so far been undertaken by the Reclamation Service, and we can not wait years and years and have such a large area in the State of California tied up. This bond issue will permit of the present projects being completed in some definite time, and clean-cut and proper plans can be made for the future, and if the Government can not go ahead and reclaim these lands, they can allow organizations under state laws or private capital to do so.

There has not been a proper share of the funds of the Reclamation Service expended in the State of California, and less than half of the money received from the sale of public lands has been spent in the State. A report made to the Ways and Means Committee of the House of Representatives recently by Director Newell, of the Reclamation Service, shows expenditures made and estimates to be made to December 31, 1910, as amounts charged as expended in California:

Klamath project (25 per cent)	$583,500.00
Orland project	608,000.00
Yuma project (17 per cent)	656,000.00
Colorado River (17 per cent)	7,650.00
Sacramento Valley	42,776.78
Owens Valley	12,061.92
San Joaquin Valley	3,531.20
Total	1,913,719.90

In accordance with the law the restricted fund of the receipts of public land, being 51 per cent of the same, was $2,143,148.10.

For a number of years people from different parts of the State of California have been asking recognition of the Reclamation Service for their localities, and there are good, feasible projects on which money can be expended which, if carried out, will be of great benefit to the people and to the State and will repay in the increased valuation of taxable property many times the money expended.

They have been receiving as a regular answer that there was no money available for new projects, and the way the funds are now there is no prospect of their getting recognition in the near future. So, we are anxious to put the reclamation funds on a square basis by passing this bill, so work can go ahead—complete what has been started, so that these projects will commence paying back the money put into them and make the reclamation fund a revolving one, which it is intended to be, so that new projects can be taken up on proper lines without the delay heretofore had, and the passage of this bill will be a long step in that direction, and I hope that it will pass.

Mr. CLARK of Missouri. Now, if you have only one more speech——

Mr. PAYNE. That is all I have in sight.

Mr. CLARK of Missouri. I will take your word about that now and hold you to it. I yield to the gentleman from Texas [Mr. SMITH].

[Mr. SMITH of Texas addressed the committee. See Appendix.]

Mr. CLARK of Missouri. Mr. Chairman, I yield four minutes to the gentleman from North Carolina [Mr. SMALL]. And then, after he gets through, I will yield thirty minutes to the gentleman from Alabama [Mr. UNDERWOOD].

Mr. SMALL. Mr. Chairman, I am in favor of this bill and shall vote for it, but I desire to call the attention of the committee to the fact that while much has been said in regard to the arid and semiarid lands of the West and their reclamation, with the increase of value and with the opportunity for opening them up for settlement and adding new homes for our people, there are also in the United States large areas of unreclaimed swamp lands. And I wish to call the attention of the committee to a few facts compiled officially regarding the area of these lands.

On January 29 I made a brief talk here and inserted in the RECORD these figures from which I will now quote. In the Tenth Annual Report of the United States Geological Survey for 1888 and 1889, it appears that there are from 105,210 to 131,200 square miles of swamp lands in the United States, or a minimum of more than 67,000,000 acres of arable, which may be easily reclaimed. There are in the State of Massachusetts, for instance, 500 square miles; in the State of New York 2,000 to 3,000 square miles; in the State of Florida 28,000 to 30,000 square miles; in Louisiana 40,000 to 60,000 square miles; in Mississippi 8,000 to 10,000 square miles. In my own State of North Carolina there are 3,500 to 4,000 square miles.

Mr. UNDERWOOD. I desire to make a point of no quorum, Mr. Chairman, but will withhold it until the gentleman from North Carolina [Mr. SMALL] will have concluded his remarks.

The CHAIRMAN. Does the gentleman withdraw the point of order?

Mr. UNDERWOOD. The gentleman will proceed with his five minutes, and a quorum may come in in the meantime. I will withdraw it until then.

The CHAIRMAN. Does the gentleman withdraw the point of order?

Mr. UNDERWOOD. I will withdraw it temporarily.

Mr. CARLIN. If the point of order is to be made, he may just as well do it now. The gentleman will still have his five minutes.

Mr. SMALL. I would like to complete my remarks, and I therefore ask that the point of no quorum be withdrawn until then.

Mr. UNDERWOOD. I withdraw it temporarily.

Mr. SMALL. Mr. Chairman, these 67,000,000 acres of swamp and overflowed lands in the United States are among the most valuable of our agricultural lands if drained. It is estimated that at least three-fourths in area of the total may be successfully drained by gravity. We would have lands which in fertility and productiveness would equal any similar area of lands within our borders. Heretofore with great surplus of lands we have not felt the need of this additional area. But as population increases, as the demand for agricultural products grow, we will have an added demand for these rich agricultural lands.

In order to illustrate the practicability of draining even that proportion of these lands which are too low for the surplus water to be carried off by gravity, I will say that there are many thousands of acres of lands in the South which are now successfully cultivated and yield abundant crops which are from 1 to 5 feet below the level of the surrounding waters. There are lands on the Mississippi River, below the level of the river, which have been successfully drained and which are producing magnificent crops. There is a drainage district which has been formed in my own district in North Carolina which contemplates the draining of a lake of 50,000 acres in extent and adjoining lands of about 75,000 acres, making a total of 125,000 acres, which when drained will have a productivity equal to any in the Mississippi Delta. In the future the attention of Congress will again be drawn to this great national asset and legislation will be asked, the object of which will be to ascertain the most economical methods of reclaiming these lands. There has been some movement in the past with a view of asking aid from Congress, but I do not believe that is necessary. All that Congress will be asked to do will be to survey these lands and to loan engineers for that purpose; and this can be well accomplished through the Bureau of Drainage Investigation, which is now maintained in the United States Department of Agriculture.

A slight increase in the corps of drainage engineers which is now maintained in that bureau, involving not a very large appropriation, would from time to time submit data and information, and that, coupled with the enterprise and the skill and the local capital which can be obtained through the organization of drainage districts, would enable the owners of these lands to reclaim them.

While we who live in a section blessed with abundant humidity and appropriate seasons for the production of our crops are entirely willing that any aid such as was embraced in the original act or by this amendment shall be given for the reclamation of the arid and semiarid areas, yet we deem it pertinent to call the attention of the country to the fact that there are large areas of swamp lands, which, with a less expenditure of money, may be reclaimed and made more productive in all respects than these arid lands. We will aid you to put water on your arid lands, but at the same time we will ask your support in removing the surplus water from our wet lands. [Applause.]

Mr. CARLIN. Mr. Chairman, I regret to make the point of no quorum; but this is an important matter.

The CHAIRMAN. The gentleman from Alabama is to be recognized for thirty minutes.

Mr. CARLIN. I make the point of order that there is not a quorum present.

The CHAIRMAN. The gentleman from Virginia makes the point of order that there is not a quorum present. The Chair will count. There is evidently not a quorum present. The Clerk will call the roll, and the Doorkeeper will close the doors.

The Clerk called the roll.

During the roll call,

Mr. MACON. I make the point of order that it is not in order to stop the roll call to enter the names of the Members who were not present when their names were called, thereby delaying other Members who are waiting to answer to their names.

The CHAIRMAN. The Chair will state that the name of the Member again called was passed only a moment ago.

The Clerk completed the calling of the roll.

The committee rose; and Mr. MANN took the chair as Speaker pro tempore, when Mr. MCCALL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had found itself without a quorum; that he had directed the roll to be called, whereupon 112 Members, a quorum, answered to their names, and he reported the following absentees:

Adair	Fassett	Johnson, S. C.	Plumley
Aiken	Finley	Jones	Poindexter
Alexander, Mo.	Fish	Kahn	Pou
Alexander, N. Y.	Fitzgerald	Keifer	Pratt
Allen	Flood, Va.	Kelliher	Prince
Anderson	Focht	Kendall	Pujo
Andrus	Foelker	Kennedy, Iowa	Rainey
Ansberry	Fordney	Kinkead, N. J.	Randell, Tex.
Anthony	Fornes	Kitchin	Rauch
Ashbrook	Foss, Ill.	Knapp	Reid
Austin	Foss, Mass.	Knowland	Reynolds
Barchfeld	Foster, Vt.	Korbly	Rhinock
Barclay	Fowler	Kronmiller	Richardson
Barnard	Fuller	Lafean	Riordan
Bartholdt	Gaines	Lamb	Roberts
Bartlett, Ga.	Gallagher	Langham	Rodenberg
Bates	Gardner, Mass.	Langley	Rothermel
Beall, Tex.	Gardner, Mich	Law	Rucker, Colo.
Bennet, N. Y.	Garner, Pa.	Lawrence	Sabath
Bennett, Ky.	Gill, Md.	Lee	Scott
Bingham	Gill, Mo.	Legare	Sheffield
Boehne	Gillespie	Lenroot	Sherley
Borland	Gillett	Lever	Simmons
Bowers	Gilmore	Lindbergh	Sims
Bradley	Glass	Lindsay	Slayden
Brantley	Godwin	Livingston	Slemp
Broussard	Goebel	Lloyd	Smith, Mich.
Brownlow	Goldfogle	Longworth	Snapp
Burgess	Goulden	Loud	Sparkman
Burke, Pa.	Graff	Loudenslager	Sperry
Butler	Graham, Ill.	Lowden	Spight
Calderhead	Graham, Pa.	Lundin	Stafford
Campbell	Grant	McCreary	Stanley
Candler	Greene	McGuire, Okla.	Steenerson
Cantrill	Gregg	McHenry	Sterling
Capron	Gronna	McKinlay, Cal.	Sturgiss
Cary	Hamill	McKinley, Ill.	Sulzer
Cassidy	Hamilton	McKinney	Swasey
Clark, Fla.	Hammond	McLaughlin, Mich.	Talbott
Clayton	Hanna	McMorran	Tawney
Cline	Hardwick	Madison	Taylor, Ala.
Cocks, N. Y.	Hardy	Malby	Taylor, Colo.
Collier	Harrison	Martin, S. Dak.	Taylor, Ohio
Conry	Havens	Maynard	Tener
Cook	Hay	Moon, Pa.	Thomas, Ky.
Cooper, Pa.	Hayes	Moon, Tenn.	Thomas, N. C.
Cooper, Wis.	Heald	Moore, Tex.	Thomas, Ohio
Coudrey	Heflin	Morehead	Tilson
Covington	Henry, Conn.	Morgan, Mo.	Tirrell
Cox, Ohio	Higgins	Morrison	Tou Velle
Cravens	Hinshaw	Morse	Townsend
Crumpacker	Hitchcock	Moxley	Vreeland
Currier	Hobson	Mudd	Wallace
Davidson	Howard	Murdock	Washburn
Davis	Howell, N. J.	Nelson	Weeks
Dawson	Hubbard, Iowa	O'Connell	Weisse
Denby	Huff	Olcott	Wheeler
Dodds	Hughes, Ga.	Olmsted	Wiley
Douglas	Hughes, N. J.	Padgett	Willett
Draper	Hughes, W. Va.	Page	Wilson, Ill.
Driscoll, D. A.	Hull, Iowa	Palmer, A. M.	Wilson, Pa.
Driscoll, M. E.	Hull, Tenn.	Palmer, H. W.	Wood, N. J.
Durey	Humphrey, Wash.	Parker	Woods, Iowa
Edwards, Ky.	Humphreys, Miss.	Parsons	Woodyard
Elvins	James	Patterson	Young, Mich.
Estopinal	Jamieson	Pearre	Young, N. Y.
Fairchild	Johnson, Ky.	Peters	

The SPEAKER pro tempore. The names of the absentees will be entered in the Journal. The report of the Chairman shows 115 Members present, a quorum of the Committee of the Whole. Under the rule the Doorkeeper will open the doors, and the House again resolve itself into the Committee of the Whole House on the state of the Union, and the gentleman from Massachusetts [Mr. MCCALL] will take the chair.

The CHAIRMAN. The gentleman from Alabama [Mr. UNDERWOOD] is recognized for thirty minutes.

Mr. UNDERWOOD. Mr. Chairman, this bill is not only important because it carries an appropriation of $20,000,000, but it is of very great importance because it is starting a precedent in an entirely new field of appropriation. Some eight years ago the Congress passed a bill to irrigate the arid lands of the West. For many years prior to that time the Congress had repeatedly refused to appropriate money from the Treasury of the United States raised by taxation for the purpose of irrigating arid lands on the ground that there was no constitutional warrant to appropriate public moneys for that purpose. At the time that the irrigation bill was passed it was contended that the proceeds of the sale of public lands were not subject to the same limitations under the Constitution as moneys derived from taxation, and the bill segregated the moneys arising from the sale of arid lands in 18 Western States and provided that they should be held as a trust fund for the purpose of irrigating and improving the public lands in those States to encourage the building of homes. The Secretary of the Interior became the trustee for the management of this fund, and the bill provided that such projects as were feasible and practicable should be developed and the lands irrigated should be sold to settlers at the cost of the improvement by the Government and the proceeds of such sales should be returned to the trust fund to be again used for irrigation purposes under the trust. At that time the question was raised by some of the ablest Representatives in the House as to whether the proposition to use money derived from the sale of public lands for the purpose of irrigation was constitutional. It was contended by those who advocated the bill that moneys derived from the sale of public lands were a part of the private purse of the Nation; that the public lands of the country had originally been given to the General Government by the State of Virginia, other public lands had been secured by the purchase of the Louisiana Territory from the Government of France, and others had been ceded by the Republic of Mexico after the Mexican war as a war measure; that the original cost of these lands was very little, a large portion of it coming to the Government without any outlay of money; and that the amount paid by the Federal Government to France for the Louisiana Purchase had long since been paid back into the Treasury many times over, and that, therefore, none of the moneys derived from the sale of these lands at the time of the passage of the bill came directly or indirectly from taxes levied on the people.

The congressional debates in the early history of our Government show that Congress at that time recognized a very marked distinction between the right to dispose of public moneys derived by taxation and the disposition of public lands or the proceeds thereof. Most of the Representatives in Congress in the first half century of our national existence were strict constructionists as to the power of the Government to expend moneys derived from taxation for any other purposes than those within the governmental powers enumerated in the Constitution; but these same Representatives were very liberal in the disposition of public lands for other purposes. In the beginning they gave the sixteenth section of each township of land to the States and Territories for school purposes, and afterwards gave the thirty-second section for the same purpose. They followed that by giving public lands to promote the building of canals in the country, and at a later period large donations of public lands were conveyed to railroad companies, as a direct gift, for the purpose of building railroads and improving the country. At that time I do not suppose there was a single man in either House of Congress who for one moment contended that we could give public moneys derived from taxation for these purposes, but all of them justified the giving of the public lands, or the proceeds thereof, on the ground that they were a part of the private purse of the Nation and were not controlled by the limitations of the Constitution as moneys are that are derived by the taxation of the people. The money in the Treasury of the United States is for governmental purposes, and governmental purposes alone. Cooley's Constitution Limitation lays down the doctrine as to the disposal of public funds derived from taxation as follows:

> Taxation having for its only legitimate object the raising of money for public purposes, the proper needs of the Government, the exaction of money from citizens for other purposes is not a proper exercise of power, and must therefore be unauthorized.

Is there a man on the floor of this House who will arise in his seat and deny the proposition that money raised by taxation must only be spent for public purposes and the proper needs of the Government within the limitations prescribed by the Constitution of the United States? Let us now consider whether this bill appropriating $20,000,000 to irrigate lands in the Western States comes within the powers of the Congress to make appropriations for public purposes and the proper needs of the Government.

The bill directs an appropriation of $20,000,000 derived by taxation from the people out of the Treasury of the United States for the purpose of irrigating arid lands in the western country as a loan to the irrigation fund, to be loaned by the Reclamation Service in many instances for the irrigation of private lands and in some instances for the irrigation of lands still belonging to the Government. If all the lands that this money is to be used to improve still belonged to the Government, it might be contended that the Government had a right to spend government money for the improvement of its own property, in order that it might afterwards dispose of it at a greater value; but, as a matter of fact, three-fifths of all the land that it is intended to improve by this bill is either owned by private persons or by the States and Territories themselves and only two-fifths are now owned by the Government of the United States.

Let me read from the statement of Mr. F. H. Newell, Director of the Reclamation Service, made before the Ways and Means Committee at a hearing on this bill, in which he names the projects, the cost of each, and the amount of public, private, and state lands involved in each project:

Project.	Public.	Private.	State.
	Acres.	*Acres.*	*Acres.*
Salt River (Arizona)		225,920	14,080
Yuma (Arizona)	37,160	53,000	
Orland (California)	200	13,800	
Grand Valley (Colorado)	35,000	18,000	
Uncompahgre (Colorado)	36,000	104,000	
Minidoka (Idaho)	107,711	3,179	21,141
Payette-Boise (Idaho)	67,711	152,250	23,039
Garden City (Kansas)		10,677	
Huntley (Montana)	25,729	3,192	
Milk River (Montana)[a]	115,000	84,000	16,000
St. Mary (Montana)	69,000	25,000	6,000
Sun River (Montana)	180,000	74,000	22,000
Lower Yellowstone (Montana)	17,794	44,678	
North Platte (Nebraska)	85,500	34,700	8,800
Truckee-Carson (Nevada)	44,895	35,681	10,147
Carlsbad (New Mexico)		20,073	
Hondo (New Mexico)	240	9,700	
Leasburg (New Mexico)		20,000	
Rio Grande (New Mexico)		60,000	
Buford-Trenton (North Dakota)	1,400	11,000	91
Washburn (North Dakota)		8,220	480
Williston (North Dakota)	433	11,500	67
Bowman (North Dakota)	10,000		
Umatilla (Oregon)	10,588	9,852	
Klamath (Oregon)	42,000	130,000	
Belle Fourche (South Dakota)	45,000	50,000	5,000
Strawberry Valley (Utah)		60,000	
Okanogan (Washington)	1,850	8,150	
Yakima (Washington):			
Sunnyside (first unit)	4,700	93,000	
Tieton (second unit)	2,200	27,910	2,200
Shoshone (Wyoming)	123,000	1,220	7,680
Total	1,063,111	1,402,702	136,815

Project.	Expenditure.	Private.	Public.	State.
		Acres.	*Acres.*	*Acres.*
Salt River	$8,245,000	225,920		14,080
Yuma	3,710,000	53,000	37,060	
Rio Grande	100,000	60,000		
Orland	608,000	13,800	200	
Uncompahgre	4,455,000	104,000	36,000	
Payette-Boise	3,463,000	152,250	67,711	23,039
Garden City	419,000	10,677		
Lower Yellowstone	2,910,000	44,678	17,794	
Buford-Trenton	349,000	11,000	1,400	91
Williston	634,000	11,500	433	67
Carlsbad	705,000	20,073		
Hondo	359,000	9,700	240	
Leasburg	210,000	20,000		
Klamath	2,409,000	130,000	42,000	
Strawberry Valley	1,030,000	60,000		
Okanogan	583,000	8,150	1,850	
Yakima	4,576,000	120,910	6,900	2,290
Total	34,765,000	1,055,658	211,588	39,567

[a] Indian acres, 33,000.

From this statement it will be seen that in many of these projects on which this $20,000,000, or a portion of it, is to be expended there is not a single acre of government land involved, and it is all owned by individuals.

Mr. SMITH of Texas. Will the gentleman yield for a question?

Mr. UNDERWOOD. Certainly.

Mr. SMITH of Texas. I am going to ask a question. There is a proposition to carry out a treaty obligation on the part of the Government with Mexico. Will the gentleman contend that we could not make an appropriation for that purpose?

Mr. UNDERWOOD. I will answer the gentleman's question very candidly. The project he refers to is only one of the many projects covered by this bill. The Government of the United States has already appropriated $1,000,000 out of the Treasury for the purpose of carrying out those treaty rights, and to that extent I say that it is a legitimate appropriation; but that very project contemplated the expenditure of $8,500,000. Our treaty with Mexico only binds us to the expenditure of $1,000,000, which has already been appropriated, and has nothing whatever to do with this $20,000,000 fund. The balance of the expenditure needed to complete this project, $7,500,000, goes to the improvement of land in the United States, every acre of which is owned by individuals and not by the Government.

Mr. SMITH of Texas. Is it not a fact that if the balance of the money could not be obtained from the reclamation fund, that we would still be under obligation to carry out the treaty, and is it not a fact that almost a third of the money asked for is intended for this project?

Mr. UNDERWOOD. Not at all. There might be something in my friend's argument if we could not carry out the treaty without making this appropriation, but my friend knows as well as I do that on the 1st of last January there was approximately $9,000,000 in the irrigation fund, with $1,000,000 already appropriated out of the Public Treasury for this particular project, making $10,000,000 available, more than sufficient to complete the project with the money already on hand if the Government elected to use it; but we do not stand on this one proposition, for there are many other projects.

The Salt River project in Arizona has 225,920 acres of private land, 14,000 acres of state or territorial land, and not a single acre of public land. There are no treaty rights involved there. The Garden City (Kans.) project has 10,677 acres of private land, that it is proposed to irrigate, and not an acre of public land. The Carlsbad project in New Mexico has 20,000 acres of private land and not an acre of public land. The Leasburg project in New Mexico has 20,000 acres of private land and not an acre of public land. The Rio Grande project in New Mexico, to which my friend from Texas has just referred, has 60,000 acres of private land and not an acre of public land. The Washburn project of North Dakota has 8,200 acres of private land and not an acre of public land. The Strawberry Valley project in Utah has 60,000 acres of private land and not an acre of public land.

Mr. MARTIN of Colorado. What about the Gunnison project?

Mr. UNDERWOOD. I think there is a considerable percentage of public land involved in that project.

Mr. MARTIN of Colorado. What is the condition of all these private lands; you are not contending they are reclaimed?

Mr. UNDERWOOD. I will come to that proposition.

Mr. MARTIN of Colorado. Then, as I understand, the gentleman's objection goes to the question of the constitutionality of the issue of the certificates and not to the merit of the reclamation project?

Mr. UNDERWOOD. I will come to that proposition.

Mr. SMITH of Colorado. The gentleman mentioned the Carlsbad project and the Leasburg project. I will ask if any of this money is asked to go to either of those projects, and if it is not a fact they are completed?

Mr. UNDERWOOD. I am stating what the record shows as presented to the Ways and Means Committee by Mr. Newell, the Director of the Reclamation Service, which shows the amount of work being done, the amount of public land, the amount of private land, and shows that there are 1,063,111 acres of public land, 1,402,702 acres of private land, and 136,815 acres of state land involved in this project for which this money can and will be used.

Mr. CLARK of Missouri. Just one question. Where this irrigation scheme includes private lands, is it so arranged that the Government charges enough for the water to get paid back for the project? It is not doing it for nothing?

Mr. UNDERWOOD. Oh, no.

Mr. MONDELL. My recollection is that the statement which the gentleman has from the director includes as private lands lands claimed under land laws. Is not that true? That is, some held under the homestead law or the desert-land law, unperfected titles at the time the project was undertaken.

Mr. UNDERWOOD. No; all of these lands are perfected titles, as I understand it from Mr. Newell's statement.

Mr. MONDELL. I do not so understand.

Mr. UNDERWOOD. I will tell the gentleman what I know. I went to Phoenix, Ariz., when I was a member of the Irrigation Committee; that was about eight years ago, just as this irrigation work was being started. The scheme proposed there was the Salt River project to which I have above referred. I was told by people on the ground that there was not an acre of public land involved in that enterprise, and Mr. Newell's report sustains the statement.

The reason the original act setting apart moneys derived from the proceeds of public lands for irrigation purposes did not involve the constitutional question raised by this bill was that the proceeds of the sale of the public lands, as I have already stated, belonged to the private purse of the Nation and did not come out of moneys raised from taxation, the expenditure of which is limited within the powers of the Federal Government. As long as the Representatives from the Western States were willing to stand within the terms of the original irrigation act and within the limitations of the Constitution, it seems to me that it was fair and just that they should use the public lands in their own States for the development of their own country and the building of homes, and I was as earnestly in favor of their success as any man in Congress; as a matter of fact, I earnestly urged legislation to advance their interests and develop their country as long as they were willing to keep the terms they agreed to on the floor of this House eight years

ago, stand within the limitations of the Constitution, and use only the moneys derived from the sale of public lands to accomplish the work they desired; but I say to you that when the Congress goes into the Public Treasury to take money raised by taxes from the people to use for private purposes, to develop private business, then you are not only committing an unconstitutional act, but you are taking one of the most dangerous steps the Congress of the United States has ever entered upon.

If you think it is right to take money out of the Treasury and loan through the Reclamation Service to individuals to develop irrigation projects, where it is entirely private land and all the benefits to accrue to private persons and all the risk to be taken by the Government, why is it not just as right and just as constitutional to create great public parks in the States for the health of local communities? Why is it not just as right and meritorious to establish hospitals throughout the country for the aid of the sick and those in distress? Where are you going to draw the line when you once pass beyond the limitations prescribed by the Constitution of the United States? If it is right to go into the Public Treasury and use the public funds for the promotion of irrigation enterprises on private property, is it not just as legitimate to go into the hills of Pennsylvania and build furnaces out of money borrowed from the Public Treasury to develop the coal fields of that State for the benefit of private individuals? I can see no distinction, and I believe there is none.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. UNDERWOOD. Certainly, for a question.

Mr. STEPHENS of Texas. That is all I desire to ask. Is it not a fact that the Government of the United States has already engaged to carry out certain contracts in all these cases in which this money is to be used?

Mr. UNDERWOOD. My friend does not properly draw the distinction between the money in the irrigation fund derived from the sale of public lands and money coming out of the Treasury of the United States, raised by taxation. Let me try to express the proposition clearly to you. We refused eight years ago to involve the Treasury of the United States in this matter. We took the proceeds of the sale of public lands in these 18 arid-land States to create a trust fund. We put the money in the hands of the Secretary of the Interior, as trustee, to administer the fund under the direction of the Government, but did not involve any funds except those derived from the sale of lands. These were very carefully segregated, and have ever since been kept apart from the general fund.

Mr. STEPHENS of Texas. Having made a contract with these parties to complete these projects, is not the Government held to carry out contracts in the main?

Mr. UNDERWOOD. The Government has not made any contracts. They were made by the trustee of this special fund.

Mr. STEPHENS of Texas. I beg the gentleman's pardon. Before any work can be done they must have made a contract.

Mr. UNDERWOOD. No, sir. The gentleman has not studied the original irrigation act. The Secretary of the Interior, as trustee for this fund, not as an officer of the Government of the United States, has entered upon certain obligations that are to be carried out from the moneys derived from the sale of public lands, and the Government of the United States, or the Treasury of the United States, has not been involved in the matter.

Mr. STEPHENS of Texas. The very first sentence here, "to enable the Secretary of the Interior to complete government reclamation projects"——

Mr. UNDERWOOD. It is the Secretary of the Interior acting as a trustee, not as a government officer.

Mr. STEPHENS of Texas. It only applies to projects already begun?

Mr. UNDERWOOD. Certainly; and all those projects already begun are within the terms of the original trust, and were put in the hands of the Secretary as trustee to carry out the purposes of the original irrigation act.

Mr. SMITH of Texas. I would like to ask the gentleman one question. I do not know that I understand it. If I understand the gentleman, he holds that it would be constitutional to vote the money arising from the sale of public lands to the development of private lands within the States, but not to use the funds raised by taxation?

Mr. UNDERWOOD. I do not go as far the gentleman does, but I will state my position again. I say that when we have given these public lands to schools, when we have given them to railroads, when we have given them to canals, we can give them to the Reclamation Service to develop either private or public property, because the limitations of the Constitution are not fixed on the fund that comes out of the private purse of the Nation; but when you go into the Public Treasury of the United States, as this bill does, by a direct appropriation, then I say your act is unconstitutional, not only unconstitutional, but it is the most dangerous act that the Congress of the United States has ever passed. More than that, I say it is not necessary; it is not necessary to make this appropriation to carry out the work that has already been approved by the Reclamation Service.

The amount of approved projects—that is, the projects that have been surveyed, laid out, and approved by the Reclamation Service—the only projects to which the Reclamation Service is committed up to this time, will take, according to the testimony before the Ways and Means Committee, $30,000,000 to complete.

The statement in Mr. Newell's testimony, on page 229 of the hearings, shows that the unexpended balance on March 1, 1910, to the credit of the reclamation fund, amounted to $7,928,213.24. In his testimony before the Ways and Means Committee, on the page referred to, Mr. Newell was asked by myself the following questions:

I would like you to state what funds are available for this work for the year 1910 and for the year 1911, and whether the work of the Reclamation Service can go along with its present fund without any bonds being issued?

Mr. NEWELL. The funds for 1910 are practically $7,000,000, and for 1911 about the same plus any returns we may receive. The following table gives the receipts by years:

Statement of cash receipts, by calendar years, from all sources.

1902.	From sales of public lands (year 1901)		$3,144,821.91
1903.	From sales of public lands (year 1902)	$4,585,520.53	
	From miscellaneous sources	328.66	
			4,585,849.19
1904.	From sales of public lands (year 1903)	8,713,996.60	
	From miscellaneous sources	1,371.08	
			8,715,367.68
1905.	From sales of public lands (year 1904)	6,826,253.59	
	From miscellaneous sources	13,032.24	
			6,839,285.83
1906.	From sales of public lands (year 1905)	4,805,515.39	
	From miscellaneous sources	42,910.08	
			4,848,425.47
1907.	From sales of public lands (years 1906 and 1907)	13,080,468.21	
	From sales of town lots	69,159.71	
	From temporary water rentals	128,534.23	
	From water-right charges	130,667.38	
	From miscellaneous sources	168,689.36	
			13,577,518.89
1908.	From sales of public lands (year 1908)	9,430,573.98	
	From sales of town lots	6,939.43	
	From temporary water rentals	188,134.29	
	From water-right charges	98,334.97	
	From miscellaneous sources	167,705.17	
			9,891,687.84
1909.	From sales of public lands (year 1909)	7,755,466.81	
	From sale of town lots	26,699.77	
	From temporary water rentals	261,268.43	
	From water-right charges	296,032.11	
	From miscellaneous sources	586,890.95	
	From forfeitures by contractors	24,000.00	
			8,950,358.07

We have made tentative plans, of course, looking forward through a number of years, and those plans contemplate an expenditure of $7,000,000 or $8,000,000 for the next half dozen years. We also have tentative plans for expending twice that amount if we can get it. If we do not get it we will have to do the best we can with the money we have; if we can get more money we can do more work.

Q. You can carry out the original plans with the funds you will receive?

Mr. NEWELL. We will have to.

Q. Can you?

Mr. NEWELL. We have planned to.

Q. Therefore to carry out the original plans of the Reclamation Service and complete this work within the time that you expected to complete it when you started out, you can do it with the returns you receive from the fund?

Mr. NEWELL. That is a matter which we must adjust ourselves to. Of course, we have always expected that we could.

Q. Up to the last few months you expected to carry out the work with the returns you received from the fund?

Mr. NEWELL. Yes, sir.

Q. And you can do it now?

Mr. NEWELL. Yes, sir; we never contemplated completing the work at an earlier date.

With this testimony from the Director of the Reclamation Service before you, with the facts staring you in the face that on the 1st of March last there was $8,000,000 in the Treasury of this fund, the fact that Mr. Newell states that he expects an income to the fund from the sale of public lands amounting to $7,000,000 a year, and with his statement showing that for the year 1907 the receipts amounted to $13,577,000, for 1908 to $9,891,000, and in 1909 to $8,950,000, how can anyone deny that the approved projects of the Reclamation Service can be completed within a very short and very reasonable time? If the receipts only amount to $7,000,000 a year, in three years you will have $21,000,000. With $7,900,000 on hand the 1st of

last March will give them practically $29,000,000, and at the end of three calendar years, therefore, the $30,000,000 projects approved by the Reclamation Service, according to their own statement, can unquestionably be completed from moneys already available and in sight; but, as I said before, the receipts of the Reclamation Service for last year were nearly $9,000,000, and if the same percentage of receipts are continued, the projects could be completed in much less than three years.

Mr. MONDELL. I wonder where the gentleman got his information as to the $9,000,000 in the Treasury on the 1st of January. I did not think it was material, but I do not know.

Mr. UNDERWOOD. There is a general statement that that amount is in the treasury of the reclamation fund. I got it from the hearings before the Ways and Means Committee. What is your information as to how much it is?

Mr. MONDELL. My recollection is that there were about $3,000,000 or $4,000,000 in the Treasury at that time.

Mr. UNDERWOOD. Well, such a statement is in the balance sheet of the Reclamation Service, and I presume it is correct. If this was all, if the advocates of this bill merely desired to complete the work in sight, to complete the approved projects, there would be little difficulty in this matter, and I do not believe that even they would advocate this appropriation, but the bill contemplates that this money can be used not only for the purpose of completing the approved projects—the original projects—but that it may be used to complete extensions to these projects, which, in themselves, is new work to which the Reclamation Service has not up to this time committed itself, and there is no reason why it should commit itself until it has the available money on hand to carry them out. Mr. Newell, the Director of the Reclamation Service, testified before the Ways and Means Committee. I asked him some questions in reference to the proposed extension to the approved projects. You will find his testimony on page 233 of the hearings. My first question was:

You think, then, that the main trouble with the situation at the present time is that you took up too many projects for the available funds, and that if you had gone slower this condition would not have arisen?

Mr. NEWELL. I would not fully admit that. It would have been better in some ways not to have taken up so many projects. All plans were made with a view to continuous future growth. Nearly all of the projects are now on a basis of returning revenue. The policy adopted led to broad plans for work which can be completed as opportunity offers.

Q. The law contemplated that this work should run a long series of years?

Mr. NEWELL. That the Government should lay out large plans for the future development of the West; that it should build such portions or units as can be built with the money in hand and leave such other portions to be built by the returns to the reclamation fund. That plan is being consistently followed.

Q. How much will it cost to complete the works already begun?

Mr. NEWELL. There has been already presented to the committee a table embodying that idea. Explanation has been given to the use of the word "completion" in that connection on page 41 of these hearings. Beginning on page 34 is shown a table indicating that the approved portions of the projects—namely, those where the plans have reached a point where they have been approved—can be completed for $30,000,000. There are certain extensions—which, however, do not include all possible extensions which are feasible—which will involve an expenditure of $55,000,000.

I will read you the table referred to by Mr. Newell.

The following details related to the figures sent to the Department of the Interior by Reclamation Service letter of December 30, 1909:

State.	Project.	Approved portion.[a]	Extensions.[b]
Arizona	Salt River	$395,000	$275,000
Arizona-California	Yuma	1,290,000	----------
California	Orland	20,000	750,000
Colorado	Grand Valley	2,637,000	----------
Do	Uncompahgre	2,545,000	----------
Idaho	Minidoka [c]	650,000	5,500,000
Do	Payette-Boise	2,337,000	10,000,000
Montana	Milk River	1,857,000	4,000,000
Do	Huntley	80,000	----------
Do	Sun River	108,000	7,500,000
Montana-North Dakota	Lower Yellowstone	338,000	----------
Nebraska-Wyoming	North Platte	1,100,000	6,000,000
Nevada	Truckee-Carson	182,000	2,000,000
New Mexico-Texas	Rio Grande	8,790,000	----------
North Dakota	Williston-Buford	93,000	261,000
Oregon-California	Klamath	1,397,000	3,000,000
Oregon	Umatilla	50,000	2,500,000
South Dakota	Belle Fourche	890,000	----------
Utah	Strawberry Valley	1,033,000	----------
Washington	Yakima	1,424,000	[d]14,000,000
Wyoming	Shoshone	2,922,000	----------
Total		30,138,000	55,786,000

[a] The figures headed "Approved portion" are the amounts which should be added to the expenditures made to 1909, plus the allotments for 1910.

[b] Approximate amounts.

[c] South side only, and not including Jackson Lake storage.

[d] Including Kittitas and Benton units.

I then asked Mr. Newell this question:

Originally it was contemplated by the law that the Reclamation Service should only build the dams and main canals?

Mr. NEWELL. That was at the discretion of the law.

Q. It was not contemplated that you should build the laterals?

Mr. NEWELL. No; the smaller laterals were not included in the first plan.

Q. How is it that the Reclamation Service has become committed to the building of laterals when they are not built by any private enterprise?

Mr. NEWELL. We have been gradually forced by conditions over which we have had no control. Decisions made from time to time have gradually put on us a larger and larger portion of the construction. When Mr. Garfield was Secretary of the Interior, in 1907 and 1908, he was greatly impressed with that condition and with the importunities of the settlers to permit them to build the laterals, which, as they believed, was the original intent of the act. Out of that grew what we now call the cooperative work, with the issue of certificates, permitting the people to build a portion of the work and to secure an equitable reduction of their debts for water.

Q. If you confined your work to the dams and main canals and let the settlers build their own laterals, like they do in private enterprises, would not the money you have on hand go very much further?

Mr. NEWELL. Unquestionably that would result.

Q. Why is that not a good plan to follow now—force the settlers to work out the laterals?

Mr. NEWELL. My own opinion is that it would be highly desirable to be in a position where the entrymen must build their own distributing system as far as possible and reduce the cost of them to the Government.

Q. You think that is more important than more money at this time?

Mr. NEWELL. I should not like to express an opinion, but we should proceed along lines followed by business men.

From this testimony you can see that the Reclamation Service is in no way committed to the immediate building of these extensions. A large portion of the land of these extensions is now in the hands of individuals, who are holding them for speculative purposes to a large extent and are demanding that government money shall be used to improve their lands in order that they may realize on the adventure they entered upon when they became the owners of the land that the Reclamation Service was in no way committed to reclaim.

The contention they make is this: They say to the Reclamation Service, "You have built a great dam; you have got more water in that dam than you need to irrigate the lands within your improved projects. Build new canals and new laterals adjacent to our lands and give us the benefit of your extra water. We are not willing to wait until you complete the projects in sight and then take the moneys from the original irrigation fund to bring the water to our land, but you must go to the Treasury of the United States and take the moneys of the people of the United States to build these canals and these ditches on our land in order that it may increase in value and that we may reap the benefits of our foresight and ingenuity in becoming the owners of land adjacent to the projects you have approved for reclamation." I have no objection to these gentlemen securing water for their land if they are willing to wait their proper time and use the moneys derived from the sale of public lands in the irrigation fund, when they reach their turn; but I do seriously object to their demanding money from the Public Treasury, money paid into the Treasury by your constituents and my constituents, and use it as a venture to improve private property. If the project succeeds, these men will reap the profits; if it proves a failure, they will only lose the land that is now practically worthless, and possibly not that, but the Government will lose all its money without even an obligation from these owners to pay it back.

Mr. SHARP. Do you know how many, if any, of the States grant state aid for this purpose?

Mr. UNDERWOOD. Some of the States do, but that has nothing to do with this proposition. The state projects are entirely separated from the projects under the Reclamation Service.

I want to give you notice now that when this bill comes up for consideration under the five-minute rule, where I can offer an amendment, I intend to move to strike out the provision in the bill where it provides that this appropriation of $20,000,000 can be used for the purpose of improving these extensions, and to confine the appropriation absolutely to the original projects; and I predict that you will then find every man who stands for this bill and who is advocating it voting to keep these extensions in the bill, because they know as well as I know that if it was not for the extensions there would be no necessity for this appropriation and that the original projects can be completed within a very short time without any appropriation from the General Government.

Mr. Chairman, in conclusion let me say that I realize that there are a large number of the Members of the House who are earnestly advocating this bill. I realize that it is practically impossible for any one Member of this House to stand against an appropriation bill that carries $20,000,000. I realize that the President of the United States pledged himself to the people of the western country when he made his tour last sum-

mer that he would see that Congress appropriated this vast sum of money from the public funds to carry out these irrigation enterprises. I realize that the President has demanded of the Members of Congress that they redeem his pledge given to the western people. I realize that under these circumstances that the efforts I am making to try and prevent an unnecessary and unconstitutional appropriation of the public moneys will probably prove futile; but, Mr. Chairman, I believe that it is my duty to myself as well as to my people to enter my earnest protest against the unconstitutional and unnecessary appropriation of public funds for private purposes, and also to enter at this time an earnest protest against the growing habit of the Presidents of the United States to pledge to the people of the United States, or a portion of them, enactment of legislation or appropriations by Congress, especially where it relates to matters that evidently have not received the careful consideration in advance by the Executive, and then use the power of the greatest office in the world to drive through an unwilling Congress legislation that would never be enacted if it was not forced through the Congress by executive order. [Applause.]

Mr. SMITH of California. Mr. Chairman, I only want to say a word about the closing remarks of the gentleman from Alabama [Mr. UNDERWOOD], as to whether these extensions that he refers to cover private lands. Such is not my information in some cases that I am somewhat familiar with.

Mr. UNDERWOOD. I do not say that they cover private lands in all cases; but if the gentleman will look at Mr. Newell's testimony, he pointed out which were private lands and which were not.

Mr. SMITH of California. Did he not convey the idea that the private lands were those recently entered by settlers on the public domain and not yet patented?

Mr. UNDERWOOD. Some of them are and many are not.

Mr. SMITH of California. I have in mind cases where by carrying on what we call a high-line canal, running on a higher contour than the main canal that the project first contemplated, a large amount of land is brought under reclamation that is essentially government land, although filed upon under the desert or homestead act.

Mr. UNDERWOOD. That is true.

Mr. SMITH of California. And it would be in every sense within the spirit of the reclamation project.

Mr. UNDERWOOD. I stated that some of it was government land, but that most of it is entered private land, and some of it has been private land for years.

Mr. SMITH of California. We understand that in nearly all these projects there is some private land scattered among the other bodies of public land, and you can not very well irrigate one without irrigating the other.

Mr. MONDELL. Mr. Chairman, it is now eight years and three days since the President of the United States signed the national reclamation law. Those of us who were fortunate enough to participate in the work leading up to the passage of that act and in its enactment can, I think, be abundantly satisfied with what has been accomplished. I believe even more has been accomplished than we believed possible in eight years.

I had the high privilege of making the motion on which the bill was passed through the House, and in my remarks on the bill I said that in my opinion one of its most helpful offices would be in the promotion of irrigation by private enterprise. In that I proved to be a prophet; for private enterprise, stimulated by the aid of the Government, by the fact that the Government had recognized the value and necessity of irrigation, went on in the development and irrigation of lands, so that there have been, since the law passed, at least five to eight times as much land irrigated by private enterprise and expenditure of private money as has been irrigated under the national reclamation law.

We have undertaken 32 projects in 16 States and Territories. Upon these projects we have expended $50,000,000. Of all the magnificent structures that have been built, some of them the most monumental in the world, the highest dam in the world, the largest reservoir in the world, some of the most tremendous structures known in history, not one of these enormous works that has not proved substantial and lasting.

There has not been a word of scandal connected with this $50,000,000 of money, and the men who have had charge of that work, while they have made some mistakes, because they are mortal and therefore must make some mistakes, are entitled to the thanks of the American people for the splendid work that they have done and for their magnificent accomplishments.

There have been two conditions which have necessitated the aid which is now sought through the bill before the House. When they undertook the first construction under the national reclamation law the cost of earth, stone, concrete construction in the West, had been phenomenally low, but there has been a constant increase in that cost, an increase which has amounted to not less than 60 per cent at the lowest estimate. In many instances projects have cost more than double what the first estimates placed them at. In many instances the cost of removing earth and stone and of placing the concrete has been more than doubled in the past three or four years owing to the increased labor wage, the increased cost of cement, the increased cost of materials of all kinds entering into these great constructions.

In my opinion, had there been no increase in the cost of construction it would never have been necessary for the people interested in these projects to have asked Congress for any aid other than that which is obtained from the proceeds of the sales of public lands, but that increased cost has affected these projects in two important ways. First, the $50,000,000 expenditure has accomplished no more in the way of construction than the expenditure of $30,000,000 or $33,000,000 under other conditions; or, to put it in another way, what would now demand an expenditure of $80,000,000 could have been accomplished at the time the reclamation law was passed with an expenditure of $50,000,000. This great increase was an increase in the main upon the first, the initial structure.

In carrying out the mighty reclamation projects the initial work is the costly work. The mighty dam which must be sunk to the living rock in the bed of the river and carried far below its foaming tide to hold back the waters to be carried out with enormous canals to fructify the dry and arid wastes, these structures are enormous in size and exceedingly costly. The great Shoshone dam, towering 356 feet above its foundations, cost $750,000, and the great Pathfinder dam cost over $500,000. The great Gunnison Tunnel, not yet completed, will cost, if I recollect rightly, $4,500,000.

I now yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Will the gentleman state that the difference between the $50,000,000 and the $80,000,000 was due to the cost of the material, or is it due to the fact that the original estimates for the work were based upon a totally different character of construction than what was actually carried out?

Mr. MONDELL. The original estimates were based upon the first contract let. A cost of 10 or 12 cents per yard for dry earth, of 45 to 60 cents for solid rock, advanced in some cases to 22 to 25 cents for earth and $1 or more per yard for rock. The estimates were based on the cost of construction at the time, and the cost of construction has largely increased.

Now, we have gone on with these projects. The increased cost has brought us to a point where we have completed enormous storage and diversion works, and just as we approach the time in the construction of the enterprise where we should conduct water upon the lands and furnish it to the farmers and receive a return for it we find the income insufficient to carry on the work with reasonable dispatch.

As a business proposition it is the height of wisdom for the Government to advance its credit for the purpose of fully completing these works by the building of the distributing systems, so that we can begin to secure an income from the great expenditure which has been made in the building of the impounding dams and in the digging of the mighty ditches that lead the waters through the mountains and out onto the plains. It would be exceedingly poor business judgment for a private institution to erect a great building, and then, instead of borrowing a sufficient amount of money with which to finish it so that it could be occupied and bring in an income, to hesitate and wait until the slow accretions of income might furnish the funds with which to build the interior. Business judgment compels us to the plan proposed, whereby the Federal Government will soon begin to receive a return from the moneys that have been invested. The gentleman from Alabama [Mr. UNDERWOOD] has discussed the constitutional question. I am not a lawyer, much less a constitutional lawyer, and therefore I shall not attempt at length to discuss the constitutional question; first, because I do not think there is any consitutional question involved. This is simply a proposition to use the credit of the United States for the purpose of completing these works, the Treasury to be reimbursed from the proceeds of the sale of public lands, a source absolutely sure and certain, so long as there shall be a demand for the public domain.

The gentleman from Alabama [Mr. UNDERWOOD] objects to the issuance of these certificates because, he says, in carrying out these projects we have irrigated some private lands. So we have. Of course he did not call attention to the fact that the great Shoshone project in my State, with its 156,000 acres of land, has scarcely a single acre that was in private ownership until the Government started the project; and the Goshen

Hole project is almost entirely public lands. Some of these projects are composed almost entirely in the main of government lands. I am of the opinion, though I will not state it as an absolute fact, that the statement which the gentleman from Alabama quoted showing a considerable portion of privately owned land included not only privately owned lands, but also lands entered under the land laws and held as unperfected claims. However, that is utterly immaterial, for in the carrying out of a great project, for the irrigation for all time of the irrigable land in the great river valleys, it is necessary for the Federal Government to enter into negotiations with private owners whereby the private owners shall bear their share of the irrigation. What matters it to the country and what difference does it make? Why, every dollar the Government expends in the irrigation of those lands must be repaid to the Treasury, and all those charges upon the private lands are made high enough to cover every possible cost.

Before a private landowner is granted a water right or participates in the benefits under the law he mortgages his land, so that by no possibility can he escape from the payment of his water charge.

It has been suggested that the time may come when western Members will be importuning for the relief of the settlers on these lands from their payments. I do not think that time will ever come; but whatever may occur in regard to the land taken by the homesteaders, so far as the payments on the privately owned lands are concerned, there can be no escape from the payment, because they are protected by mortgages made upon the land.

Now, the gentleman from Alabama [Mr. UNDERWOOD] says that when the opportunity offers he will offer an amendment eliminating extensions of projects. The gentleman makes that suggestion simply because he does not know anything about the situation. If he did he would be the last man in the world to do so, because he is a man of most excellent judgment, a man who always intends to be fair, and he would be the last Member of the House to make that suggestion if fully informed. The fact is that in many instances a most important portion of a project may be one that has not been fully investigated and approved at the time the project is started. A dam is built, a diverting tunnel or ditch is dug from the river to carry the water to the land, from which considerable areas of land are watered. That portion of the project is carried to its farthest extension.

It may reach 50 miles down the river, but on the other side of the river or nearer the dam there may be a tract which can be irrigated at less cost than land at the lower end of the approved project. It may be a tract of greater value. It may be more attractive to settlers, and it may be the best policy to use funds for such a portion of a project or section of a project that has not been approved at the time of the passage of this act. So we provide in the bill that the money may be used for the purpose of extensions, and we carefully considered that and, I think, wisely adopted it. In my opinion this bill will furnish sufficient revenue, with the income from the sale of public lands, amounting to $7,000,000 a year, to speedily complete the projects now undertaken and every reasonable extension. Before that is done the fund will be somewhat decreased by the returns to the Treasury from reclamation payments, and from that time on I hope that the income from public lands will be somewhat increased, and that the enhanced price which we are now laying upon our coal and timber lands will gradually bring us a somewhat larger income than at present, and that we will thus be enabled to carry the work under the income provided in the original bill.

The CHAIRMAN. The time of the gentleman has expired. Time for debate has expired, and the Clerk will read the bill. Without objection the Clerk will report the bill as amended.

Mr. UNDERWOOD. I raise the point of order that there is not a quorum present. This is an important bill, and a quorum ought to be present for its consideration.

The CHAIRMAN. The gentleman from Alabama makes the point of order that there is not a quorum present, and the Chair will count. [After counting.] One hundred and ten present; a quorum.

The Clerk read as follows:

Be it enacted, etc., That to enable the Secretary of the Interior to complete government reclamation projects heretofore begun, the Secretary of the Treasury is authorized, upon request of the Secretary of the Interior, to transfer from time to time to the credit of the reclamation fund created by the act entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, such sum or sums, not exceeding in the aggregate $20,000,000, as the Secretary of the Interior may deem necessary to complete the said reclamation projects, and such extensions thereof as he may deem proper and necessary to the successful and profitable operation and maintenance thereof or to protect water rights pertaining thereto claimed by the United States, provided the same shall be approved by the President of the United States; and such sum or sums as may be required to comply with the foregoing authority are hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the sums hereby authorized to be transferred to the reclamation fund shall be so transferred only as such sums shall be actually needed to meet payments for work performed under existing law: *And provided further*, That all sums so transferred shall be reimbursed to the Treasury from the reclamation fund, as hereinafter provided: *And provided further*, That no part of this appropriation shall be expended upon any existing project until it shall have been examined by a board of engineer officers of the army, designated by the President of the United States, and approved by the President and by such board of engineers as feasible and practicable and worthy of such expenditure; nor shall any portion of this appropriation be expended upon any new project.

Mr. UNDERWOOD. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Alabama offers an amendment, which the Clerk will report.

Mr. UNDERWOOD. I desire to strike out, after the word "the," in line 14, page 3, all of the language down to and including "the United States," in line 17, and to insert in place thereof the following:

The said approved reclamation projects, or to protect water rights pertaining thereto.

The Clerk read as follows:

On page 3, line 14, after the word "said," insert the word "approved," and after "projects" strike out the remainder of the line; all of lines 15 and 16, down to and including the word "thereto," and insert "or to protect water rights pertaining thereto;" and after "thereto" strike out "claimed by the United States," so that it will read:

"May deem necessary to complete the said approved reclamation projects or to protect water rights pertaining thereto."

Mr. UNDERWOOD. Mr. Chairman, the object of this amendment is this: If the language remains in the bill as it is now, this $20,000,000 can be used for new projects under the name of extensions. They are not projects that are segregated; they are the projects now on hand; but the extensions are new projects—that is, extensions of old projects and approved projects. Now, as I said a while ago, I know of no reason why we should make any appropriation for projects that the Reclamation Service has never said it was going to carry out; that it has never approved; that are merely speculative; and that amount to $55,000,000. If you adopt the language of my amendment, you limit the expenditure of this $20,000,000 to the projects that have been worked out and approved by the Reclamation Service.

Mr. NORRIS. Will the gentleman yield?

Mr. UNDERWOOD. Certainly.

Mr. NORRIS. I do not know whether I quite get the idea of the gentleman's amendment, but is not this true, that the very object of this bill in one sense is to provide for extension of projects that are begun?

Mr. UNDERWOOD. I think the gentleman from Nebraska has stated the real object of the bill fully. The object of this bill is not to carry out and complete projects that the Government had approved and intended to carry out under the original proposition, but they want to go into new land and new projects, and they want this $20,000,000 for that purpose, and I say there is no reason in the world why the Congress should commit itself to new projects. There is no moral or legal obligation, and if there is any obligation resting at all it remains purely and simply on the $30,000,000 worth of projects that the Reclamation Service has approved. But I say there is no reason why this committee should not limit the expenditure of this money to those projects.

Now, there is some seven and a quarter or seven and a half million dollars coming in from the arid-land fund that can be used for extensions on new projects, and I say that is enough. There is no reason why we should apply this $20,000,000 to practically new projects called extensions.

Mr. NORRIS. If the gentleman will permit me, I think the question would arise in the expenditure of the fund as to whether it was an extension or not. It seems to me they could not use it unless it was a project that was begun, and so, in a way, it must be an extension.

Mr. UNDERWOOD. I will say to my friend from Nebraska that they know the limits of the projects to-day as well as the gentleman knows the limits of this room in which we are standing. They know the limits, because they have been surveyed; they have been laid off. They have been laid off on paper and laid off on the land, and everybody knows what the approved project is, and hence this extension is to go beyond the limits of that project.

Mr. PAYNE. Mr. Chairman, this can be explained.

Mr. CLARK of Missouri. Before the gentleman begins, I would like to have the amendment again read.

The CHAIRMAN. Without objection, the Clerk will again read the amendment.

The Clerk read the amendment.

Mr. PAYNE. Mr. Chairman, this language is very easily explained. The project is first surveyed for the dam and the reservoir and the leading canal carrying it to the valley where the land is on the level, and with a canal upon that land sufficient to irrigate the adjacent irrigable land but not sufficient to use all the water. They commence work on that, and as the work advances they survey what are called extensions—that is, the canal leading from the lower end of the canal to other lands. Sometimes the original project only covered half of the land that could be irrigated from the waterworks above, and these extensions are simply the work of carrying the canal to other irrigable lands, a small portion of the work, a small portion of the expense, but perhaps doubling the irrigable land taken up by settlers and doubling the income to the Government in paying for water rights.

That is all there is to these extensions. It is a proper and necessary part of the work. It is a more profitable part of the work for the Government of the United States than for the settlers on the land than even the original work. It brings in more money according to the money expended, and I hope the amendment will not prevail.

Mr. TAYLOR of Colorado. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Debate is exhausted. The question is on the amendment offered by the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. UNDERWOOD) there were 21 ayes and 69 noes.

So the amendment was rejected.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend section 1, page 3, line 4, by inserting after the word "begin" the following: "and to construct such reclamation work as may be necessary to equalize the expenditure of the reclamation fund within the State mentioned in the said act of June 17, 1902, and as required by section 9 of said act."

Mr. MORGAN of Oklahoma. Mr. Chairman, I desire to say a few words in support of this amendment. I have two or three amendments which I wish to offer to this bill. In offering these amendments I am doing what I feel is absolutely necessary in order that the people of my district shall have a fair show and secure justice under this act.

I know that this bill has been carefully considered. Apparently, the idea has been that the fund derived from the sale of these certificates shall be limited in its use. This section provides that the fund derived from the sale of these certificates shall be used only for projects which have been already begun. Now, the amendment I offer provides the fund may also be used in the construction of new projects in those States which have not received their share of the fund under the terms of the original act.

Now, then, as I shall offer some other amendments, and as section 9 of the original act will come in question in this discussion, I want to read this section. I want to get this section clearly before the members of this committee. Section 9 of the original act provides as follows:

SEC. 9. That it is hereby declared to be the duty of the Secretary of the Interior, in carrying out the provisions of this act, so far as the same may be practicable and subject to the existence of feasible irrigation projects, to expend the major portion of the funds arising from the sale of public lands within each State and Territory hereinbefore named for the benefit of arid and semiarid lands within the limits of such State or Territory: *Provided*, That the Secretary may temporarily use such portion of said funds for the benefit of arid or semiarid lands in any particular State or Territory hereinbefore named as he may deem advisable, but when so used the excess shall be restored to the fund as soon as practicable, to the end that ultimately, and in any event, within each ten-year period after the passage of this act the expenditures for the benefit of said States and Territories shall be equalized according to the proportions and subject to the conditions as to practicability and feasibility aforesaid.

Now, Mr. Chairman, under this section no portion of the reclamation funds can be used in any State unless there shall be found in the State a practicable and feasible project. As has been pointed out in this discussion, eight years have passed since this act became a law. During that time over $5,000,000 has been paid into this fund from the sale of lands in Oklahoma. A large proportion of this money has come from the sale of lands within my congressional district. While the department has expended something on surveys, no irrigation works have been constructed and no lands have been reclaimed. Looking at it from a moral standpoint, these funds should now be distributed according to the terms of the original act. We should be just and fair to all the States included within the original reclamation act. We should not permit this great act to be enforced in a way that will violate both the letter and spirit of the act. Some of the States have received now a sum far in excess of the amount that should have been expended therein under the terms of the original act.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SULZER. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for five minutes.

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

Mr. SULZER. I did not quite understand the gentleman's amendment. Just how would the State from which the gentleman comes be benefited by this amendment should it be adopted?

Mr. MORGAN of Oklahoma. Well, under the bill as it is, no portion of this $20,000,000 can be used upon any irrigation work that has not already been begun. As no works have been begun in Oklahoma, not a single cent of the $20,000,000 could be used in the State. My amendment proposes that in addition to using this fund in the completion of works already begun, you may also use it in the construction of works in those States that have not received their share according to the provisions in section 9 of the original act. Of course no State has any right to claim that any portion of this fund shall be expended therein unless practicable and feasible projects can be found.

Mr. NORRIS. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. NORRIS. I want to ask the gentleman entirely for information whether it is not true that the department has tried its best to find a feasible project there and has been unable to find any, and I would like for the gentleman to tell us if there is in the State of Oklahoma a feasible project for irrigation coming under this reclamation act, and if so, that he give us some information in regard to it. Is there such a project there?

Mr. SULZER. As I understand the gentleman, this extends the benefits of the reclamation act?

Mr. NORRIS. It is already extended under the present law, but no project has ever been commenced in Oklahoma, and the officers of the department say that they have not commenced it because there are none there.

Mr. SULZER. That may be or it may not be true.

Mr. NORRIS. I am trying to find out. I want the gentleman to tell us.

Mr. SULZER. I think the gentleman's amendment is a good one.

Mr. MORGAN of Oklahoma. I have read carefully those reports, and while there are some unfavorable conditions there, as I have read those reports, there are feasible and practicable projects within the State of Oklahoma.

Mr. NORRIS. Before this investigating committee the officers of the department, I think, without exception, who testified at all on that subject testified that they had spent considerable money and time trying to find a feasible project in Oklahoma, and could not find any.

Mr. MORGAN of Oklahoma. If the gentleman will read the annual reports of the Reclamation Service I think he will find those gentlemen were incorrect in their statement. That is not the question. If there are no feasible and practicable irrigation projects in Oklahoma, then this amendment will not take one cent of money down there or require a single cent to be expended there.

Mr. NORRIS. I ask the gentleman purely for information. I thought the gentleman could tell us. He lives there and knows a good deal about it.

Mr. MORGAN of Oklahoma. I say that my information is—and I get it from my observation as well as from reading the annual reports of the Reclamation Service—that there are feasible and practicable projects in Oklahoma.

Mr. STEPHENS of Texas. Is it not true that Otter Creek and also the North Fork of Red River have a chance for a dam where there is irrigation below?

Mr. PAYNE. Money has been spent in Oklahoma by the way of trying to irrigate beyond that which they have spent, which is a large amount of money, in trying to find somewhere in the State a feasible project; and they have found none. No citizen of Oklahoma has pointed out one to them. This money that has been spent is lost.

Mr. MORGAN of Oklahoma. Will the gentleman yield for a question?

Mr. PAYNE. The gentleman has had ten minutes. I think he ought to allow me to make a statement.

Mr. MORGAN of Oklahoma. Do you base that statement upon an examination of the published reports of those various surveys, or do you base it upon some general statement from some individual?

Mr. PAYNE. As I stated, I base it upon the statements made before the committee, and on statements made to me by the engineers in charge of the work. Now, they have spent

money for that purpose and have found nothing. They have gone into this because they received money from the State of Kansas, and tried to find water there. They bored down below the surface, expecting to find a running stream. They found a running stream, but there was hardly enough of it to irrigate a section. They spent a good deal of money in trying to find something in Kansas. Why? Because of this ninth section. They spent money in Oklahoma because of this ninth section. They spent money in one of the Dakotas because of this ninth section. They spent money in other States because of this ninth section. That money was practically wasted because it does not seem to have convinced the gentlemen in these States that there were no feasible projects there. That is one of the things we want to get rid of by this bill—that section 9. If in the future the gentleman can find a place in his congressional district that can be irrigated to advantage, and he points it out to the engineers, it is not cut off by the amendment. They are not compelled to spend money foolishly, but they can spend it on feasible objects, and spend it without limitation, if he can find such a place and show it to the engineers. And so with other States. That provision ought not to have been in the law. It is the source of half the trouble there is to-day and the source of half of the requests to borrow this money to carry out these projects. We ought not to have wasted so much of it in trying to find places in order to carry out the ninth section of the law. It is very important that this amendment be voted down. It is very important that the ninth section should be stricken out of the original law if we want to make this matter a success and do not want to make it a stench in the nostrils of the people in trying to find water when there is not any with which to irrigate. I hope the amendment will not prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. MORGAN].

The question was taken, and the amendment was rejected.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend section 1, page 4, line 9, by striking out the period after the word "project" and inserting a colon, and the following words, to wit: "*Provided*, That no new reclamation project shall be undertaken or constructed in any State wherein there has been expended the major portion of the reclamation fund derived from said State, until the expenditure of said reclamation fund shall be equalized as required by section 9 of said act of June 17, 1902."

Mr. MORGAN of Oklahoma. Mr. Chairman, in support of this amendment I wish to make a few remarks. I believe that the reclamation law as originally passed should be carried out in good faith. I do not believe that any new project should be undertaken in any State which has already received the benefits of its full share of this fund until the fund has been equalized under section 9 of the original act. Now, what does this amendment of mine provide? It provides that there shall not be undertaken any new irrigation project in those States that have already had their full share of this fund until the reclamation fund shall be equalized between the various States, according to the provisions of section 9 of the original act.

Now, section 9 does not provide that the funds shall be arbitrarily expended in certain States. The expenditure in any State is permitted only upon condition that practicable or feasible projects shall be found therein.

Now, if the department, in constructing irrigation works, has expended too much in one State and too little in another, the time has come when we should, by legislative enactment, place such restrictions in the law as require that the original act shall be carried out in good faith.

This amendment does not interfere with the expenditure of the fund derived from the sale of these certificates, but it does put a limit, a restriction, upon its use, and that hereafter the reclamation fund shall be expended in harmony with the intentions of the original law. There can be no serious objection urged against this amendment. It will not interfere with the expenditure of the $20,000,000 derived from the sale of these certificates, but would serve as a declaration of Congress, instructing the department how this fund should be expended in the future. [Cries of "Vote!"]

The question was taken, and the amendment was rejected.

Mr. HITCHCOCK and Mr. SMITH of Texas rose.

Mr. HITCHCOCK. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Texas next, as the gentleman from Nebraska has sent his amendment to the desk.

The Clerk read as follows:

Page 4, line 2, after the words "hereinafter provided," strike out all down to and including the word "expenditure," in line 8.

Mr. HITCHCOCK. Mr. Chairman, the purpose of this bill is to raise $20,000,000 for the prompt completion of irrigation projects now under way, but this bill contains the provision that none of the money so raised can be expended until a board of army engineers has examined and approved the project.

To my mind this provision means or may mean delay, and the crying need is for quick action. The amendment which I have offered, therefore, proposes to strike out of the bill the provision that the $20,000,000 appropriated can not be expended until a board of army engineers approves the project.

There are a number of irrigation projects in the West now held back simply for lack of money in the irrigation fund to complete and extend the work.

To the average eastern Member this may not mean much more than a delay in the completion of a public building. He may realize or appreciate no urgency for prompt action. He thinks only of the Government. As a matter of fact, Mr. Chairman, there is another party in interest who must be considered. It is the homesteader and settler, who has gone upon these lands and who has done his part toward establishing a home and building up the country.

Thousands of these settlers, believing that the Government would promptly develop and complete these irrigation projects, have taken homesteads and begun the work of establishing a home for themselves and family. They have risked all that they have in the world on the strength of the Government's promise of water for their dry lands. And now, after several years, they find that the water is still lacking and that the work of the project languishes because the Government lacks the ready money to push the projects to an early completion.

It really makes no difference who is responsible for this. Possibly some of the settlers were unwise in going upon the projects so soon and before the work had been finished. Possibly the engineers have miscalculated in some cases the cost of the projects or the amount of money available. Possibly the Secretary of the Interior has overestimated the amount of money which would come in from the sale of lands. Possibly political influence has caused the department to undertake more projects than there is money to complete. Whatever the cause is, however, the fact remains that thousands of western settlers are in an embarrassed and difficult position because the government projects are not being promptly completed. And this bill is intended to cure that evil and ought to be put in the best form and promptly passed.

But there is another reason, Mr. Chairman, why I think it unwise to put in charge of this work army engineers and displace those civil engineers who have had charge of it up to the present time. In the main, under the control of these civil engineers, the work has been successful. Fifty million dollars have been expended. For the most part, this has been wisely expended. Hundreds of thousands of acres of arid land have been converted into fruitful orchards and farms. The wealth of the country has been enormously added to. The productiveness of the West has been greatly increased. The reclamation reports show that 22 projects will ultimately irrigate 1,625,000 acres, of which 405,000 were actually irrigated last year, raising a crop of the gross value of $14,000,000. The same report shows that the land values have increased on these 22 projects $105,000,000 since the irrigation work was begun. Every million dollars now added to this irrigation work will produce a much larger effect than any past expenditure of a million dollars has produced, because the most expensive part of the work on most of the projects has already been completed and paid for.

Already, also, Mr. Chairman, the money has begun to come in from the holders of land under the irrigation projects, and this year I understand that the receipts of the Government from this source will be about $1,500,000, and the amount will increase year by year beyond any doubt, and the Government will soon be reimbursed for all that it has expended.

And yet it is now proposed to place above the civil engineers who have carried on this work a board of army engineers and not to permit any of this $20,000,000 to be expended on any of these projects until this board of army engineers educates itself and approves the projects.

Mr. Chairman, I say this is a deplorable proposition, and there is no need for it. Under the reclamation law, as it exists to-day, the President has absolute power. He can fix the salary of every man in the Reclamation Service. He can remove any engineer at his own will. He has absolute control, as it exists to-day, of the Reclamation Service and of the engineers who are carrying on this work. I do not believe that any possible good could be done in setting aside these experienced engineers and substituting in their place army engineers, however competent they may be, and however accomplished as engineers.

Mr. HOBSON. Will the gentleman yield for a question?

Mr. HITCHCOCK. Yes.

Mr. HOBSON. Does the gentleman understand that the board of army engineers to be appointed would undertake the work of supervision? Would not their work be simply one of examination, to verify the feasibility of the project?

Mr. HITCHCOCK. I take it to be that this provision will put the civil engineers who have been in charge of this great work substantially under the control of the army engineers, and that these army engineers, most of whom have never seen an irrigation project, will have the right to decide whether or not work shall be continued. I say this is deplorable for another reason. These civil engineers who have been carrying on these irrigation projects, who have been developing these great enterprises, which have added enormously to the wealth of the West, which have added hundreds of thousands of acres of land upon which crops are actually being raised—these engineers are actually in contact with the situation. They have come in contact with the settlers, they know their needs, they know the country, they have spent months in travel over that country, and it seems to me a deplorable suggestion that they should be set aside and in their place should be substituted these army engineers, who lack a knowledge of the work or acquaintance with the people located on the projects.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. HITCHCOCK. Certainly.

Mr. SMITH of Texas. Is it not a fact that this money that is supposed to be raised by these bonds is to be expended upon projects almost completed, many of them, and that if we wait for these engineers to go out and make these surveys and pass on these various projects the very object of this bill will be defeated?

Mr. HITCHCOCK. I think so.

Mr. SMITH of Texas. Because of the delay that will occur on that account?

Mr. HITCHCOCK. I believe it will actually defeat the purpose which Congress has in view, and which the President has recommended, to give relief to these settlers by affording additional funds to carry on works which are successfully started.

[The time of Mr. HITCHCOCK having expired, by unanimous consent it was extended five minutes.]

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that the amendment may be again reported.

The amendment was again read.

Mr. COOPER of Pennsylvania. I will ask the gentleman from Nebraska if he knows whether or not there are sufficient engineers in the army now to be spared to do this work without an increase in the force of army engineers?

Mr. HITCHCOCK. I am not in a position to answer that question.

Mr. STEPHENS of Texas. No; there are not.

Mr. NORRIS. I want to ask my colleague if he will permit a suggestion there by way of answer to that question.

Mr. HITCHCOCK. Yes.

Mr. STEPHENS of Texas. The suggestion is that the civil engineers, and every man in the department, from the Secretary of the Interior down, know already which of these projects are practicable and which are not practicable. I do not believe it will be necessary for anyone to waste any time, because it is something that is already known, and it does not seem to me it is necessary for an army engineer or any other engineer to investigate that question.

Mr. COOPER of Pennsylvania. I do not understand that there has been any particular complaint of the work of the engineers, but the complaint has been that more has been undertaken than can be completed with the funds on hand.

Mr. HITCHCOCK. I think so. I think the gentleman from New York [Mr. PAYNE] expressed the idea.

Mr. COOPER of Pennsylvania. The Secretary of the Interior has to give his sanction before the project can be undertaken.

Mr. HITCHCOCK. I think the gentleman from New York correctly expressed the idea. There was a clamor in certain States for irrigation projects. Influences were brought to bear, not on the engineers necessarily, but on the Secretary of the Interior and on the President to have some irrigation projects undertaken where they were really not feasible. The engineers, in obedience to the orders which they received, have endeavored in those States to find irrigation projects. Sometimes they have succeeded, sometimes they have failed, but now the matter has been so thrashed out that it is pretty well known in the Reclamation Service what projects are feasible and what projects must be abandoned. But very little money, comparatively speaking, has been wasted. Of the $50,000,000 expended this country has already come into ownership of the most magnificent irrigation projects in the world, projects that represent the most advanced form of engineering. I think it would be a deplorable mistake, in view of the benefit the country has received, to swap horses while we are crossing the stream. [Applause.]

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. HITCHCOCK. Certainly.

Mr. GRAHAM of Illinois. I call the gentleman's attention to line 4, which says:

No part of the appropriation is to be expended on any existing project until examined by a board of army engineers.

The language of the amendment limits the supervisory powers of the army officers to existing projects. And when you read further down, does it not mean that it gives that power to say whether some existing project upon which money has already been expended may be abandoned altogether, or must be abandoned? Is not that a dangerous power?

Mr. HITCHCOCK. I think it means that every one of these great irrigation projects now in progress will have to stop until the board of army engineers can examine the work and educate themselves. I believe for that reason the bill will retard and impede the work of irrigation, unless my amendment is adopted. At least the work can be more promptly pushed to completion if left in charge of engineers who are familiar with it.

Mr. PAYNE. Mr. Chairman, one of the difficulties that we found was that many projects undertaken never should have been undertaken, but some one suggested that they had to be approved by the Secretary of the Interior. He has never been an engineer; he has to rely on the engineer in charge. They have been hampered somewhat by the paragraph of the law which the House has finally knocked out of the law practically, and they have relied somewhat on that; still they ought never to have recommended the projects as feasible when they were not.

Here is this paragraph that the project shall be examined by a board of engineers appointed by the President to examine the work, to report upon them, and they must be feasible and practicable to base a claim that this money we are paying out of the Treasury, or bonds to be issued, shall be spent only upon these projects.

Now, Mr. Chairman, the army engineers are familiar with the building of canals; that is a part of their work. There are no better engineers in the world.

He could not get the Committee on Rivers and Harbors to put river and harbor impovements under other engineers than army engineers. My friend from Iowa says there are plenty of engineers in the army that can be detailed for this work and it will cost no additional expense to come out of this fund. It seems to me it is better to take this proposition and put it on a business basis.

Mr. NORRIS. I would like to ask the gentleman one or two questions. First, is not it definitely known by the Interior Department at present just which one of these projects is feasible and upon which one the money ought to be used?

Mr. PAYNE. If that is so, they did not make it plain to the committee.

Mr. NORRIS. It seems to me these engineers who have built this work up certainly know which are good and which are bad; and the next question is, Would it not delay the work if you put a new set of engineers to work and send them out——

Mr. PAYNE. No.

Mr. NORRIS (continuing). To ascertain whether they are practicable propositions or not?

Mr. PAYNE. In the first place they have now got $7,000,000 or $8,000,000 of this fund ready to use, and they can go ahead and use that. It is simply the money appropriated from these bonds which shall not——

Mr. NORRIS. Will the gentleman yield?

Mr. PAYNE. I was trying to show the gentleman it would not delay the work, because they have $6,000,000 or $8,000,000 to go on with the work, and until that is expended, and long before that time, the army engineers could report on the projects.

Mr. FOWLER. May I ask the gentleman: Is any of this money to be used for projects that have not already been begun?

Mr. PAYNE. No; not a cent.

Mr. FOWLER. It is for projects actually in the course of construction now?

Mr. PAYNE. Yes.

Mr. FOWLER. I can not see, if that is true, why they should be reexamined by other engineers.

Mr. PAYNE. Why should not other engineers reexamine them; why not make it certain; why should we go on and accept a mistake if one has been made?

Mr. NORRIS. The engineers you ask to make the examination do not know as much about it as the engineers now in charge.

Mr. PAYNE. I want to say to the gentleman that there are no better engineers in the world than the army engineers.

Mr. NORRIS. Not for this class of work.

Mr. PAYNE. The river and harbor work demands a construction of canals. Look at the engineer in charge of the Panama Canal, and say whether he is a fair representative of the engineers of the United States, and his assistant engineers, who took hold very quickly of that work. I happened to be down there when he went there, and it was not a week after he began before he understood it.

Mr. NORRIS. The gentleman would not claim that he would take another engineer, even an army engineer, to send to Panama to pass on the work in preference to the army engineer who is in charge of it and well acquainted with such work?

The CHAIRMAN. The time for debate on the amendment has expired.

The question was taken, and the Chair announced the noes appeared to have it.

Mr. NORRIS. Division!

The committee divided; and there were—ayes 44, noes 80.

So the amendment was rejected.

Mr. HITCHCOCK. Mr. Chairman——

The CHAIRMAN. The gentleman from Texas [Mr. BURLESON] is recognized.

Mr. BURLESON. Mr. Chairman, I offer the following amendment: I move to strike out after the word "officers," in line 5, page 14, the words "of the army."

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 4, line 5, strike out the words "of the army."

Mr. HITCHCOCK. I would suggest to the gentleman that he had better strike out the word "officers" and leave it "engineers."

Mr. BURLESON. Board of engineers.

Mr. HITCHCOCK. There is no such thing as an engineer officer.

Mr. HULL of Iowa. I do not believe that would take either the army or the navy.

Mr. BURLESON. Mr. Chairman, I will ask unanimous consent to amend by adding the letter "s" after the word "engineer" and strike out the words "officers of the army" in line 5, page 4.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 5, strike out the words "officers of the army" and add the letter "s" at the end of the word "engineer," so that it will read "board of engineers."

Mr. KEIFER. That means that they will be civil engineers?

Mr. BURLESON. It means that those appointed will be civil engineers. The gentleman from New York has said——

Mr. MONDELL. Is it not true that under his amendment the President could appoint army officers on the board?

Mr. BURLESON. He could if, in his opinion, they were the most desirable engineers to be appointed for this service.

Mr. MONDELL. Under that he could appoint a board partly of civil engineers and partly of army engineers?

Mr. BURLESON. He could, or he could appoint a board composed entirely of civil engineers. The gentleman from New York [Mr. PAYNE] has said that certain projects have been adopted or inaugurated which probably ought not to have been attempted, and of course some one was responsible for the mistake, if one was made. It is also said that it is desirable that these various projects should be gone over or considered anew by outside engineers, with a view of determining which projects are feasible or practicable, and with a view of determining whether it would be advisable to expend any part of the fund arising from the sale of these certificates toward the completion of the particular project. As was well said by the gentleman from Nebraska, army engineers are not familiar with this character of engineering work, and the President should be given a broad discretion in the selection he is to make; and under the amendment as I have offered it the President, if he saw fit, could select a board of engineers consisting in part of army engineers and in part of civil engineers, or, if he could find better equipped officers, engineers more familiar with this character of work, who are now connected with the service, he could designate those to examine anew these various projects.

I hope the amendment will be adopted.

Mr. HULL of Iowa. Mr. Chairman——

Mr. MANN. Will the gentleman yield for a question?

Mr. BURLESON. Certainly.

Mr. MANN. If the amendment of the gentleman be adopted, would it not require an appropriation for their expenses?

Mr. BURLESON. I think not; the expense would come out of this fund. Their compensation would come out of the reclamation fund.

Mr. MANN. Well, I think not.

Mr. BURLESON. All other engineers who are employed on the projects connected with this work are paid out of this fund.

Mr. CULLOP. It would be a part of the project.

Mr. BURLESON. Certainly.

Mr. RUCKER of Colorado. Mr. Chairman, the remarks of the gentleman from Nebraska [Mr. HITCHCOCK] and the gentleman from Texas [Mr. BURLESON] in support of their amendments to take from this bill the proposition to employ United States officers as engineers in the further work to be done upon these reclamation projects appear to me to be arguments in favor of the bill as it now stands rather than persuasive of the adoption of the amendments, because the objectors to further prosecution of the work begun by the Government laid great stress upon the fact that the engineers heretofore in charge have made a botch of the whole business and have been the cause of the suspension of the work, resulting in great loss to the Government and postponement of the benefits to be derived by prospective users of the water. In other words, it is claimed the "old broom" is worn out, and it is necessary to get another in order to make a clean job of the undertaking.

And I am not sure but what there is much to be said in behalf of this theory. At any rate, it will give employment to officers of the United States Army who are now idle, and will add much to the economy in the way of expense in the further prosecution of these schemes.

But, Mr. Chairman, apart from that question, which is comparatively of little importance, I wish to say that I have listened with a great deal of interest to the many gentlemen who have spoken upon this question, and am troubled to know how so much information could have been gathered by many of them, most all of whom would not know an irrigation ditch if they met it in the road, much less know how important the use of water is to us of the semiarid region, nor how many mouths might be fed by the storage of a cubic foot of water now coursing its way to the sea, and which is manifested not only on this occasion in the consideration of this bill, but is a prominent feature whenever a western interest is sought to be affected by congressional legislation.

This measure, Mr. Chairman, is distinctively a home-building one. We have recently heard much upon this floor and much has been read in the public prints about the high cost of living, and many economists have pointed out that the farms were not producing enough. Mr. James J. Hill, of railroad fame, has conclusively shown that it was not merely the question of how much the farms were producing, but a more important question was that there should be more farms. Your New England farms, owing to the erosion of time, are now but granite surfaces, and even as far westward as the Mississippi River the soil has lost so much of its fruitfulness that the cost of maintaining its fertility is fast taking away the profits of cultivation. They no longer reap where they sow, so that it has come to pass that we must look to that great empire of the West, now but comparatively a wilderness. Its soil, instead of deteriorating, is, by reason of the disintegration of its original making, growing richer and richer every day for making breadstuffs to feed our ever-increasing inhabitants. There we must find the future granaries to take the place of those now no longer in commission.

You of the East want homes for your very congested population; we in the West can accommodate you, and this measure is calculated to do so, but we can only do so by procuring from you some help. We are not asking a gift, because it has been abundantly shown to you that by the terms of this bill the $20,000,000 asked for investment is but a loan, and that only for a short period of time. It has also been abundantly shown to you by both of my colleagues, Messrs. TAYLOR and MARTIN, of Colorado, that so far as the Government is concerned it is a "flim-flam" game; not exactly such as "Now you see it, and now you don't," but it is "Heads you win, and tails I lose."

It seems strange to me that we find any opposition; it is stranger still to me that we find opposition coming from the Democratic side of the House. Those Members on the Democratic side certainly have forgotten that this reclamation plan was a Democratic measure. The Government would never have gone into it, President Roosevelt could not have secured the consent of Congress but for the labor and votes of the Democratic Members. Now it appears that we are getting the bulk of our support from the other side of the Chamber. [Applause on the Republican side.]

I do not want you over there, however, to feel too much elated over this compliment, because you are supporting this

measure, I fear, more because it is an administration measure than because of any cherished feeling you have toward us of the West. I scorn your motive, but I welcome your assistance. [Applause.]

I am pleased to observe the spectacle of the leader upon that side of the House, Mr. PAYNE, of New York, advocating this measure, and our leader upon this side, Mr. CLARK, of Missouri, yoked with him, not locked horns, as usual. Which is the "near" ox and which is the "off" ox may not appear in this debate, but they make an excellent team.

I believe that if a vote of the western Republicans could be polled the distinguished gentleman from New York would not be ashamed of the height to which he has ascended since he became a helper on the humane side of legislation, evidenced by his support of this bill. And as for our glorious leader, Mr. CLARK, it goes without saying that because of his patriotic support of all the measures looking toward the building up of our western country he will receive the unanimous support of all the Democrats of the West for the nomination for President, unless Colorado's favorite son and junior Senator should enter the race.

I appeal to you Democrats not to abandon the good cause you so manfully battled for in inaugurating this reclamation plan.

Mr. CULLOP. Will the gentleman from Colorado permit a question at this point in his remarks?

Mr. RUCKER of Colorado. Certainly.

Mr. CULLOP. Has not every great reform policy adopted by this Government for the last twenty years had its origin in the Democratic party? And when so proposed, did not the Republican party oppose them, and afterwards, forced by public opinion to adopt them, claim them as their own? Is it not true when the Democratic party first proposed rate regulation of the transportation companies the Republican party denounced it as unconstitutional and anarchy? And was it not first passed through the House by the Democratic votes, the party voting almost as a unit for it, and the great majority of the Republican membership of the House voting against it? Is it not true that the Democratic party was advocating irrigation, reclamation, conservation, and postal banks long before the Republican party espoused either, and were fighting all? That because of their advocacy by Democrats, the Republican party, by force of public opinion, was forced to adopt them all? Has it not for twenty years opposed every progressive policy inaugurated in the Government? And were not these first proposed in every instance by the Democratic party, and were they not opposed by the Republican party until compelled by public opinion to adopt them? [Applause on the Democratic side.]

Mr. RUCKER of Colorado. Indeed, the gentleman from Indiana is quite correct. I thank him for such timely suggestions, and I answer all his interrogatories in the affirmative, but he has omitted the publicity legislation, as well as others. I am glad to observe that they indicate that he will prove in this case, as he has always proven, patriotic enough to stand by his guns and vote for this proposition. [Applause on the Democratic side.] And I am glad to know that this applause indicates that there are others, and, after all, there will not be so very much opposition to this measure on the part of the Democrats, because the Republican party has made another raid on our hen roost and adopted this as an administration measure. [Applause.]

We have one uncompleted project in Colorado that, when finished, will add to our cultivated area more than 150,000 acres, making more than 2,000 farms of 80 acres each, and adding untold millions of dollars to our taxable wealth. Other States in the West will be benefited equally or more than our own, and I speak in their behalf as well as for our own State.

When the policy was determined upon years ago to reclaim this arid land by the impounding of waters and building of these canals, thousands of people went upon these lands and have been for years holding on by their eyelashes in the hope that the Government would some time carry out its promises to complete the work, and many of them have been living in pitiable conditions, owing to the fact that without water the land is entirely unproductive. It has been shown that even if the humane view should not be sufficient argument to pass this bill, the fact is that the Government already has spent considerable money which, unless the projects are finished, will be an entire loss, and therefore from an economical standpoint the Government should go ahead.

Mr. Chairman, I have referred briefly to the necessity for more homes in the land. The time was, in the dawn of creation, when Noah cast his dove from the ark to seek a place upon the earth where a landing might be made.

It is indeed a singular thing that at this early period of our creation we can observe peoples in older countries—for illustration, in China—where settlements are so dense with humanity that the eye has turned back from the land toward the water, and habitations are there made. Around Canton, in China, there are living, and have lived for ages, millions of people upon water crafts of every kind and description, having been shoved off of the land—people who are born upon these boats and crafts, were buried from them, and whose feet never touched land. Such a condition will some time overtake this country, and we should not hasten such a day by opposing such a beneficent measure.

Mr. Chairman, this long session, with its arduous labors, is drawing to a close. I have the kindliest of feeling for the membership of this House, and I have labored incessantly for the enactment of such laws as would benefit the whole country; but I would not have you unmindful of the fact that we of the West believe ourselves justified in calling your attention to the manifold injustices you have perpetrated by the enactment of certain legislation affecting most seriously the vital interests of that great West, that great empire which must ultimately be looked to for homes for the homeless, and upon which large drafts must be drawn in the near future for the sustenance of the very congested population of the East.

Let us for a moment cast our horoscope upon some of the legislation that we think you are not justified in enacting.

In your conservation policy you were not satisfied with the withdrawal of 16,000,000 acres of land for forest-reserve purposes from our State alone, but you invaded our other Western States, from some of which you took in some cases more, in few cases less, and you have made these forest reserves an asset of the Government for the purposes of revenue in the devastation of our forest and the hindering of the settler and stock raiser from making settlement, as well as the raising of his stock. You have taken 75 per cent of the proceeds, putting it into the National Treasury.

On another occasion I told you that our forests were necessary for the conservation of our water supply, without which water our progress and development will not only be retarded, but as the water grows less in the same ratio retrogression will proceed. I have told you that trees only grow on our watersheds three months in the year and only six hours in the day, and notwithstanding we have some forests fourteen hundred years old, yet we have not a matured tree in our State.

We have been made to put up with conditions such as these that none of the Eastern nor Middle States were ever subjected to. You would think it an outrage if a man went into your woodland and cut off and removed the trees, returning to you 25 per cent of its value. I imagine you would not thank any man for going to your wood pile and taking three-fourths of it away, without giving you some commensurate return.

Now, this is about exactly what you have done with reference to about one-third of our State over our protest. And only to-day you passed another piece of vicious legislation, putting it into the power of the President to withdraw from sale and settlement the balance of the public domain within our borders.

You have authorized the withdrawal of about 9,000,000 acres of land denominated "coal lands," fixing the price upon it beyond the means of the homeseeker, because of the assumed possibility of the discovery of coal somewhere between 500 and 3,000 feet below the surface, compelling us to submit to the outrageous proposition of separating the surface title from the mineral title, in order that we may at all increase our population.

I called your attention to this matter on another occasion, contrasting the privileges you had when your great Commonwealths were settled. When you purchased your land from the Government you knew that you had the title to the surface, and with the point of your plow or pick might, without let or hindrance, rustle the tea leaves of China.

This is our last appeal, and we hope to have better treatment.

Mr. HILL. Mr. Chairman, I ask unanimous consent to be permitted to address the committee for five minutes, and maybe a little longer.

The CHAIRMAN. The gentleman from Connecticut is recognized.

Mr. HILL. Mr. Chairman, I was not in Washington at the time of the hearing on this bill. I was away in another city, far away. I read the newspaper references to it and did not enjoy them, and frankly state now that I did not vote for the original proposition, but I am in favor of this bill. I presented this provision for a reviewing board of army engineers, which you are now discussing, and it went into the bill on my motion in the

Ways and Means Committee, in order that you gentlemen of the West might have the benefit of this money.

Now, why did I do that? I did it for this reason: I had read every word of the testimony. I found that far more projects had been started than could be carried on successfully with the money available. I found that some projects had been started that should not have been. Under the circumstances somebody was to blame for it. The engineers may have been to blame for it. The Director of the Reclamation Service may have been to blame. But whether they were or not, somebody was to blame for it. It did not seem to me to be essential that the work should be taken in charge by new men, but it is absolutely vital to ultimate success that new men should review that work and supervise the expenditure of this additional and indispensable appropriation.

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

Mr. HILL. Certainly, if you will give me more time.

Mr. NORRIS. Certainly; I will give you all the time I have if you can use it, because I always like to hear the gentleman talk. The question I want to ask is this: Does not the gentleman think that on account of section 9, which we are going to try to repeal, and which I hope we will repeal——

Mr. HILL. So do I.

Mr. NORRIS. That on account of that section the Secretary of the Interior—not necessarily the present one, but any other, or any officer who had anything to do with the selection of the different projects—would be somewhat moved to approve different projects in different States in order to make an equalization of the approvals?

Mr. HILL. I have read the testimony. I sat up two nights until nearly 2 o'clock in order to read it all. I read this testimony, and I was perfectly satisfied that political influences had been used in securing location of the work on some of these projects. For one, I want to see political influences eliminated from a project like this. I have seen irrigation work all over this world—in China and Japan, Palestine, in Italy, and Egypt, in nearly all the countries of the Temperate Zone. I would like to see this work go forward without any sort of political control or political influence or pull. I do not want even to hear it claimed on this floor that this great project of the irrigation of the arid lands is due to one or the other political party, for in a matter of this kind we ought all of us to be patriotic and, as citizens of this great Republic, glad and proud to work together for the common good.

Mr. HULL of Iowa. Does not the gentleman know, and does not the gentleman from Texas know also, that his amendment would absolutely prohibit an army officer being detailed on the work?

Mr. HILL. Absolutely.

Mr. HULL of Iowa. Because they must have the authority of law before they can be employed on a work.

Mr. HILL. This simply provides that the work shall be reviewed by a board of army officers, not necessarily that the work is to go forward under the control of a board of army officers, but that they shall decide upon which particular projects this $20,000,000 shall be expended; and we want an impartial, unprejudiced opinion from the men who are to decide as to what shall be done. Now I speak as a taxpayer, and not as a citizen of an arid-land State. I speak as a man whose money you are going to take to do this, and I want you to have it done, but I want you to have it done right and have it done honestly, and not have any more testimony in the future such as we have had this winter in the hearings before the Ways and Means Committee as to the mistakes made and the influences that have affected this work thus far. If you will do it right, if you will do it honestly, I am with you. If you are going to do it under the old system, I am going to fight you. [Applause and cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is on the amendment.

The question being taken, the amendment was rejected.

The Clerk read as follows:

SEC. 3. That beginning five years after the date of the first advance to the reclamation fund under this act, 50 per cent of the annual receipts of the reclamation fund shall be paid into the general fund of the Treasury of the United States until payment so made shall equal the aggregate amount of advances made by the Treasury to said reclamation fund, together with interest paid on the certificates of indebtedness issued under this act and any expense incident to preparing, advertising, and issuing the same.

Mr. UNDERWOOD. Mr. Chairman, I desire to offer the following amendment, to come in at the end of line 21, page 5.

The Clerk read as follows:

After line 21, page 5, insert:

"No new projects shall be undertaken until the entire advance to the reclamation fund has been paid into the general fund of the Treasury of the United States."

Mr. UNDERWOOD. Mr. Chairman, the bill already provides that no part of this sum of $20,000,000 may be used for new projects, although a portion of it may be used for extension; but if it is to be paid back into the fund it must be paid back out of the proceeds of the receipts from the irrigated lands. Now, I think it a wise limitation on this appropriation to provide that the irrigation service shall not enter onto any new projects whatever until this money comes back into the Treasury. Of course, under the bill as reported, they can not use the $20,000,000 to start a new project, but they can use the receipts from the public lands and receipts from the irrigation fund to start as many new projects as possible; and if you leave this question unprotected, four or five years from now you may find out that we have as many uncompleted projects on our hands as we have to-day. I think it is a reasonable limitation on this bill to provide that if you allow the use of this $20,000,000 now, no new project shall be entered upon, that settlers shall not be invited to go onto any more lands until this money comes back into the Treasury, and that is the purpose of the amendment.

Mr. MONDELL. I trust that the amendment offered by the gentleman from Alabama will not be adopted. If this amendment were adopted it would be something like ten years before any new irrigation projects could be undertaken, although there is something like $7,000,000 per annum accruing to the fund from the proceeds of the sales of public lands. There are no large new projects that I know of likely to be undertaken, but as the engineer officials go through the country developing the situation they are very likely to find new projects which may and ought to be undertaken and which may be undertaken in connection with the larger projects. It would certainly be very unwise now to so tie the hands of the administrative officers that it would be impossible in the next ten years to undertake any new project whatever.

The question was taken; and on a division (demanded by Mr. UNDERWOOD) there were 30 ayes and 76 noes.

So the amendment was rejected.

The Clerk read as follows:

SEC. 4. That all money placed to the credit of the reclamation fund in pursuance of this act shall be devoted exclusively to the completion of work on reclamation projects heretofore begun as hereinbefore provided, and the same shall be included with all other expenses in future estimates of construction, operation, or maintenance, and hereafter no irrigation project contemplated by said act of June 17, 1902, shall be begun unless and until the same shall have been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States.

Mr. CLARK of Missouri. Mr. Chairman, I move to strike out the last word. I am rather inclined to think that my friend from Colorado, Colonel RUCKER, got scared too soon. The truth about this thing is that the Democrats are more responsible for this irrigation propaganda than the Republicans are. [Applause on the Democratic side.]

Mr. RUCKER of Colorado. That is what I said.

Mr. CLARK of Missouri. I know; but you said something else. The three men that did the most to get the propaganda started were Senator NEWLANDS, John C. Bell, and John F. Shafroth, both of Colorado.

Mr. PAYNE. Were they not all three Republicans when they commenced it? [Laughter on the Republican side.]

Mr. CLARK of Missouri. No; and they are not Republicans now. I will tell you something else: The gentleman from New York and his cohorts are the most skillful appropriators of other people's ideas that ever perambulated the earth. [Applause.] Two-thirds of the things you claim as gospel now you denounced as anarchy ten or fifteen years ago.

The Democrats are not against finishing this irrigation propaganda when it is guarded properly. The truth about this whole thing is that when it began it run at loose ends. They started too many projects and the money did not come in as fast from the sale of the public lands as they thought it would, partly because so much land was withdrawn from settlement, and, further, every time a man makes a homestead or mineral or preemption entry there is that much less land for men to enter.

The reasons for the $20,000,000 loan—for it is a loan, and not a gift—are as clear to my mind as the sun shining in the heavens. In the first place, if you do not appropriate enough to finish the irrigation projects they will deteriorate and some go to everlasting smash. In the second place, if you advance the money you commence to get the revenue back that much quicker. In the third place, there are two international propositions mixed up in this that we are bound to carry out or get shut out. One of them is that with Mexico and the other is with Canada.

Now, it seems to be the rule of the road in this irrigation business that the first fellow that makes a claim to the water gets it. It so happens on the Canada border that the St. Marys

River rises in the United States, runs through the British possessions, and comes back into the United States.

Those fellows up there are not sound asleep. If we appropriate water on this side of the line before it gets into Canada it is ours by right. If we do not appropriate it and it gets over there, they take it and we do not get any of it back. Now, another thing. I served eight years on the Committee on Foreign Affairs, and there is a great proposition—BURLESON was on that committee and I can prove by him——

Mr. MANN. You do not need to prove it.

Mr. CLARK of Missouri. That is right. There is a very serious controversy going on with Mexico about our appropriating or attempting to appropriate all the water down there, and before white man landed on this continent those people irrigated over on the other side of the Rio Grande, and we stepped in and took most of that water and it dried up their gardens and dried up their orchards and dried up their vineyards and dried up their farms, and the last I heard of it there were $46,000,000 of claims by the Mexicans over in the State Department for damages that we have done them, and if this $20,000,000 did not do anything else than to preserve our good faith and keep it with Mexico and fix that arrangement down there so they will get part of this water, we ought to vote it, and it seems to me that this bill, on every ground, ought to be voted.

Now, about the engineer business. I do not know that it amounts to very much anyway. There are good engineers in the army and out of the army. I think under the phraseology that is used in that section that the President can appoint army engineers if he wants to do so. He can appoint civil engineers if he wants to do so, but I will tell you what I do know; when James B. Eads, of St. Louis, the greatest engineer that ever set foot on earth, undertook to improve the Mississippi River, every army engineer said it could not be done, that it would be a failure; but it was done, and when he died he was being negotiated with by the Austrian Government to do for the mouths of the Danube the very same thing which he did for the mouths of the Mississippi. There is no use saying that a man can not vote for it because he is a Republican or because he is a Democrat. It seems to me we ought to vote for it as a sound principle of public policy and of international good faith. [Applause.]

Mr. NORRIS. Mr. Chairman, I rise to oppose the motion of the gentleman from Missouri. Mr. Chairman, I am not going to claim and do not believe that anybody ought to try to claim any partisan advantage one way or the other on the reclamation act. When that act was passed there were many Republicans opposed, and there were many Republicans in favor of it; there were many Democrats opposed to it and many Democrats in favor of it, and I do not question any man's honesty whether he voted for it or whether he opposed it. I think the gentleman from Missouri might well have included a Republican western Senator from my State, Senator Dietrich, who took a very active part in the framing of that bill and in the various negotiations that took place in different parts of the country in regard to the reclamation act, and if we were going to talk politics now and would look up the history we would find that when that bill was passed it was a Republican Senate and a Republican House and Theodore Roosevelt was in the White House. [Applause.] I do not believe anybody can dispute here that on this kind of a proposition politics have been absolutely taken away. I want to say just a word in regard to what my friend said and what has been alluded to by several others about these great projects—about too many of them having been commenced.

I am not going to find fault with anybody who had in charge the decision of the question as to whether any particular project should be commenced or not, because if you will read section 9 of the original act, one that was put in originally as a compromise, you will find that the officers in charge of this work were almost compelled by that act to look about in the different public-lands States and hunt for projects where they might use a portion of this money. That section provided that the money used should be equalized every ten years between the public-lands States in proportion to the money that the different States had furnished by way of the sale of public lands. That was the worst feature of that act, and I believe it accounts for many of these projects that have been commenced without due consideration and that perhaps ought never to have been commenced. And it seems to me that it explains to a great extent some of the objections that have been urged against the management of the Reclamation Service. I doubt if any man here, if he had charge of that, but who would not have paid a great deal of attention to the importuning of the different Members of Congress and others from the different States, because he knew that every ten years he would be expected to equalize this fund, and he would have to commend different projects in different States in order to do it. Now, there is another thing that it seems to me men ought to disabuse their minds of, and that is that the public lands of the United States belong to any particular State. I do not believe that we ought to think because the Government is getting some money from the State of Oklahoma for the sale of public lands there, that, therefore, the Government ought to pay back to Oklahoma that money.

If we had never started the reclamation business this money that came in from the different States would not have been given out to the respective States from which it came. And it is therefore, in my judgment, wrong for us to assume that the money coming in from the sale of public lands ought to go back to the particular localities from which it originated. If we will follow that idea we will make a failure of the reclamation business. There can be no other result. We ought to permit our officers in charge of this work to use money to the best advantage and in the places where it can bring back the most and the best returns. In that way will we make this law a home-building one, and one that will be for the benefit of all who are desiring to build up homes in the West.

Mr. CLARK of Missouri. Mr. Chairman, I withdraw my amendment.

Mr. HOBSON. Mr. Chairman, I move to strike out the last two words. I do so to refer to the question of the army engineers. The army engineers are selected from the top of the graduating classes at West Point. It is known that the sifting process goes on from the time they are appointed as candidates until they are graduated. So that these officers, receiving their first commission, start out as the best material that can be selected by any known process from the whole of the United States. Next they are assigned to various kinds of work. That work naturally would be expected to be army work. On the contrary, the bulk of the work of the engineers of the army is river and harbor work.

Irrigation has not been long enough conducted on a large scale in the United States to develop special civil irrigation engineers, though these are now in the forming. Irrigation engineering requires surveying, hydraulics, and especially the construction of dams, excavation, canalization.

All of these are embraced in the river and harbor work of army engineers, and to-day the army engineer, on the whole, has more experience for irrigation work than any man in any other profession in the United States. In other words, as a body, they are the best qualified men in the whole United States, from the standpoint of ability and experience.

Furthermore, the army engineers are free from political influence, which is the gravest menace to public works in our country. River and harbor improvements never did get a seriour impetus and get upon a scientific basis and gain the confidence of the American people until they were put under the direction of this nonpartisan, nonpolitical corps of army engineers. It is impossible to get a body of civil engineers holding appointments only temporarily who can be freed from political influence. The main trouble that has thus far been experienced in our irrigation projects, like the main trouble in the early days of river and harbor improvement, in my judgment, has been due largely to the fact that there has not been as yet any supervising reviewing body of engineers free from political influence.

The corps of army engineers, which has just been enlarged, is an ideal source from which to draw such a body without extra expense to the Government. The happiest thing done here to-night for the future of irrigation work in America is the creation of a reviewing body that is able and competent as engineers, and yet is absolutely free from political influence. As every project for river and harbor improvement is first reviewed by the army engineers, so will the time come when every irrigation project will be reviewed in like manner.

The gentleman from Missouri [Mr. CLARK] has spoken of a clash between engineer officers of the army and Engineer Eads as indicating lack of ability on the part of the former. Let me point out to him that Robert E. Lee was one of these engineer officers and a contemporary; that General Beauregard was one of these officers; that General McClellan was one of these officers——

Mr. CLARK of Missouri. General Lee was not one of the officers that passed the Eads system. He never passed on it. This came up a good while after General Lee was in the business.

Mr. HOBSON. Well, Eads himself may have gotten some of his ideas and his training from the engineer officers of the army that preceded him.

Mr. CLARK of Missouri. I do not know.

Mr. HOBSON. If the gentleman will investigate the matter he will find that the substance of Eads's project for the mouth of the Mississippi River was originated by army engineers and

filed in the War Department before the civil war. But here is the fact, that the great public works of engineering of this country, including the very work to which the gentleman refers, the work at the mouth of the Mississippi River, have been carried as far as they have been carried to successful completion under the supervision of these engineers. The one example of a public building being completed with the original appropriation and money turned back into the Treasury was the Library of Congress, built under General Casey, an army engineer. The greatest civilian engineers of the whole world, including Europe as well as America, were called in for the building of the Panama Canal, yet this great project was in doubt as to its successful achievement until it was put under the absolute power and control of the army engineers. [Loud applause.] [Cries of "Regular order!"]

Mr. MONDELL. Mr. Chairman——

The CHAIRMAN. Debate is not in order unless the pro forma amendment is withdrawn.

Mr. MONDELL. I rise in opposition to the amendment.

Mr. PAYNE. If the gentleman will allow me, I move that debate on this section be closed in five minutes.

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

Mr. MONDELL. Mr. Chairman, I thought that before this debate closed some statements had been made here, perhaps without careful consideration, that should be corrected. There has been considerable said about the undertaking of a number of projects that ought not to have been undertaken. In my opinion there has been but one possible exception. There is no project of irrigation undertaken under the organic law that should not have been undertaken. It is possible that projects have been taken up too rapidly. None of the projects are in any sense failures, with the posible exception of the Hondo project, in New Mexico, a project that in years may eventually turn out to be all right. Furthermore, in my opinion, no project has been undertaken by reason of section 9 of the bill. The only projects that may by any possibility be attributable to section 9 are the Beaufort-Trenton project, the Garden City project, and the Hondo project, to which I have referred.

The Beaufort-Trenton project ought to have been undertaken, whether there was section 9 in the bill or not, because the people of the country demanded that at at least one point on the Missouri River, or in that section of the country, an opportunity should be had to prove whether or not water could be profitably pumped for irrigation purposes. The Garden City project was properly undertaken because of the demand throughout the country that somewhere in the plains country an effort should be made to determine the feasibility of securing a supply of water for irrigation from underground streams. The Hondo project was undertaken because the stream gauging for years indicated a sufficient amount of water at that point.

Now, it is proposed to repeal section 9. I do not think it is material, but I say that the presence of section 9 in the bill has in no way affected the undertaking of projects. I am stating what, in my opinion, is the fact about that.

Mr. NORRIS. Is it not true that in the investigation that has been going on here several officers in the Interior Department have testified that in their judgment many of the projects would not have been commenced but for section 9?

Mr. MONDELL. I do not know as to that; but when officers have been criticised regarding the work that has been done by them, they are quite likely, being human, to seek some excuse. In my opinion the only reason why we are asking for these certificates is because of the increased cost of construction. If it had cost no more to construct these projects in the last three or four years than it cost to construct the projects when the first projects were undertaken, it would not have been necessary to come to Congress for any more funds.

Mr. NORRIS. What good is section 9, anyway? Can the gentleman suggest any reason for its existence?

Mr. MONDELL. I am not insisting on section 9 of the bill. I do not think it is important or material.

Mr. NORRIS. It went into the bill as a matter of compromise.

Mr. MONDELL. That is true; but it has not had the evil effect that gentlemen claim.

The Clerk read as follows:

SEC. 6. That section 9 of said act of Congress, approved June 17, 1902, entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," is hereby repealed.

Mr. MORGAN of Oklahoma. I offer the following amendment.

The Clerk read as follows:

Strike out section 6.

Mr. MORGAN of Oklahoma. Mr. Chairman, I would like to have the attention of this House for just a few minutes. Section 6 of this act provides for the repeal of section 9 of the original act. In the remarks which I made a few minutes ago I read that section 9. It is the section which has been under discussion here most of the time. That section provides that the funds derived from the sale of public lands in the various States, or the major portion thereof, shall be devoted to irrigation works in those States, so far as there shall be found projects that are feasible and practicable. Now, in the discussion that has gone on it appears that all the mistakes that have been made in the administration of the reclamation law have been attributed to section 9 of the original act.

They make section 9 a sort of scapegoat for all the failures and defects and faults of the engineering officers of this Government. Now, the fact is, this kind of talk is grave reflection upon the officers of this Government. Section 9 specifically provides that the project must be feasible and must be practicable before it can be approved. I have more faith in our engineering officers and in this Government than to believe that they have undertaken projects knowing they were not feasible. If we do not have officers who have the skill, the training, and experience to know a practical project, then the quicker we find it out the better. Because if we have not competent officers, we should not proceed under any law.

Now, what is the condition? Oklahoma has furnished $5,000,000 of this fund. Out in the western part of my district there are a number of counties that are in what is known as the semiarid belt. This $5,000,000 has largely come from these counties.

Eight years ago the Congress of the United States passed an act, approved by the man who was then our great President—Theodore Roosevelt—and that act said that this fund should be equalized every ten years, subject to feasibility and practicability. It has been asserted here that that was put in as a compromise to secure the passage of the bill. If that be true, then in all honor and in good faith that compromise should be sacredly kept. If section 9 was put in the act as a compromise to get the act passed, it is unfair now to repeal it. To do so is to violate a solemn promise that was made eight years ago. I say there is nothing in this bill authorizing the issuing of certificates for $20,000,000 that has any application to section 9. There is no relation existing between these provisions. Section 9 simply stands there as a guide to the officers of this Government.

It has been said here, or intimated, that political influence has controlled the administration of the reclamation fund and the location of irrigation works. I do not believe this. But section 9 is the only thing that stands there now against political influence. If you repeal that section, then there is nothing left in the law to prevent political influence from controlling the location of irrigation projects. I appeal to your sense of justice and fairness not to repeal section 9 of the reclamation act. To do so is unjust to the 75,000 people in my district, who, since this act passed, have gone out into that barren country and entered these lands believing that this Government would carry out the reclamation act in good faith and would some day irrigate those lands. I appeal to you not to repeal this act.

Mr. PAYNE. Mr. Chairman, I move that all debate on this section and amendments thereto close in five minutes.

Mr. SHERLEY. I move to amend that by making it fifteen minutes.

The CHAIRMAN. The gentleman moves to amend by making it fifteen minutes.

The question being taken, the amendment was rejected.

The motion of Mr. PAYNE was agreed to.

Mr. HAMER. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The amendment is not in order at this time. The question is on the amendment offered by the gentleman from Oklahoma to strike out the section.

The amendment was rejected.

The CHAIRMAN. The gentleman from Idaho offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add at the end of the bill the following sections:

SEC. 7. 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 individuals, corporations, associations, and irrigation districts organized for or engaged in furnishing or distributing water for irrigation. Delivery of water under any such contracts shall be for the purpose of distribution to individual water users by the party with whom the contract is made: *Provided, however,* That no such water shall be distributed

otherwise than as prescribed by law as to lands held in private ownership within government reclamation projects.

SEC. 8. In fixing rates and charges in such contracts for delivery of water to any irrigation system, corporation, association, or district, as herein provided, said Secretary shall take into consideration the cost of construction and maintenance of the reclamation project from which such water is to be furnished and such rates and charges shall be just and equitable as to water users under such project. No irrigation system, district, association, or corporation so contracting shall make any charge for the storage, carriage, or delivery of such water in excess of the charge paid by it to the United States except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through its works.

SEC. 9. 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, water users' associations, corporations' entrymen, or water users for the construction or use of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, water users' associations, corporations' entrymen, or water users for impounding, delivering, and carrying water for irrigation purposes: *Provided*, That the title to and management of the works so constructed shall be subject to the provisions of section 6 of said act: *Provided further*, That water shall not be furnished from any such reservoir or delivered through any such canal or ditch to any one landowner in excess of an amount sufficient to irrigate 160 acres: *Provided*, That nothing contained in this act shall be held or construed as enlarging or attempting to enlarge the right of the United States, under existing law, to control the waters of any stream in any State.

SEC. 10. 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.

Mr. PAYNE. I make a point of order against that that it is not germane to the bill.

Mr. HAMER. I hope the gentleman will withdraw his point of order.

Mr. SHERLEY. I demand the regular order. The gentleman should make his point of order or withdraw it.

Mr. PAYNE. I have not reserved it; I made it, unless the gentleman from Idaho wants to be heard on the point of order.

Mr. HAMER. Mr. Chairman, I want to say to the House that this amendment in shape of a bill has passed the Senate, has been duly considered by the Irrigation Committee, and a favorable report is made thereon. The only reason why the bill is not before the House for consideration under suspension of the rules is on account of the legislative status.

Mr. SHERLEY. Mr. Chairman, I make the point of order that the gentleman is not talking to the point of order.

The CHAIRMAN. The Chair thinks that the amendment is on the same general matter as the amendment in the nature of a substitute, and the Chair overrules the point of order. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. ROBINSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by adding a new section, as follows:

"SEC. 7. That the sum of $250,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to aid in the reclamation of swamp and overflowed lands, said sum to be expended by the Secretary of Agriculture for drainage investigations, experiments, and surveys, to be conducted under the supervision and in the discretion of the Secretary of Agriculture."

Mr. PAYNE. Mr. Chairman, I make a point of order against that. I do not think that has reference to water.

The CHAIRMAN. The gentleman from New York makes the point of order that the amendment is not germane. The bill relates to the irrigation of arid lands and the amendment relates to the draining of swamp lands. The Chair will hear the gentleman.

Mr. ROBINSON. Mr. Chairman, I believe that the reclamation of swamp lands is closely allied to irrigation projects and is just as important as reclamation projects. I hope the gentleman will withdraw his point of order. While we are doing so much for the irrigation of arid lands, we ought to do something for the reclamation of swamp lands. [Applause.]

The CHAIRMAN. The Chair sustains the point of order. The reading of the amendment in the nature of a substitute is completed, and the question is on agreeing to the amendment in the nature of a substitute.

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

The title was amended.

Mr. PAYNE. Mr. Chairman, I move that the committee do now rise and report the bill to the House as amended, with the recommendation that it pass.

The CHAIRMAN. Under the rule the Chair is of the opinion that the committee will rise automatically, and the bill will be reported to the House as amended.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MCCALL, 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. 18398, and had directed him to report the same with an amendment in the nature of a substitute, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Mr. PAYNE. Mr. Speaker, I move the previous question upon the bill as amended.

The SPEAKER. The previous question under the prior order of the House, or the special rule, is operating.

The question was taken on the amendment, and the Chair announced the ayes seemed to have it.

On a division (demanded by Mr. UNDERWOOD) there were—ayes 255, noes 19.

So the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; was read the third time.

The SPEAKER. The question is on the passage of the bill.

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

On a division (demanded by Mr. UNDERWOOD) there were—ayes 255, noes 20.

Accordingly the bill was passed.

The title was amended so as to read: "A bill to authorize advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes."

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

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States, was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On June 17, 1910:

H. R. 22643. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1911, and for other purposes;

H. R. 8914. An act 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;

R. R. 11763. An act for the relief of George Harraldson;

H. R. 23388. An act for the relief of Demon S. Decker;

H. R. 24274. An act 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;

H. R. 24723. An act granting permission to the city and county of San Francisco, Cal., to operate a pumping station on the Fort Mason Military Reservation, in California;

H. R. 24877. An act to authorize additional aids to navigation in the Light-House Establishment, and to provide for a Bureau of Light-Houses in the Department of Commerce and Labor, and for other purposes.

On June 18, 1910:

H. R. 17536. An act to create a commerce court, and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

On June 20, 1910:

H. R. 18166. An act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 8774. An act to change the name of Messmore place to Mozart place.

The message also announced that the Senate had passed without amendment the following resolutions:

House concurrent resolution 49.

Resolved by the House of Representatives (the Senate concurring), That the President be requested to return to the House of Representatives the bill (H. R. 2272) for the relief of John A. Brown.

House concurrent resolution 48.

Resolved by the House of Representatives (the Senate concurring), That the President be requested to return to the House of Representatives the bill (H. R. 1386) to correct the naval record of James C. Johnson.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to return to the House of Representatives, in compliance with its request, the bill (S. 8668) amendatory of the act approved April 23, 1906, entitled "An act to

authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County."

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 20575. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by an act approved February 5, 1903, and as further amended by an act approved June 15, 1906;

H. R. 17500. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes;

H. R. 13448. An act amending the statutes in relation to the immediate transportation of dutiable goods and merchandise;

H. R. 16222. An act for the erection of a replica of the statue of General Von Steuben;

H. R. 27010. An act to permit William H. Moody, an associate justice of the Supreme Court of the United States, to retire;

H. R. 10280. An act to authorize the Chief of Ordnance, United States Army, to receive twelve 3.2-inch breech-loading field guns, carriages and caissons, limbers, and their pertaining equipment from the State of Massachusetts;

H. R. 20487. An act to provide for the sittings of the United States circuit and district courts of the eastern division of the eastern district of Arkansas at the city of Jonesboro, in said district;

H. R. 15812. An act relating to liens on vessels for repairs, supplies, or other necessaries; and

H. R. 24070. An act to authorize the President of the United States to make withdrawals of public lands in certain cases.

The Speaker announced his signature to enrolled bills of the following titles:

S. 7158. An act authorizing and directing the Department of State to ascertain and report to Congress damages and losses sustained by certain citizens of the United States on account of the naval operations in and about the town of Apia, in the Samoan Islands, by the United States and Great Britain, in March, April and May, 1899;

S. 8426. An act to authorize the St. Louis-Kansas City Electric Railway Company to construct a bridge across the Missouri River at or near the town of Arrow Rock, Mo.;

S. 8697. An act to authorize the Stockton Terminal and Eastern Railroad Company, a corporation organized under the laws of the State of California, to construct a bridge across the Stockton diverting canal, connecting Mormon channel with the Calaveras River, in the county of San Joaquin, State of California;

S. 8425. An act to authorize the St. Louis-Kansas City Electric Railway Company to construct a bridge across the Missouri River at or near the town of St. Charles, Mo.;

S. 8316. An act authorizing the construction of a bridge across the Columbia River between the counties of Grant and Kittitas, in the State of Washington;

S. 8094. An act to provide for the return of undelivered letters, and for other purposes;

S. 6877. An act to amend an act entitled "An act to incorporate the American National Red Cross," approved January 5, 1905;

S. 5048. An act providing that entrymen for homesteads within reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead act;

S. 5035. An act granting cumulative annual leave of absence to storekeepers, gaugers, and storekeeper-gaugers, with pay;

S. 8222. An act granting to the Northern Pacific Railway Company the right to construct and maintain a bridge across the Yellowstone River;

S. 8615. An act to authorize the Southern Development Company to construct a bridge across the Arkansas River; and

S. 4711. An act changing the name of the St. Johns collection district, in the State of Florida, to the Jacksonville collection district.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 24375. An act to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906;

H. R. 18700. An act to prevent the dumping of refuse material in Lake Michigan at or near Chicago;

H. R. 22642. An act to authorize the Secretary of the Interior to sell a portion of the unallotted lands in the Cheyenne Indian Reservation, in South Dakota, to the Milwaukee Land Company for town-site purposes;

H. R. 25822. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors; and

H. R. 17500. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 8774. An act to change the name of Messmore place to Mozart place—to the Committee on the District of Columbia.

CONTESTED ELECTION—PARSONS V. SAUNDERS.

Mr. MILLER of Kansas. Mr. Speaker, I desire to submit a privileged report (No. 1695) from Committee on Elections No. 2, in order that it may be printed, and I ask unanimous consent that the minority may have such time in which to file such views as they may wish not later than the first Monday in December next.

The SPEAKER. The Clerk will report the title.

The Clerk read as follows:

In the contested election of John M. Parsons, contestant, against Edward V. Saunders, contestee.

The SPEAKER. The chairman of the Committee on Elections No. 2 asks unanimous consent that the minority may have leave to file its views not later than the first Monday in December next. Is there objection? [After a pause.] The Chair hears none.

The report is as follows:

The Committee on Elections No. 2, having had under consideration the contested-election case of John M. Parsons, contestant, *v.* Edward W. Saunders, contestee, from the Fifth Congressional District of the State of Virginia, submit the following report:

There have been presented to the committee in this case the following questions:

First. Has the legislature of a State the right to redistrict a State more than once between enumerations?

Second. Does the redistricting act of 1908 of Virginia comply with the Constitution of the United States, the United States apportionment act under the Twelfth Census, and the constitution of the State of Virginia?

Third. What effect attaches to the nomination or attempted nomination of an adjudged lunatic, and ought his name on the ballot to be regarded?

Fourth. Does the provision in the constitution of the State of Virginia relative to the tax-paid posted list constitute an exclusive method of proof, or may other methods be employed?

Fifth. Certain questions as to the validity of particular ballots.

Sixth. Questions as to voters for each candidate who were either permitted or refused permission to vote.

From this recital it will be seen that the contest presents most interesting and important questions, all of which were presented to and argued before the committee with great ability.

The facts, so far as they relate to the question decided by this committee, are as follows: Under the the Eleventh Census the State of Virginia had 10 Representatives in the House of Representatives. This number was not changed under the apportionment made after the enumeration under the Twelfth Census, and Representatives continued to be elected from the districts as constituted by the Virginia legislature by the act approved February 15, 1892. In 1902 a redistricting bill passed the legislature, but was vetoed by the governor upon the ground that it did not comply with section 55 of the constitution of Virginia, and, although the legislature and governor were of the one party, and there was abundant majority in the legislature to have passed the bill over the governor's veto, it was not done. In 1906, by an act approved February 23, 1906, the legislature passed an act in form a complete reapportionment. Under this act the fifth district was continued, consisting of the city of Danville, the town of Danville, and the counties of Pittsylvania, Henry, Franklin, Floyd, Patrick, Carroll, and Grayson, with a population of 175,579, according to the enumeration of 1900. The adjoining sixth district was so constituted that it had a population of 181,571. In 1908 the legislature passed another act, in form a complete apportionment, which took Floyd County from the fifth district and added it to the sixth district, reducing the population of the fifth district to 160,191 and increasing that of the sixth district to 196,959; in other words, making the smaller of the two districts still smaller and the larger still larger.

The fifth district was a very close district, politically, and upon its face the act of 1908 seems to have been passed for the sole purpose of securing a partisan advantage. The contestee, while not admitting or conceding this, states (p. 133 of the argument) that "he does not deny that political considerations entered into legislative motives for the change." The Republican party maintained that the redistricting act of 1908 was unconstitutional, and elected their delegates to the national convention of 1908 from the district as constituted in 1906, and at the nominating convention for Congress of 1908 delegates from Floyd County were present and participated, and over a thousand electors in Floyd County voted for the fifth district Republican nominee in 1908 for Congress.

In the counties other than Floyd, the committee has recounted the entire vote, finding 7,025 for E. W. Saunders, the sitting Member and

the contestee; 6,910 for J. M. Parsons, the contestant; 15 for Elliott Matthews, an adjudged lunatic; 239 void ballots, 115 of which are reported by the subcommittee for the consideration of the full committee, 79 from which the voter erased the name of Mr. Parsons, leaving on the names of both Mr. Saunders and Mr. Matthews, and 133 from which the name of Mr. Saunders was erased, leaving the names of both Mr. Parsons and Mr. Matthews.

Does the redistricting act of 1908 of Virginia comply with the Constitution of the United States, the United States apportionment act of the Twelfth Census, and the constitution of the State of Virginia?

Article V, section 55, constitution of Virginia, is as follows:

"The general assembly shall by law apportion the State into districts corresponding with the number of Representatives to which it may be entitled in the House of Representatives of the Congress of the United States, which districts shall be composed of contiguous and compact territory containing, as nearly as practicable, an equal number of inhabitants."

As the constitution of Virginia uses the express language of the statute of the United States with reference to the limitations of legislative discretion, which it seems to have adopted verbatim, the act of 1908 now in question may be examined and the validity determined under the provisions of the constitution of the State in which this case arises. The facts and the authorities are equally applicable, however, whether we decide the case under the Virginia constitution or under the federal statute, which the Constitution of the United States makes paramount to any state constitution.

Historically these provisions of the statute of the United States as of the constitution of Virginia, were clearly intended to constitute restraints upon legislative discretion so as to prevent the well-known vicious political device of forming congressional or other legislative districts for mere partisan purposes.

These restrictions upon the legislative power are:

1. Legislative districts must be composed of contiguous territory.
2. Legislative districts must be composed of compact territory.
3. Legislative districts must contain an equal number of inhabitants.
4. The only qualifications to these requirements is the phrase "as nearly as practicable."

The rule is well established that the constitution must be so construed that every word and phrase of the organic law shall be given meaning and purpose; also that constitutional provisions are mandatory.

The constitutional question to be determined in this case may be stated as follows: Does the redistricting act of 1908 of Virginia conform to that State's constitutional requirement of contiguity, compactness, and equality of inhabitants as nearly as practicable? If it does conform, the act is valid. If it does not, the act is unconstitutional, null, and void.

The facts of the case, as presented and argued before the committee, briefly and succinctly stated, are:

1. Contiguity: An inspection of the map of the district would seem to show that, notwithstanding the taking of Floyd County out of the body of the district, thereby nearly severing it into two parts, there still remained an apparent strip of contiguity 10 miles in width, measured by a straight line across. The evidence before the committee, however, shows conclusively that at this point, running from the boundary of Floyd County across to the state line, there is a mountain ridge which prevents public travel by road between the inhabitants of the one half of the district with the inhabitants of the other half, except by going south into the adjoining State or north into the county of Floyd. This mountain barrier destroys in fact, if not in form, the apparently small strip of contiguity shown upon the map of the district.

2. Compactness: An examination of the map of the fifth and sixth districts prior to this special apportionment of 1908 reveals the fact that the outline of the fifth district was fairly compact, but that the sixth district was abnormally elongated, with a tier of counties upon the other, extending in the form of a "shoestring" over the northern half or more of the fifth district. The removal of Floyd County, under the apportionment act of 1908, from the body of the fifth district clearly destroyed its former compact form and grossly aggravated the lack of compactness of the sixth district by attaching Floyd County to the extreme end of the excessively abnormal district.

3. Equality of inhabitants: The nature of this special apportionment, however, is most strikingly shown in the complete disregard of the requirements as to the equality of inhabitants. The unit of population under the apportionment was 180,000. The fifth district had a population, according to the census, of 175,579, or nearly 5,000 below the unit, while the sixth district had a population of 187,523, or 7,500 above the unit. In short, the sixth district exceeded the fifth in population by 12,000. Floyd County, under the census, had a population of 15,388. By transferring it from the lesser to the larger district the fifth was reduced to 160,191, or 20,000 less than the unit; and the sixth was increased to 202,921, or 23,000 above the unit. In other words, the former difference of 12,000 was deliberately enlarged into a difference of 43,000 inhabitants.

The phrase "as nearly as practicable" indicates that these constitutional requirements do not seek to enforce perfection. Absolute contiguity, compactness, and equality of inhabitants are impossible of attainment. Mr. Webster discussed the general subject of apportionment in the Twenty-second Congress, first session, in an elaborate report, and with singular clearness and force laid down this rule:

"That which can not be done perfectly must be done in a manner as near perfection as can be. If exactness can not from the nature of things be attained, then the greatest practicable approach to exactness ought to be made.

"Congress is not absolved from all rule merely because the rule of perfect justice can not be applied. In such a case approximation becomes a rule; it takes the place of that other rule which would be preferable, but which is found inapplicable, and becomes itself an obligation of binding force. The nearest approximation to exact truth or exact right when that exact truth or that exact right can not be reached prevails in other cases not as matter of discretion, but as an intelligible and definite rule dictated by justice and conforming to the common sense of mankind; a rule of no less binding force in cases to which it is applicable, and no more to be departed from than any other rule or obligation."

Applying the Webster rule to this case, we can not find any approximation toward the exact truth, exact right, or exact justice; on the contrary, we find that the state legislature of Virginia turned its back on these constitutional requirements and deliberately moved away from them.

The contestee suggests a test. On page 127 of the argument of counsel he says:

"Our court has stated the principle of noninterference with legislative discretion more strongly than any other court. Yet, pushed to an ultimate analysis, if an act was passed in our State which could be fairly said to be no apportionment, I believe our court would interfere to avoid it."

We believe that the facts stated present even such a case as would clearly come under the rule laid down by the contestee. The basic idea underlying the word "apportionment" suggests an approximation to the truth, to the right, to equality, and to justice. The very purpose of an apportionment every ten years is solely to approximate more closely a just and fair equality of representation by congressional districts. Can anyone say that this subsequent change of districts of the act of 1908 was an apportionment? On the contrary, it appears to us that it was a perversion of the term. It was a violation of the spirit and the meaning of an apportionment under the Constitution, and may be rightly declared no apportionment at all.

The case of Carter *v.* Rice, New York, relied on by the contestee, which, although it has been superseded, if not directly, yet by necessary implication, presents other tests. The court says: "We think the courts have no power in such cases to review the exercise of discretion intrusted to the legislature by the Constitution, unless it is plainly and grossly abused." And again the court speaks of such a phrase as "nearly as may be" as a "direction addressed to the legislature, in the way of a general statement of principles, upon which the apportionment shall, in good faith, be made."

Again the court says: "Of course cases can be imagined in which the action of the legislature would be so gross a violation of the Constitution that it would be easily seen that the organic law had been entirely lost sight of."

We have been unable to reconcile the facts in this case with any reasonable definition of good faith; on the contrary, we are convinced that this case presents a plain, palpable, and gross abuse of legislative power. We are also clearly of the opinion that this case presents such a violation of the fundamental law that it is easily apparent that the legislature lost sight of the organic law in its evident purpose to prevent the loss of a congressional district to the dominant party organization of the State.

When we apply the tests laid down in leading cases by the great majority of the higher courts of the States of the Union, where the validity of acts of this kind have been judicially determined, the invalidity of the act of 1908 is made clear beyond any possible doubt. (The State *v.* Cunningham, 81 Wis., 440; The State *v.* Cunningham, 83 Wis., 90; Giddings *v.* Blacker, 93 Mich., 1; Parker et al. *v.* The State ex rel. Powell, 133 Ind., 178; Matter of Sherrill *v.* O'Brien, 188 N. Y., 185.)

These leading cases are so voluminous and exhaustive in reviewing the decisions of the higher courts on this subject that it is difficult to cite any special portion of them. They lay down the rule, however, that these constitutional requirements call for "an honest and fair discretion in apportioning the districts." That their purpose was "to secure a fair and just representation" to the people, and especially emphasize the Webster rule, that "where perfect exactness can not be had, there should be as close an approximation to exactness as possible," and that "this is the utmost limit for the exercise of legislative discretion."

The rule suggested in the case of Giddings *v.* Blacker (93 Mich., 1) is stated as follows: "The State can not be divided into senatorial districts with mathematical exactness, nor does the Constitution require it. It requires the exercise on the part of the legislature of an honest and fair discretion in apportioning the districts so as to preserve, as nearly as may be, the equality of representation. This constitutional discretion was not exercised in the apportionment act of 1891. The facts themselves demonstrate this beyond any controversy, and no language can make the demonstration plainer. There is no difficulty in making an apportionment which shall satisfy the demand of the Constitution."

On the subject of the motive actuating the legislature the court well says: "While it is true that the motive of an act need not be inquired into to test its constitutionality, I believe that the time for plain speaking has arrived in relation to the outrageous practice of gerrymandering, which has become so common and has so long been indulged in without rebuke that it threatens not only the peace of the people, but the permanency of our free institutions. The courts alone in this respect can save the rights of the people and give to them a fair count and equality in representation. It has been demonstrated that the people themselves can not right this wrong. They may change the political majority in the legislature, as they have often done, but the new majority proceeds at once to make an apportionment in the interest of its party as unequal and politically vicious as the one that it repeals. There is not an intelligent schoolboy but knows what is the motive of these legislative apportionments, and it is idle for the courts to excuse the action upon other grounds or to keep silent as to the real reason, which is nothing more nor less than partisan advantage taken in defiance of the Constitution and in utter disregard of the rights of the citizen."

The rule as laid down in The State ex rel. Lamb *v.* Cunningham, secretary of state (83 Wis., 90), is as follows:

"It is proper to say that perfect exactness in the apportionment according to the number of inhabitants is neither required nor possible. But there should be as close an approximation to exactness as possible, and this is the utmost limit for the exercise of legislative discretion. If, as in this case, there is such a wide and bold departure from this constitutional rule that it can not possibly be justified by the exercise of any judgment or discretion, and that evinces an intention on the part of the legislature to utterly ignore and disregard the rule of the Constitution in order to promote some other object than a constitutional apportionment, then the conclusion is inevitable that the legislature did not use any judgment or discretion whatever."

On the subject of the powers of courts to adjudge invalid legislative acts violating the provisions of the Constitution, the court in Parker et al. *v.* The State ex rel. Powell (133 Ind., 178) says: "The power to adjudge invalid such legislative acts as violate the provisions of the Constitution is an element of sovereignty, and is vested in the judiciary. It would be a surrender of a high constitutional power that neither principle nor precedent will justify or excuse to decline to give judgment upon the validity of an apportionment act when properly presented and necessary to a decision of a case brought to the bar of the court. Such a surrender would involve a breach of duty so flagrant that the most stinging rebuke would fall far short of an adequate condemnation of a court that would so grossly violate the trust imposed upon it by the Constitution.

"In a government of distributed powers, such as ours is, the power to adjudge acts void that conflict with the Constitution must necessarily reside elsewhere than in the lawmaking department, otherwise all governmental power would be unified and solidified in that department, and it would be the uncontrolled and absolute master and arbiter in all

governmental matters. If there be no such power in the judiciary, the constitutions of the Nation and the State are, in their widest scope and minutest details, mere mockeries; but the power does reside in the judiciary, and it was placed there in the strongest terms by men who knew the science of government in all its parts, and there it will remain as long as free government endures."

The only case that has come to our attention which squarely denies the judicial power of the courts to review legislative discretion in apportioning congressional districts is that of Wise v. Bigger (79 Va., 269). This case was decided apparently with but very little consideration of the question and is not supported by a single cited authority, and, after examining and reviewing all the decisions on this constitutional question, it must be conceded that this Virginia case stands alone, unsupported by authority, and that it is in direct conflict with every other judicial decision so far rendered in this country. Of this case the Indiana court, on page 190, says:

"The court assumed that the questions presented were judicial and not political and proceeded to adjudicate upon the validity of the law. The conclusion at which we arrived in this case is in accordance with all the authority to which our attention has been called, except the case of Wise v. Bigger (79 Va., 269), in which the validity of an act of the general assembly of the State creating districts for Representatives in Congress was called in question. All that was said by the learned judge who wrote the opinion in that case at all pertinent to the question involved in that case was that 'The laying off and defining the congressional districts is the exercise of a political and discretionary power of the legislature, for which they are amenable to the people, whose representatives they are.' This would be literaly true in the absence of some constitutional provision requiring the districts to be formed in some particular manner. The opinion cites no authority to the rule thus announced, nor does the judge who delivered it give any argument in its support; but if it is to be construed as holding that all apportionment acts are but the exercise of a political or discretionary power, it is in conflict with the great weight of authority and can not be followed."

The contestee in this case relies on the report made by a committee of the House in a case known as Davison v. Gilbert (Hinds, vol. 1, sec. 313), which expresses doubt as to the powers of Congress under the Constitution to pass upon this subject, and even if the power is conceded, it doubts the expediency of applying it.

We hold that Davison v. Gilbert is not a valid precedent for the following reasons:

1. The report was never adopted or otherwise acted upon by the House.

2. The report is based upon entirely different conditions. The old constitution of Kentucky, in force when the case of Davison v. Gilbert arose in that State, contained very general, if any, limitations upon the legislative discretion. In the case before the present committee the limitations of the state constitution are definite and certain in terms. We are of the opinion that had that case arisen under a constitution such as that of Virginia the decision by the former committee would have been quite different. This committee is acting under the authority of the United States Constitution, Article I, section 5, "Each House shall be the judge of the elections, returns, and qualifications of its own Members," and we are determining the validity of a state law under the constitution of the State from which this contest comes.

3. There being no provisions in the constitution of Kentucky under which the validity of the state law could be determined, the objection was made by the contestant that the Kentucky act controvened an act of Congress, and this objection was considered at length in the light of Article I, section 4, of the Constitution: "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators." We doubt the validity of the reasoning of the report under that section of the United States Constitution. It is based upon an antiquated states right doctrine, ably championed by statesmen before the civil war, but is inconsistent with the legislative declarations of Congress for the past four decades, is an assault upon the present federal statute, and has been completely and finally refuted in two decisions of the United States Supreme Court. (Ex parte Siebold, 100 U. S., p. 373; also Ex parte Yarbrough, 110 U. S., p. 660.)

The case decided in Ex parte Siebold did not turn directly on the question now under consideration, but this was included in the general argument of the court.

In reply to the main contention of the states right champions, the court says: "The objection so often repeated that such an application of congressional regulations to those previously made by a State would produce a clashing of jurisdictions and a conflict of rules loses sight of the fact that the regulations made by Congress are paramount to those made by the state legislature; and if they conflict therewith the latter, so far as the conflict extends, ceases to be operative. No clashing can possibly arise. There is not the slightest difficulty in a harmonious combination into one system of the regulations made by the two sovereignties any more than there is in the case prior and subsequent enactments of the same legislature.

"Congress has partially regulated the subject heretofore. In 1842 it passed a law for the election of Representatives by separate districts; and, subsequently, other laws fixing the time of election and directing that the elections shall be by ballot. No one will pretend, at least at the present day, that these laws were unconstitutional because they only partially covered the subject." (Ex parte Siebold, p. 384.)

On the subject of the respective duties and rights of the States and the United States the court says: "It is the duty of the States to elect Representatives to Congress. The due and fair election of these Representatives is of vital importance to the United States. The Government of the United States is no less concerned in the transaction than the state government is. It certainly is not bound to stand by as a passive spectator when duties are violated and outrageous frauds are committed" (p. 384, supra).

The decision in Ex parte Siebold was cited and approved in another case, Ex parte Yarbrough (110 U. S., 660). Referring to Article I, section 4, of the Constitution above quoted, the court says: "It was not until 1842 that Congress took any action under the power here conferred, when, conceiving that the system of electing all the Members of the House of Representatives from a State by general ticket, as it was called—that is, every elector voting in that House—worked injustice to other States which did not adopt that system, and gave an undue preponderance of power to the political party which had a majority of votes in the State, however small, enacted that each Member should be elected by a separate district composed of contiguous territory. (5 Stat., 491).

"And to remedy more than one evil arising from the election of Members of Congress occurring at different times in the different States Congress, by the act of February 2, 1872, thirty years later, required all the elections for such Members to be held on the Tuesday after the first Monday in November in 1876, and on the same day of every second year thereafter." (Ex parte Yarbrough, p. 661.)

On the duty and rights of Congress to protect congressional elections by necessary legislation the court says: "Will it be denied that it is in the power of that body to provide laws for the proper conduct of those elections? To provide, if necessary, the officers who shall conduct them and make return of the result? And especially to provide, in an election held under its own authority, for security of life and limb to the voter while in the exercise of this function? Can it be doubted that Congress can by law protect the act of voting, the place it is done, and the man who votes from personal violence or intimidation and the election itself from corruption and fraud?

"If this be so, and it is not doubted, are such powers annulled because an election for state officers is held at the same time and place? Is it any less important that the election of Members of Congress should be the free choice of all the electors because state officers are to be elected at the same time? (Ex parte Siebold, 100 U. S., 371.)

"These questions answer themselves, and it is only because the Congress of the United States, through long habit and long years of forbearance, has, in deference and respect to the States, refrained from the exercise of these powers that they are now doubted.

"But when in the pursuance of a new demand for action that body, as it did in the case just enumerated, finds it necessary to make additional laws for the free, the pure, and the safe exercise of this right of voting they stand upon the same ground and are to be upheld for the same reasons." (Ex parte Yarbrough, p. 661.)

On the general policy intimated as unwise in the report of Davison v. Gilbert we commend the language of the Supreme Court of the United States (p. 666, id.): "It is as essential to the successful working of this Government that the great organisms of its executive and legislative branches should be the free choice of the people as that the original form of it should be so. In absolute governments, where the monarch is the source of all power, it is still held to be important that the exercise of that power shall be free from the influence of extraneous violence and internal corruption."

In a republican government like ours, where political power is reposed in representatives of the entire body of people, chosen at short intervals by popular elections, the temptations to control these elections by violence and by corruption is a constant source of danger.

Such has been the history of all republics, and, though ours has been comparatively free from both these evils in the past, no lover of his country can shut his eyes to the fear of future danger from both sources. * * *

If the Government of the United States has within its constitutional domain no authority to provide against these evils, if the very source of power may be poisoned by corruption or controlled by violence and outrage, without legal restraint, then, indeed, is the country in danger, and its best powers, its highest purpose, the hopes which it inspires, and the love which enshrines it are at the mercy of the combinations of those who respect no right but brute force on the one hand and unprincipled corruptions on the other.

After applying every reasonable and fair test suggested by common sense and judicial authority, we have been impelled to this conclusion: This case presents as conclusive evidence of willful and deliberate legislative disregard of the fundamental constitutional requirements of contiguity, compactness, and equality of inhabitants as has come to the attention of the committee in reviewing the decisions of the courts of the various States of the Union that have declared similar enactments null and void. The only and the specific purpose of the act of 1908, in taking the county of Floyd out of the fifth district and transferring it to the sixth district, as appears from the evidence, was the political advantage that did result in making a close district barely safe for the dominant political party of the State.

This committee is a judicial tribunal. We have not the right to consider expediency or policy, politics or personality. We have but to decide the case upon the broad lines of justice as determined by the facts, the law, and the Constitution. But so far as we may go in considering the effect of our decision we believe that it will shut the door of the House of Representatives to one of the most insidious and dangerous political offenses that can menace democratic government. Our conclusion is, therefore, that the redistricting act of 1908 of Virginia does not conform to nor comply with the Constitution of the United States, the United States apportionment act of the Twelfth Census, nor the constitution of the State of Virginia, and is null and void, and that Floyd County is still a part of the Fifth Congressional District, and that the votes cast in said county for John M. Parsons, contestant, should be counted for him, which votes, together with the votes cast in the other counties of the Fifth Congressional District of the State of Virginia for said contestant, give him a clear majority of all the legal votes cast in said district at the November election of 1908, and that said contestant, John M. Parsons, is clearly entitled to his seat as a Representative from the fifth district of Virginia in the House of Representatives of the United States.

The conclusions which the committee has reached upon this one question, to wit, that the apportionment act of the legislature of the State of Virginia, approved March 14, 1908, was unconstitutional, null, and void, of course makes discussion of and decision on other interesting questions unnecessary. The committee include and make as a part of this report the following statement made by the contestee, as found on page 7 of the arguments:

With respect to the county of Floyd, contestee submits the following:

This county, by act of the Virginia legislature, was transferred from the fifth Virginia district to the sixth Virginia district prior to the election in November, 1908. At that election a number of voters undertook to vote for John M. Parsons, the Republican candidate for Congress in the fifth Virginia district as constituted by the act aforesaid, erasing from the official ballot in the sixth Virginia district the name of the Republican candidate in that district and substituting therefor the name of the said John M. Parsons as aforesaid. It is a part of the contention of contestant that these votes so cast for the said contestant in the said county of Floyd under the circumstances aforesaid can now be counted in favor of the contestant by this committee. Contestee utterly denies that this can be done under any view of the law, but should the committee hold that the Floyd ballots can be counted, contestee is willing to admit, as a matter of fact, that enough ballots were cast for said contestant in this county to overcome contestee's official majority in the fifth district, as constituted by the act of 1908 as aforesaid. This statement or concession on the part

of contestee will make it unnecessary for the committee to go through the formality of counting the Parsons ballots in the county of Floyd.

February 23, 1910.

E. W. SAUNDERS.

The committee therefore report the following resolutions and recommend their passage:

House resolution 829.

Resolved, That Edward W. Saunders was not elected to membership in the House of Representatives of the United States in the Sixty-first Congress and is not entitled to a seat therein.

Resolved, That John M. Parsons was elected to membership in the House of Representatives of the United States in the Sixty-first Congress from the fifth district of Virginia and is entitled to a seat therein.

JAMES M. MILLER.
JAMES F. BURKE.
DUNCAN E. MCKINLAY.
JOHN M. NELSON.
JOSEPH HOWELL.
WILLIAM S. BENNET.

VIEWS OF THE MINORITY.

The undersigned members of the Committee on Elections No. 2, do not concur in the finding of the majority that the sitting Member from the fifth district of Virginia, EDWARD W. SAUNDERS, is not entitled to his seat. Several reasons of law are assigned by the majority in support of their report. In order that the merits of the case may be adequately understood, a brief statement of the facts is necessary. The contestee was elected for two years at the election held in 1908. He duly received his certificate, qualified, took his seat, and has served in the present House from that time forward. His seat was contested by the defeated contestant, J. M. Parsons, on a variety of grounds. Eliminating those features which have been disregarded by the committee as lacking in merit, or unproven, the ground remaining which serves as the basis of the report of the majority is as follows: That the act of the Virginia legislature passed in 1908 creating the district in which the election was held, was void:

First, because it was in contravention of the federal statute; Second, because it was in contravention of the constitution of the State. The grounds assigned for the repugnance of the statute to the federal statute, and to the constitution of the State, are that the apportionment is a gerrymander, contrived and devised for party purposes and partisan advantage, and that the district created is not compact, composed of contiguous territory, and as nearly as may be, equal in population with the other districts of the State.

Section 55 of the state constitution provides "that the districts shall be composed of contiguous and compact territory, containing as nearly as practicable, an equal number of inhabitants."

The federal statute provides that the Members of the House to which each State is entitled, shall be selected by "districts composed of contiguous and compact territory, containing as nearly as practicable an equal number of inhabitants."

It becomes pertinent therefore, to inquire, first, whether the statute of the United States is binding on the States in the make-up of their congressional districts; second, if the House possesses the power of interference under the federal statute, whether it is a power which it should undertake to enforce, having in mind that if the gerrymanders in the States, effected by supposedly partisan bodies, are thought to be evil, this evil is not likely to be corrected by turning the process of redistricting over to another partisan body, that will be able to make its work coextensive with the country, and which will be subject to the same temptations to contrive unequal districts for party advantage, as are supposed to operate upon the lawmaking departments of the States; third, does the language of the constitution of Virginia afford the right to the courts of that State to interfere with congressional apportionments upon the ground that they are considered to be inequitable, unfair, and unjust, and if it is ascertained that a proper construction of that constitution does not afford such authority, whether a foreign jurisdiction, standing in the relation of a court in its attitude to the Virginia constitution, would impose upon that constitution an interpretation different from one that has been afforded by the supreme court of the State?

The act of 1908 made two small changes in the districts of Virginia. It removed the county of Floyd from the fifth, and transferred it to the sixth, and, in addition, transferred the county of Craig from the ninth to the tenth. Before this transfer the populations of the respective districts were as follows: Fifth district, 175,579; sixth district, 181,571. After the transfer the respective populations were: Fifth district, 160,191; sixth district, 196,959; difference of population in favor of the sixth, 36,768.

The transfer of the small county of Floyd from one district to the other constitutes the so-called outrage in the view of the majority. It was stated in the argument, and not denied, that so far as Floyd was concerned, her natural interests and trade relations were with the sixth, and not the fifth district. Her people are contiguous to the the railroads in the sixth, and trade with the towns on the lines of these roads. She has practically no trade relations with the fifth.

The motives of the legislature in passing this act are the subject of vehement criticism; but it is submitted that we are not in a position to determine all of the considerations which may have animated the law-making body in making the change. The contestee frankly admitted in his argument before the committee, that political considerations doubtless entered into the legislative motive. This admission of a feature in the apportionment of 1908, which is common to all legislative apportionments, is recited in the majority report for no very apparent purpose, unless this recital is designed to show that it is abhorrent to the majority to be confronted with such an element of legislative apportionments, as "political considerations." If the mere fact of inequality of shape and disparity of population, is to be considered, it will be pointed out later that there are many districts in the United States far more offending in these respects than this district from Virginia, and it is difficult to see why one of the least offenders has been selected for punishment. But mere criticism of the motives of the legislature is apart from this inquiry. It is more pertinent to examine, in the first place, whether the legislature of Virginia had the authority to make this change; and if so, to remit to the people of that State the punishment of the offenders against justice and fair play, if such an offense has been committed. There are no decisions of any courts which undertake to say that the legislatures of the States are restrained by the federal statute, supra, in the composition and make-up of the congressional districts. But this matter has been before Congress, and has been the subject of inquiry on the part of this House, in a heated contest from the State of Kentucky, squarely presenting the question whether a State was inhibited by the federal statute from rearranging its districts at its pleasure. This was the case of Davison *v.* Gilbert, in the Fifty-sixth Congress.

A simple recital of the facts in that case will show that it presents a most compelling appeal to the legislator who is disposed to pretermit constitutional, or other legal considerations and to seat a contestant merely because he believes that he has been unfairly, or unjustly treated. The fact that the contestant was not seated in Davison *v.* Gilbert was simply due to the further fact, that the committee dismissed all considerations as extraneous, save those that went to the law of the case, and proceeded to consider the case in part on the question of the power of Congress to deal with such a situation, and in further part on the propriety of its application. Conceding, for argument's sake, the authority claimed for Congress by the contestant, they deplored in striking language the vicious effects likely to follow any effort on the part of the House to make a universal application of this authority to all the districts in the States at large, whose make-up constitutes a supposed impingement upon the federal statute. The eighth Kentucky district was Republican by about 1,000 majority. The eleventh was Republican by a much larger majority. The difference in population between the two districts before the act of apportionment, was greater than the difference between the fifth and sixth Virginia districts, even after the passage of the Virginia act complained of. This difference was about 43,834. Upon this state of facts the Kentucky legislature proceeded to enact a statute transferring the county of Jackson, which had a large Republican majority, from the eighth to the eleventh district, thereby making the eighth a Democratic district, and largely increasing the Republican majority in the eleventh. In addition, the effect of this transfer reduced the population in the eighth to 134,410, thereby making it almost the smallest district in the country, and increasing the disparity in population between the two districts, making a difference of 60,260 between them. (See notice of contest, Davison *v.* Gilbert.) Governor Bradley promptly vetoed this act, and the legislature passed it over his veto. The veto message is herewith reproduced.

VETO MESSAGE.

STATE OF KENTUCKY, EXECUTIVE DEPARTMENT,
Frankfort, Ky., March 10, 1898.

To the senate of Kentucky.

GENTLEMEN: I return senate bill No. 54 without approval.

Subdivision 3 of section 2, Article I, Constitution of the United States, provides that the first enumeration for apportionment of Representatives in Congress shall take place within three years after the first meeting of Congress and within every subsequent term of ten years, in such manner as they may direct.

From time to time since the first apportionment Congress has enacted laws regulating the same. In each of them, so far as I have been able to find, there is incorporated the injunction that Representatives in Congress shall be elected by "districts composed of contiguous territory and containing as nearly as practicable an equal number of inhabitants," etc.

In 1890 the general assembly of Kentucky passed a bill reapportioning the State into 11 congressional districts. Such bills have been passed every ten years since the first apportionment was made, and it was evidently the intention of the law that such legislation should not be indulged in oftener.

It is clear that Congress has the power to lay down the requirement in the various statutes as to how these districts should be apportioned. State legislatures may designate the counties, but in doing so must observe the rule that the districts shall be composed of contiguous territory and contain as nearly as practicable an equal number of inhabitants.

The act of 1890 was not in conformity to the act of Congress, but no objection was made to it.

The district apportionment under that act contained the following populations according to the last census:

First district, 170,530; second district, 174,805; third district, 176,184; fourth district, 185,385; fifth district, 188,598; sixth district, 160,649; seventh district, 141,461; eighth district, 142,626; ninth district, 176,177; tenth district, 147,294; eleventh district, 186,460.

It will be seen that the population of the districts range from 141,461 to 188,598. Owing to the urban character of the fifth district, which was entitled to but one Congressman, its population may be accounted for, but there is no reason why the difference should be so great between the populations of outlying districts, and it is clear that the United States statute was violated.

It is apparent that the object of the act of 1890 was not to apportion the State into districts as nearly as practicable equal in number of inhabitants, but to change the political status and to give the dominant party in the State a representation to which it was not entitled under the act of Congress. And it is even more apparent that the present bill has in view the same object. The taking of Jackson County from the eighth district, whose inhabitants number only 142,626 under the last census, and placing it in the eleventh district, whose inhabitants number 186,460 under the same census, thereby decreasing the population of the eighth district to 134,410 and increasing the population of the eleventh district to 194,676, can not be contended for a moment was done in order to make as nearly equal as practicable the number of inhabitants in each district. And to make the spirit of legislation even plainer, if possible, another bill has been since passed by which the counties of Monroe and Cumberland, with 19,434 inhabitants, have been taken from the third and added to the eleventh district, while Metcalfe, with a population of 9,871, has been taken from the eleventh and added to the third. So that, if both bills should become laws, the population of the eleventh district will be increased to 204,239, being 69,829 more than the population of the eighth.

Under the apportionment of the act of 1890 the State in 1896 gave a small Republican plurality. Only four Republican Congressmen were elected, however—a little over one-half the number elected by the Democrats. This would prima facie indicate that the act of 1890 was not drawn in conformity to the act of Congress. The present bill is a palpable violation of the national law, and is doubtless intended to reduce the number of Republican Congressmen to three, thereby inflicting greater injustice than the act of 1890.

The effect of the bill is to deny representation to the people of the State through the party of their choice, and overrides an express provision contained in the act of Congress.

Respectfully,

WILLIAM O. BRADLEY,
Governor of Kentucky.

A true copy.
Attest:
E. E. WOOD,
Assistant Secretary of State.

This message recites all the matters that were subsequently alleged in the notice of contest in the case; that the act was for purely political purposes, and partisan advantage; that it was contrary to the federal statute; that it took a county from a small district and added it to a larger; that in no sense could it be justified as an effort to make the district more compact, or to conform more closely to the requirements of the statute; that the State was already so gerrymandered that the Republicans had only four Members, and that this was a further and more outrageous gerrymander to reduce that representation to three, although upon the relative proportion of party voters in the State, the Republicans were entitled to almost one-half of the delegation.

This case, therefore, presented to the committee upon a stronger situation of facts than those occurring in the case in hand, the precise question urged in the present contest, namely, that Congress can control the apportionment of the States into congressional districts, and that when an apportionment is made which is not considered to conform to the requirements of the statute in respect to compactness and equality of population in the districts, this apportionment can be disregarded by the House of Representatives, and a contestant seated who did not receive a majority of the votes in the district in which the election was actually held. In this connection it may be said that the question of whether a particular apportionment is fair or unfair, just or unjust, in the ordinary acceptation of the terms, ought not to enter into this determination at all. All apportionments are political, and are generally regarded by the opposing party as unfair or unjust. There is practically no apportionment which is made by a political organization which could not be re-formed so as to make it fairer, and more just to the opposing organization. Waiving these considerations for the present as irrelevant, the proper questions for determination in a case like the one presented from Kentucky, or the one now before the House, is whether this body has the right to interfere with the apportionments made by the States, and whether, if it posseses that power, the interests of the Republic would be forwarded by an attempt on its part to exercise the same in some universal fashion. If it is to be exercised at all, it should not be exercised capriciously or spasmodically, but universally, so as to compel every district in the United States to be so constructed that, in conformity with the statute it will be contiguous and compact, containing, as nearly as practical, an equal number of inhabitants.

For some reason not very apparent the majority report refers to a Virginia apportionment bill of 1902, which was vetoed by the then governor. The report declares:

"And although the legislature and governor were of one party, and there was abundant majority in the legislature to have passed the bill over the governor's veto, it was not done."

There is not a line in the testimony as to the political make-up of the legislature of that year. The only reference to this situation is found in a colloquy between Mr. Bennett and ex-Governor Montague, of counsel for contestant:

"Mr. BENNETT. I assume that there was enough of one party in either branch to have had for that party two-thirds, or whatever was necessary.

"Mr. MONTAGUE. Your assumption is not a violent one at all." (Printed argument, p. 54.)

In its attempt to show, whatever its purpose may have been, that the Democrats in the legislature acquiesced in the veto though "abundantly" numerous to overcome it by a two-thirds vote, the majority fails to support its charge in this respect by any reference to the record, and omits to call attention to the fact that the contestee filed with the committee a matter of record (the acts of assembly) showing that on the day when the last acts were signed, which was April 2, the governor sent in his veto message. The session was at an end, the members were scattered, and the opportunity to take up the veto was not afforded. (See printed argument, p. 223.) Whatever may have been the purpose of the majority in its use of this incident, that purpose is defeated by this recital of the actual facts in that connection. It is not pretended that the bill which was vetoed, was in any wise connected with the measure which is under consideration, or that this veto will throw any light on the constitutional questions which are the subject of inquiry.

The answer of the committee to the contentions advanced by the contestant in the case of Davison *v.* Gilbert, is found in the report, which is reproduced in its entirety:

[House Report No. 3000, Fifty-sixth Congress, second session.]

DAVISON *v.* GILBERT.

(March 1, 1901.—Ordered to be printed.)

Mr. Tayler, of Ohio, from the Committee on Elections No. 1, submitted the following report (to accompany H. Res. 443):

The Committee on Elections No. 1, to whom was referred the contested election case of George M. Davison *v.* George G. Gilbert, from the eighth district of Kentucky, make the following report:

The contestee was elected, as shown by the official returns, by a plurality of 841.

The claim of the contestant chiefly rests upon the fact that on March 11, 1898, an act was passed by the legislature changing the boundaries of the eighth and eleventh congressional districts of Kentucky whereby the county of Jackson was taken from the eighth district and added to the eleventh. Jackson county having a large Republican majority, the effect of its transfer to the eleventh was to change the eighth from a district which had immediately previous been Republican into a Democratic district.

As respects this act, the contestant claimed three things:

First, that it was contrary to the constitution of the State of Kentucky.

Second, that it was never properly passed by the legislature in the manner required by the Kentucky constitution.

Third, that it was contrary to the act of Congress apportioning Representatives among the States.

As to the first two propositions, your committee has no difficulty in arriving at the conclusion that the act of March 11, 1898, was not in contravention of the Kentucky constitution and that it was, as far as we have authority to inquire, properly passed by the legislature.

The third proposition, namely, that it contravenes the act of Congress, is more serious and requires more careful consideration.

The Federal Constitution, Article I, section 4, paragraph 1, is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

This provision of the Constitution has been very much discussed; first, as to the scope of the power granted to Congress respecting the manner of holding congressional elections; and, second, as to the expediency of the exercise of such power where it was sought to be exercised, if possessed, for the purpose of controlling the division of a State into congressional districts.

It is believed that this is the first time in the history of the Government when Congress has been called upon to undo the work of a State which had divided itself into the proper number of congressional districts.

When the Constitution was under consideration by the various States several of them opposed the unqualified acceptance of the provision above quoted, on the express ground that the clause was liable to misconstruction and that under its terms Congress might at some time seek to divide the States into districts, and in several States the ratifying body accepted the Constitution on condition that effort should be made to change the phraseology so as to put this matter beyond dispute. For nearly forty years the States proceeded to elect Representatives, some at large and some by districts. In 1840 the policy of electing by districts was generally approved and adopted, but several of the States continued to elect their Representatives by the vote of the entire State. The first legislation on the subject going beyond the mere apportionment of the States was enacted in 1842. In the apportionment act of that year an amendment was added in the House providing for the division of the several States into districts, composed of contiguous territory, equal in number to the number of Representatives to which the State was entitled, and each district to elect one Representative, and no more.

The amendment provoked considerable discussion, but was finally adopted.

The apportionment act based upon the census of 1850 made no provision for the division of States into districts, nor did the act of 1862. The act of February 2, 1872, provided that Representatives should be elected by districts composed of contiguous territory, and added the provision "containing, as nearly as practicable, an equal number of inhabitants." The same provision appears in the apportionment acts of 1882 and 1891.

So far as legislative declaration is concerned, it is apparent that Congress has expressed an opinion in favor of its power to require that the States shall be divided into districts composed of contiguous territory, and of as nearly equal population as practicable. Whether it has the constitutional right to enact such legislation is a very serious question, and the uniform current of opinion is that if it has such power under the Constitution, that power ought never to be exercised to the extent of declaring a right to divide the State into congressional districts, or to supervise or change any districting which the State may provide.

The best opinion seems to be that the Constitution does not mean that under all circumstances Congress shall have power to divide the States into districts, but only that the constitutional provision was inserted for the purpose of giving Congress the power to provide the means whereby a State should be represented in Congress when the State itself, for some reason, has failed or refused to make such provision itself.

Justice Story, in his Commentaries on the Constitution, says:

"In answer to all such reasoning it was urged that there was not a single article in the whole system more completely defensible. Its propriety rested upon this plain proposition, that every government ought to contain within itself the means of its own preservation. A discretionary power over elections must be vested somewhere. There seem to be but three ways in which it could be reasonably organized. It might be lodged either wholly in the National Legislature, or wholly in the state legislatures, or primarily in the latter and ultimatey in the former. The last was the mode adopted by the convention. The regulation of elections is submitted in the first instance to the local government, which in ordinary cases, and when no improper views prevail, may both conveniently and satisfactorily be by them exercised; but in extraordinary circumstances the power is reserved to the National Government, so that it may not be abused, and thus hazard the safety and permanency of the Union."

He adds: "It is not too much, therefore, to presume that it will not be resorted to by Congress until there has been some extraordinary abuse or danger in leaving it to the discretion of the States, respectively."

Hamilton, in the Federalist, makes this, among other comments, on the subject:

"Nothing can be more evident than that an exclusive power of regulating elections for the National Government in the hands of the state legislature would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs."

Madison expressed the same views in the Virginia convention with great force, and expressed the opinion that if the elections were exclusively under the control of the state government the General Government might easily be dissolved.

Chancellor Kent, in his Commentaries, says:

"The legislature of each State prescribes the times, places, and manner of holding elections, subject, however, to the interference and control of Congress, which has permitted them for the sake of their own preservation, and which it is to be presumed they will never be disposed to exercise except when any State shall neglect or refuse to make adequate provision for the purpose."

In the Twenty-second Congress, first session, an elaborate report was presented by Mr. Webster on the subject of apportionment. In the course of this exhaustive statement he discusses the very question which is here involved. The following extract is fairly representative of the rest of the report on that phase of the question:

"Whether the subdivision of the representative power within any State, if there be a subdivision, be equal or unequal, or fairly or unfairly made, Congress can not know and has no authority to inquire. It is enough that the State presents her own representation on the floor

of Congress in the mode she chooses to present it. If a State were to give to one portion of her territory a Representative for every 25,000 persons, and to the rest a Representative only for every 50,000, it would be an act of unjust legislation, doubtless, but it would be wholly beyond redress by any power in Congress, because the Constitution has left all this to the State itself."

These are the guarded words of a great commentator on the Constitution, *uninfluenced* by any basis or special motive, except to justly interpret its provisions.

A remarkable and convincing speech is that made in the Twenty-seventh Congress by Nathan Clifford, then a Representative from Maine and afterwards a justice of the Supreme Court of the United States. Mr. Clifford argued with great cogency against the theory that Congress had any such power as the act of 1842 undertook to express, and in our opinion those arguments have never been satisfactorily answered.

And, indeed, the force which the proposition contended for by the contestant in this case possesses is derived chiefly from the fact that, without objection for the last three decades, Congress has legislated as though no question was made as to its power over the division of States into districts. If the act of 1842, in which we find the first congressional expression of power, had sought by its terms to define the geographical boundaries of every congressional district in the several States, it could not by any possibility have been adopted. So far as we have been able to learn, no friend of the amendment to that act contended that Congress had any such power. The construction of Madison, Story, and Kent seems most reasonable and natural.

Your committee are therefore of the opinion that a proper construction of the Constitution does not warrant the conclusion that by that instrument Congress is clothed with power to determine the boundaries of congressional districts, or to revise the acts of a state legislature in fixing such boundaries; and your committee is further of opinion that even if such power is to be implied from the language of the Constitution, it would be in the last degree unwise and intolerable that it should exercise it. To do so would be to put into the hands of Congress the ability to disfranchise, in effect, a large body of the electors. It would give Congress the power to apply to all the States, in favor of one party, a general system of gerrymandering. It is true that the same method is to a large degree resorted to by the several States, but the division of political power is so general and diverse that notwithstanding the inherent vice of the system of gerrymandering some kind of equality of distribution results.

Your committee therefore recommends the adoption of the following resolutions:

Resolved, That George M. Davison was not elected a Representative to the Fifty-sixth Congress from the eighth district of Kentucky, and is not entitled to a seat therein.

Resolved, That George G. Gilbert was elected a Representative to the Fifty-sixth Congress from the eighth district of Kentucky, and is entitled to retain his seat therein.

This report was never challenged, and Gilbert continued to hold the seat to which he was elected, representing the same district for a number of years thereafter.

There has been no general reapportionment of the Virginia districts for a great number of years. In 1906 the city of Newport News was taken out of the second district, and put into the first. In 1908 the county of Floyd was taken out of the fifth district, and put into the sixth, and the county of Craig was taken out of the ninth and put into the tenth. At the time these transfers were made, the fifth district had a population of 175,579, and the sixth a population of 181,571. After the transfer, the relative population of the two districts was as follows: The fifth district, 160,191; the sixth district, 196,959. Both of these districts were Democratic at the time of the transfer, but the majority in the fifth district was small. Territorially the fifth district is a large district, and is not, as at present constituted, the smallest district in population in the State, the smallest being the eighth, with a population of 154,198. It is objected in this case, as in the Kentucky case, supra, that the transfer of a county was made from a smaller to a larger district, and therefore the two districts do not contain an "equal number of inhabitants as nearly as practical," as required by the federal act. This may be true, as a matter of fact, but the disparity in population is nothing like so striking as in the Kentucky case, and falls far short of the disparities that have been effected in many other States in the creation of their districts, as will be shown by the following extracts taken from the Congressional Directory for January, 1910:

"In California the population of the fifth California district is 236,234 and of the sixth is 155,839, difference being 80,395.

"In Connecticut the population of the second Connecticut district is 310,923, while that of the third Connecticut is 129,619, the difference in population being 181,304.

"In Illinois the eighth district has a population of 286,643, and the fourteenth Illinois has a population of 170,820, the difference in population being 115,823.

"In Iowa the first Iowa district has a population of 159,267 and the tenth Iowa 253,350, the difference in population being 94,083.

"In Kansas the third district has a population of 284,537 and the fourth Kansas 157,842, a difference in population of 126,695.

"In Michigan the ninth Michigan district has a population of 166,124 and the twelfth Michigan 275,525, a difference in population of 109,401.

"In Minnesota the fifth Minnesota district has a population of 292,806 and the second Minnesota district 174,856, the difference in population being 117,950.

"In Nebraska the second district has a population of 162,756, and the third district has a population of 211,780, the difference in population being 49,024.

"In New York, in the city of New York, the fifteenth New York district has a population of 165,701, and the eighteenth New York, in the same city, 450,000, the difference in population being 284,299. In the rural districts of New York the twenty-second has a population of 169,005, the fifteenth a population of 165,701, the thirteenth a population of 169,378, and the thirty-fourth a population of 220,208.

"In Ohio the twelfth Ohio district has a population of 164,460, and the twenty-first Ohio has a population of 255,510, the difference in population being 91,050.

"In Oklahoma, where the present districts were created by the enabling act of Congress, the fifth Oklahoma has a population of 315,106 and the first Oklahoma 225,373, the difference being 89,733.

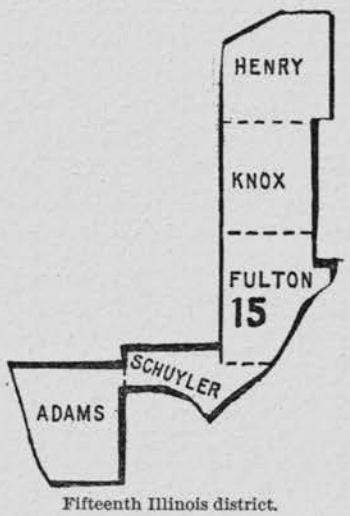
"In Pennsylvania the eleventh district has a population of 257,121, and the fourteenth Pennsylvania 146,769, a difference of 110,352.

"In the State of Colorado the first Colorado district has a population of 245,979 and the second Colorado 293,721, a difference of 47,742."

Many other disparities equally striking might be furnished, but these will suffice. Two things will be noted upon examination of these figures. First, the wide differences that the States have made in the relative populations of the districts which they have created; second, that if the fifth Virginia district is an unconstitutional formation by reason of the disparity of its population with that of the sixth, there are many other districts in the country at large, offending in a much greater degree, and therefore more clamorously calling for rectification. But it is submitted that the existence of these greater disparities in other districts, which make the districts in which they occur unconstitutional formations, in the view of the majority, merely tend to show from another standpoint, that the States have not considered that their right to make these disparities was limited by any constitutional authority. The unchallenged exercise of this right from the foundation of the Republic, save in the one instance of Davison *v.* Gilbert, in which the challenge was overruled, is in itself strong confirmation of the claim to the right on the part of the States. If the superior right to set aside the apportionments of the States on account of the disparities of population in the district created by the States, does exist in Congress, it would be a singular thing indeed if the first exercise of that right should occur in a case in which the disparity is so little to be remarked, in comparison with others, as in this case from Virginia. It is claimed in the majority report that the fifth Virginia district further offends against the federal statute on the ground that it is not contiguous and compact territory. The objection on the score of contiguity is certainly not well taken, for the district is composed of a number of counties which touch each other in succession, as will be seen from the diagram and map filed. Contiguity means actual contact, nothing else, and the statute does not contemplate that each county in the district shall touch every other county, even if such a thing should be possible. It is stated in the report of the majority that as at present formed, a mountain ridge prevents public travel by road between the inhabitants of one portion of the district and the other, save by going through Floyd, or North Carolina. The map to which the report refers, shows that if the road from Patrick to Carroll goes through Floyd at all, it barely crosses, for the most insignificant distance, a sharp point which Floyd thrusts into Patrick. South of this road the map shows another road from Patrick into Carroll. The majority report further states that there is an apparent strip of contiguity 10 miles in width, measured in a straight line, across. This is intended to show that the counties are not continguous save for this distance. But this is a mistake. The same map will show that, owing to the configuration of the two counties, they run together for as much as 20, possibly 30 miles, according to the map. The 10 miles is measured entirely in the county of Patrick. But granting, for the sake of argument, that the most convenient access from Patrick to Carroll would be through a small part of Floyd, what would it prove? There are many districts in which the most convenient means of access from one portion of the district to another, is through some other district.

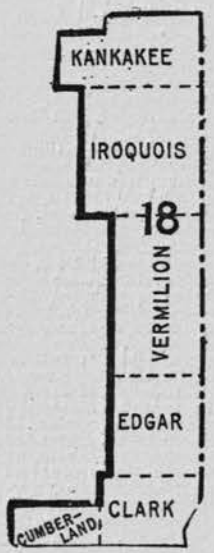
For instance, in the twenty-third Illinois district, in order to get from one side of the district to the other, say from Wabash County to Jefferson County, a traveler would have to go across Edwards and Wayne, in the twenty-fourth district, or else travel a much greater distance in order to make the trip and keep in the twenty-third district. So in the twenty-second district, an inhabitant of Washington County would find the direct road to Bond through Clinton, which is in the twenty-third. It is a new rule of constitutional requirement that districts must be so constructed that the most convenient roads from one section of a district to another, must be confined to the district.

But as in the matter of population, so in the respect of compactness, the fifth Virginia district does not offend in any marked or striking degree; to such a degree, in comparison with other districts created in other States, that on this ground, the act of the legislature of a State should be set aside, and the results of an admittedly honest election be nullified. For the purposes of comparison, the maps of a number of districts, taken from the Congressional Directory for 1910, are submitted in this connection.

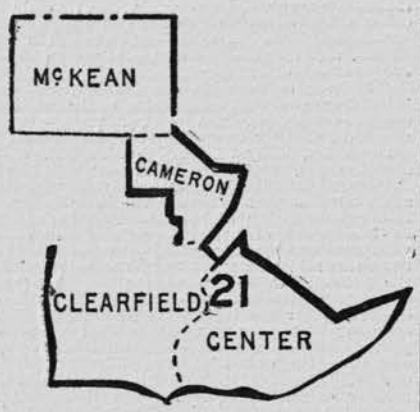


Fifteenth Illinois district.

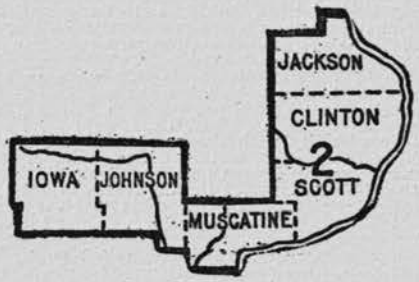
Fifth Virginia district.



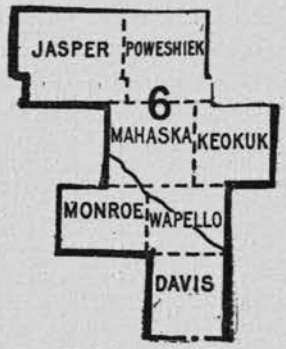
Eighteenth Illinois district.



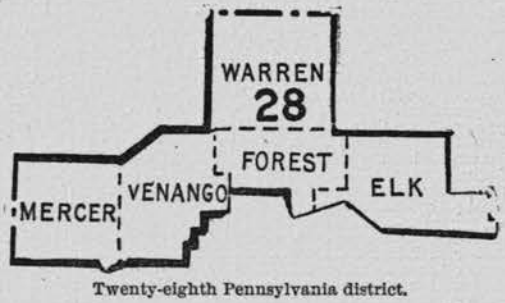
Twenty-first Pennsylvania district.



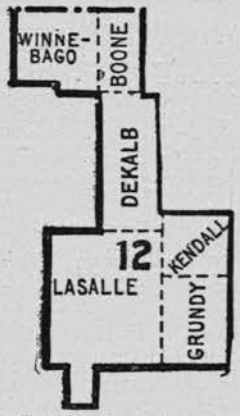
Second Iowa district.



Sixth Iowa district.

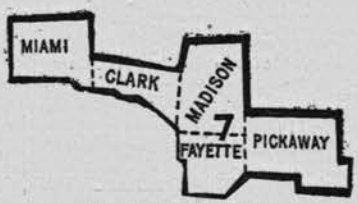


Twenty-eighth Pennsylvania district.

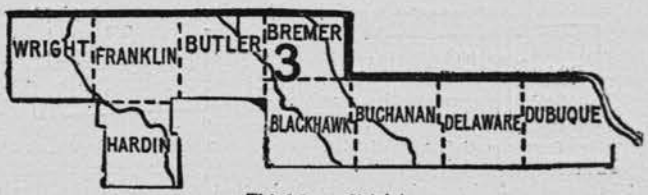


Twelfth Illinois district.

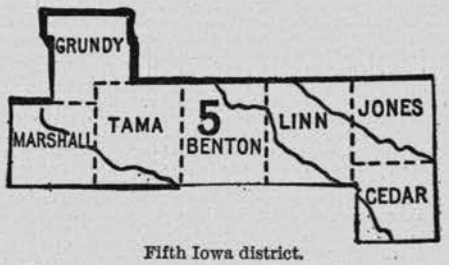
Twentieth Ohio district.



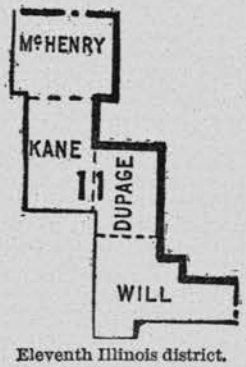
Seventh Ohio district.



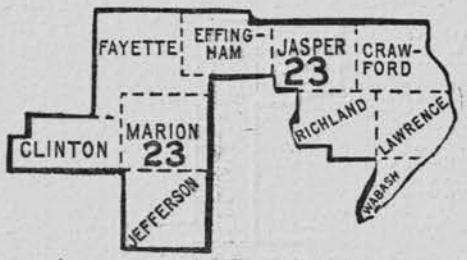
Third Iowa district.



Fifth Iowa district.



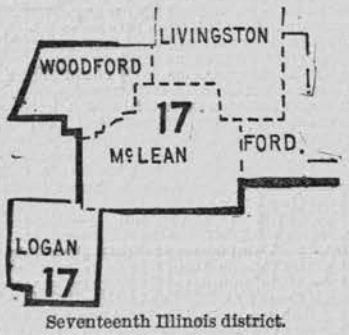
Eleventh Illinois district.



Twenty-third Illinois district.

Sixteenth Pennsylvania district.

Thirty-first New York district.



Seventeenth Illinois district.

Thirty-third New York district.

The report of the majority also finds that the Virginia statue of 1908 is in contravention of the state constitution. The section of the constitution relating to apportionments for Members of Congress is as follows:

"SEC. 55. The general assembly shall, by law, apportion the State into districts corresponding with the number of Representatives to which it may be entitled in the House of Representatives of the Congress of the United States; which districts shall be composed of contiguous and compact territory, containing, as nearly as practicable, an equal number of inhabitants."

This section has been the subject of construction in Virginia, and like provisions in other constitutions, have been the subject of construction by the courts of those States. The question presented is whether the courts have power to set aside and annul an apportionment made by the legislature, provided the apportionment does not conform to the judicial concept of a constitutional apportionment. This precise question has been decided by the courts of seven States, and the decisions are irreconcilably antagonistic. The courts of New York, Illinois, Virginia, and Ohio hold that when an apportionment is made under such a constitution as that of Virginia, the judicial authority will not interfere with such an apportionment unless it is of such a character as will warrant the courts in saying "that it is no apportionment at all." It is not sufficient to say that the apportionment is unequal, or unjust, or unfair, or that the districts are not as compact as possible, or as nearly equal in population as may be. The apportionment may be liable to criticism in all of these respects; but so long as it is an apportionment, though it is unfair and unjust and far short of the requirements that the court would impose if making the apportionment, it will be allowed to stand. In Virginia its supreme court was asked to annul a congressional apportionment on the ground that it was an unjust gerrymander, and lacking all the constitutional requirements. It declined to interfere, on the ground that making apportionments was a "political function of the legislature with which the court had no concern." The courts of Michigan, Indiana, and Wisconsin fully support the proposition that the courts when acting under a constitution like that of Virginia can, in substance, compel the lawmaking department to make an apportionment conforming to the judicial idea of a proper apportionment, by successively annulling legislative apportionments until at last one is enacted that will receive the judicial approbation.

The cases in which the courts have declined to interfere with legislative appointments are as follows: People *v.* Rice (135 N. Y.), State *v.* Campbell (48 Ohio), People *v.* Thompson (155 Ill., 481), and Wise *v.* Bigger (79 Va.). The difference of attitude between these cases and the cases from Michigan, Indiana, and Wisconsin is fundamental. One aggregation of authority holds that the legislature, in case of an abuse of discretion in the matter of apportionments, is amenable to the people whose servants they are; the other stoutly maintains that if the legislatures will not be good, according to the judicial conception of how their discretion should be exercised, the courts will constrain them to be good. This difference of attitude will be best developed by citations from these cases.

"There should be as close an approximation to exactness as possible, and this is the utmost limit for the exercise of legislative discretion." (83 Wis., 90.)

But there was strong dissent from this conclusion.

"To make up districts mathematically according to population, and geometrically according to compactness, would not necessarily be in the public interests or best suit the interests of those immediately affected. (83 Wis., 168; dissenting opinion.)

"The legislative discretion is a wide one. They may consider things such as community of interest, facility of communication, the general topography, the rapidity with which population is increasing, and many other things with which this court has nothing to do and which it can not know. This court can not take evidence as to these outside considerations, but I have no doubt of the power of the legislature to do so in the exercise of its discretion. (83 Wis., 169; dissenting opinion.)

"Passing to the consequences of inconvenience flowing from a judicial interference with the exercise of legislative discretion, the judge proceeds as follows: Two laws have been assailed in succession in Wisconsin. Another one might be passed, and that, too, assailed and overthrown, requiring still another session of the legislature and another statute.

"By the time this process has been repeated several times it will be a serious question whether the law finally resulting is the offspring of the legislature or of the court. Has not the legislature acted simply as the recorder of the decrees of the court? Has not its discretion vanished and been supplemented and superseded by the discretion of the court? Has not, in fact, the court made the law, and thus invaded the province of its coordinate branch of government? The court has assumed to itself legislative power. It has practically substituted its discretion for the legislative discretion. No essay on our form of government is necessary to show that an encroachment of one branch of government on the proper powers of a coordinate branch is a greater evil than the evil of gerrymandering. I am not defending gerrymandering. I recognize it is an evil, though I think its bad effects are greatly overestimated. I think there are very few, if any, instances in which power has been retained for any length of time by the minority by means of a gerrymander. (83 Wis., 169–170; dissenting opinion.)

"The very fact that the duty of apportionment is imposed on the legislature, a body charged with the exercise of judgment and discretion, is a strong implication that discretion is intended to be exercised. If it were simply a question of addition and division, a board of arithmeticians would answer the purpose better. There is, therefore, a large discretion in the legislature, a discretion with which a court should hesitate long before interfering." (Id., 163.)

Parker *v.* State (133 Ind.) fully holds that when an apportionment does not conform, in the judicial opinion, as nearly as may be, to the requirements of compactness and equality of population, the court will annul the same. To the same effect, Giddings *v.* State (93 Mich.), which is in full conformity with the conclusions reached by the Wisconsin and Indiana cases. But in the Indiana case, as in the Wisconsin case, there was a strong dissent on the ground that—

"Whatever the abuse, if any, of the discretion vested in the legislature, long-settled principles forbade the court to give judgment on the question of the invalidity of the apportionment act." (See Parker *v.* State, 133 Ind.; dissenting opinion.)

As against these authorities, which are relied on by the majority report, there may be set the cases cited from New York, Ohio, Illinois, Massachusetts, and Virginia. The New York case is that of Carter *v.* Rice, in which the court was asked to avoid a state apportionment on the ground that it was a peculiarly vicious gerrymander. The statement of facts in that case shows that the departure from the requirements of the constitution were very great, and the inequalities and disparities more excessive than those in the Virginia apportionment act complained of. Thus one district in New York had a population of 241,138, while another had only 105,720. Cattaraugus, with 47,727 inhabitants, had two members of the legislature, while Suffolk, with 50,030, had only one. Orange, with 82,225 inhabitants, had two members, while St. Lawrence, with 78,014, got three. The latter county, with a population of 78,000, had the same representation as Monroe, which exceeded it in population by 50,000. All this made out a strong case of gerrymander, yet under a constitution which was practically identical with the one in Virginia, the court of appeals of New York declined to interfere with the act, averring that the same reason which would set aside the act of 1892 would set aside the act of 1879, which was known at its passage as a most unjust and unequal one. This would be true in Virginia. If the act of 1908 is void on the grounds alleged, then the act of 1906 is equally void, and the act of 1884 as well, for they are all affected with the same sort of disparities. Indeed, the act of 1884 was drawn in question before the supreme court of Virginia on this very ground.

If a shoe-string district in an act of apportionment is void, then the original sixth Virginia district is void, for the same map which is submitted to show that the fifth Virginia district is now a shoe-string district, will show that the sixth Virginia district was more of a shoe-string before the act of 1908 than is the fifth district as at present constituted. The act of 1908 has really made the sixth district more compact. But the act which originally constructed the shoe-string sixth would, according to the above suggestion, be unconstitutional as to that district. In consequence the acts of 1906 and 1884 would be unconstitutional.

"The several portions of an apportionment act are so largely dependent on each other that if the constitutional requirements are violated in some of the assembly districts, the whole act must be held to be void." (State *v.* Cunningham, 81 Wis., 442.)

The following citations from Carter *v.* Rice are relevant and pertinent, bearing in mind that the constitution of New York and the present constitution of Virginia, so far as they respectively relate to apportionments, are practically the same:

"The power to readjust the political divisions of a sovereignty with reference to the representation of the inhabitants in the legislature rests, of course, in the first instance, in the people. The essential nature of the power is political, as distinguished from legislative or judicial power. The power to review in the courts exists when the people have so limited the exercise of the power to readjust the political divisions of the State that the power thus limited has become in the hands of the persons intrusted with it one of ministerial nature only. (Carter *v.* Rice, 135 N. Y., 499–500.)

"In seeking for a correct solution of a legal question, especially the proper construction of a statute or constitution, the result which may follow from one construction or another is always a potent factor, and is sometimes in and of itself conclusive. What result would follow if it were held that the legislature had overstepped its discretion in

this particular case? In the first place, we would have every enumeration and every act of apportionment brought before the court for review. The same reason that would set aside the act of 1892 would set aside the act of 1879. (Id., p. 507.) For us to adjudge the act unconstitutional and declare it void would, in my judgment, be a most unwise construction and would be to arrogate a power of interference as dangerous in the precedent as it seems unwarranted by law. (Id., 512.)

"The legislature in this case is intrusted with some discretion in the matter of apportionment. Is the court to interfere with such power whenever it thinks that the legislature might, in its exercise, possibly have come nearer to an equality, after complying with the special conditions mentioned in the constitution? This would be to assert a power in the courts to supervise the use of the discretion given to the legislature, if such discretion were exercised in the slightest degree, after the constitutional mandate in regard to the county lines and county members had been complied with. We do not believe in the necessity or propriety of any such rule. On the contrary, we think the courts have no power in such cases to review the exercise of discretion intrusted to the legislature by the constitution unless it is plainly and grossly abused." (Id., 501.)

There is a later case than Carter *v.* Rice, which holds that the courts of New York can set aside a legislative apportionment not conforming to the judicial idea of a fair and just apportionment.

But this case was decided under a later constitution, and, so far from overruling the Rice case, it affirms its authority upon such a state of facts as existed when it was decided. For the purposes of this inquiry, which is the interpretation of the Virginia constitution, the case of Carter *v.* Rice is as potent authority as if Sherrill *v.* O'Brien had never been decided. A few extracts from the latter case will make it clear that it is not a reversal of the former case.

One or more of the judges who sat both in the former and in the latter case, and concurred in the last decision, call attention to the fact that the second decision is not in conflict with the first, but is properly decided upon a new state of facts. The following citations are made from the case of Sherrill *v.* O'Brien:

"Can it be doubted that in view of the history of the constitutional change in regard to a legislative apportionment, which shows an actual withdrawal from the legislature of discretionary power and the continued adding of limitations upon their power relating thereto, and in view of the clear intention of the constitutional convention of 1894 and the people in adopting the constitution, that this court should now hold that the minimum of discretion necessary to preserve county and other lines, and to give reasonable consideration to the other provisions of the constitution, is left to the legislature? Can we doubt, with respect to this legislative enactment, that it is subject to review by the court? (Sherrill *v.* O'Brien, 188 N. Y.)

"While we recognize the binding force of the case of Carter *v.* Rice as applied to the facts then before the court, and in the construction of the constitution as it then existed, we are of the opinion that the constitution as it now exists should be construed so as require that the legislature, in dividing the State into districts, make so close an appropriation to exactness in the number of inhabitants in the district as is reasonably possible, in view of the other constitutional provisions, and that such approximation is the limit of legislative discretion. (Id.)

"I should hesitate to agree with the opinion of my brother Chase as to the unconstitutionality of the apportionment act if I were not convinced that the amendment to the state constitution in 1894 had materially changed the rules which should govern the apportionment by the legislature of the representatives of the citizens of the State.

"In the case of People ex rel. Carter *v.* Rice (135 N. Y., 473), which involved the apportionment act of 1892, and in the decision of which I took part, I was of the opinion that the then existing constitutional provision vested a certain discretion in the legislative body in exercising its power with which the court should not interfere when there had been neither a flagrant disregard nor an unmistakable violation of the constitutional injunction that the apportionment should be 'as nearly as may be' according to the number of citizens.

"As may be discovered from the debates in the constitutional convention of 1894, the decision of the Rice case moved that body to recommend new provisions or rules for an apportionment. They were intended to remedy whatever defectiveness in the old rules made possible the inequalities observed in the preceding apportionment act.

"It is of great significance, and it necessarily has a most important bearing upon the attitude of the court toward the legislative action, that the article of the constitution (Art. III, sec. 5) expressly provides for a judicial review of any apportionment by the legislature.

"The legislature now exercises its power subject to review by the court of its act, which any citizen may invoke. The article, in its present form, as Judge Chase well points out, reduces the discretionary power of the legislature to a minimum. The limitations upon its exercise are relaxed, practically, only with respect to the preservation of county, town, and block lines." (Id., from Justice Gray's opinion.)

It must not be forgotten that the facts in the case of Carter *v.* Rice showed a gerrymander more outrageous than the one with which we are dealing from Virginia. The court in the first case declined to interfere with the legislative discretion, on the grounds set out in their opinion, and allowed the apportionment to stand. The latter case in nowise reverses the former case, or indicates that it was incorrectly decided. To the contrary.

To the same effect as Carter *v.* Rice, but more strongly stated, is the case of People *v.* Thompson (155 Ill.), upon a constitution practically identical in its requirements with the constitution of Virginia. The violations of this constitution by the Illinois act were claimed by the contestants in that case to have been gross and flagrant:

"No district, unless a circle or a square, could be so compact that it could not be made more so. (People *v.* Thompson, 155 Ill., 482.) As much as the disposition of the legislative majority to obtain an undue partisan advantage by senatorial apportionments at the expense of equality in representation is to be deplored, the evil can not be remedied by the courts so long as the power to commit it is left in the body on which the duty to make the apportionment is imposed. (People *v.* Thompson, 155 Ill., 485.)

"The moment a court ventures to substitute its own judgment for that of the legislature in any case where the constitution has vested the legislature with power over the subject, it ventures upon a field where it is impossible to set limits to its authority, and where its discretion alone will measure the extent of its interference. (60 Ill., 86; Cooley's Constitutional Limitations, 200.)

"If a statute is within the authority of the legislature, as afforded by the constitution, it is valid, though resulting in inequalities and injustice. (People *v.* Thompson, 155 Ill., 461.)

"The decision of the legislature, in the exercise of its discretion, as to the apportionment of senatorial districts, is final, and not subject to review by the courts. Yet jurisdiction exists in the courts to determine whether or not the statute is within such discretion. (People *v.* Thompson, 155 Ill., 451.)

"The question whether the constitutional requirements of compactness of territory and equality of population in senatorial districts has been applied at all is one which the courts may finally determine; but whether or not the nearest practicable approximation to perfect compactness and equality has been attained, is a question for legislative discretion. (Id., 451.) The courts are not at liberty to go beyond the constitution, and set up a standard of their own based upon what might be deemed the inalienable rights of man, or the fundamental principles of justice and right of republican government, or some principle supposed to underlie the constitution by which to measure the validity of an apportionment act. (Id., 451.) Only a reasonable approximation toward equality is essential under the requirements of the constitution that senatorial districts shall contain, as nearly as practicable, an equal number of inhabitants. (Id., 452.)

"A statue forming senatorial districts is not void, because some of the districts, although containing more inhabitants than the minimum required by the constitution, should have contained still more, and others still less, in order more nearly to approximate perfect equality, nor because some other districts might have been made more compact, these being matters within the legislative discretion. (Id., 453.)

"There are many constitutional duties imposed upon legislatures which can not be enforced by the courts, and the manner of compliance with which must be left to the sole and final determination of the department upon which the duty is imposed. (Id., 474.)

"Courts ought not to pass the boundary line inclosing the discretionary power of the legislature and invade that discretion. (Id., 476.)

"In this case it was a question for the final determination of the legislature as to what approximation should or could be made toward perfect compactness of territory and equality of population, and this, too, though treating the requirements of the constitution as mandatory. (Id., 477.)

"When the general assembly, in the discharge of this duty, has not transcended this power, though it may have performed its duty very imperfectly, its act is valid. (Id., 477.)

"In discussing the meaning of the word compact, the court very pertinently observes:

"'Who, then, must finally determine whether or not a district is as compact as it could or should have been made? Surely not the court, for this would take from the legislature all discretion in the matter and vest it in the courts, where it does not belong; and no apportionment could stand, unless the districts proved as compact as the judges might think they ought to be, or as they themselves could make them. As the courts can not themselves make a senatorial apportionment directly, neither can they make one indirectly. There is a great difference in saying whether the principle of compactness has been applied at all or whether the nearest practical approximation to perfect compactness has been attained. The first the courts can determine, the latter is for the legislature." These views accord with State *v.* Campbell (48 Ohio); People *v.* Rice (135 N. Y.); People *v.* Supervisors (136 N. Y.); People *v.* Thompson (155 Ill., p. 481).

"In Ohio apportionments were formerly made, and possibly at present, by a board created by the constitution. One of these apportionments was put in issue in State *v.* Campbell (48 Ohio), and an effort made to overthrow it on the usual grounds that it was unjust, unequal, and violative of the constitution. The court declined to interfere, stating its reasons for this action as follows:

"'When the board created by the constitution for the apportionment of the State for members of the general assembly have made an apportionment, they can not be required to make another unless the apportionment so far disregards the principles presented by the constitution as to warrant the court in saying that it is no apportionment, and treating it as a nullity. (State *v.* Campbell, 48 Ohio, p. 435.) It is not sufficient for us to be of opinion that we could make a better apportionment than has been made by the board. For us to interfere and direct another apportionment the apportionment must so far violate the constitution as to enable us to say that what has been done is no apportionment at all. (Id., 437.) Whether the discretion imposed has been wisely or unwisely exercised in this instance is immaterial. The board had the power to make the apportionment. For the wisdom or unwisdom of what they have done, within the limits of the power conferred, they are answerable to the electors of the State, and to no one else.' (Id., 442.)

"Running through all of these cases is the principle that to justify interference by the courts, the apportionment complained of must be something more than unfair, or unjust, contrived for partisan purposes. It must be no apportionment at all. The same question of the right of interference with the work of functionaries, clothed with the authority to make an apportionment, was considered by the court in 10 Gray, and it held 'that the county commissioners were empowered to apportion the representatives, apportioned to the counties among the respective districts formed by them, and that even if the House of Representatives was satisfied that the number of Representatives so apportioned was different from the number to which such districts would be entitled, if determined exclusively by the enumeration of the legal voters, still they could not reverse the same.' To the suggestion that this would work out hardship and injustice, the court replied that some error may occur in all human transactions, and that those who think that they have discovered error may themselves have fallen into error in conducting their inquiries. The final power must rest somewhere. (Id., p. 624.)

"This is the crux of the whole matter, whether this final power of discretion shall rest with the legislature, or shall be exercised by the courts, in making apportionments."

The foregoing citations make it abundantly clear that if this committee was called on to interpret the constitution of Virginia for the first time, it would have its choice between two bodies of irreconcilable cases, almost equal in numbers. But it is submitted that the conclusions reached by those courts which decline to intrude upon the legislative domain, so long as the legislature has exercised any discretion at all, rest upon the broader and sounder considerations relating to the proper functions of the courts, and of the lawmaking departments, in our system of government.

Contestant asserts that with reference to the Virginia statute of 1908 the House possesses the same power of annulment resident in the courts of Virginia. This may be conceded. The attitude of the Committee on Elections is a judicial one. It is made such by the express terms of the federal statute. In this connection it may be well to cite the majority report:

"This committee is a judicial tribunal. We have no right to consider expediency or policy, politics or personality. The case should be

decided upon the broad lines of justice, as determined by the facts, the law, and the Constitution."

This being so, the committee should follow the interpretation placed on the Virginia constitution by the court of last resort of that State, the more readily if the conclusion reached by the court is confirmed by the conclusions of other courts of great authority, interpreting like constitutional provisions. The majority report declares that the case of Wise *v.* Bigger, so far as it relates to apportionments, was decided with apparently but little consideration. The majority is without authority for this statement. The apportionment question was squarely presented to the court and squarely and fully decided. The brief opinion of the court on this point furnishes no index to the time that was given to its consideration. But, whether brief or prolix, it is the established, unchallenged, and unreversed law of Virginia.

The contestant had ample time and opportunity before entering upon his canvass for Congress to attack the law of 1908 in the court of last resort of Virginia and to ascertain whether it was disposed to overrule Wise *v.* Bigger. The fact that he did not do so, may be taken as most ample evidence that his counsel advised him that Wise *v.* Bigger was good law, and not likely to be overruled by the present supreme court of that State.

There has been no change in the Virginia constitution relating to the provisions of apportionment for Members of Congress for over forty years. In 1884 the legislature of Virginia made an apportionment which is practically the apportionment of to-day.

This apportionment was assailed in the supreme court of that State, on the ground that it violated the constitution, in that the districts formed were not of contiguous counties, compact, and as nearly as may be equal in population. This question of the judicial right to interfere with apportionments was fully presented to the court in the pleadings, and was disposed of as follows:

"It is further alleged by the relator that this said act is unconstitutional and void, because the act does not conform to the requirements of Article V, section 13, of the constitution of Virginia, by making congressional districts of contiguous counties, cities, and towns compact and as nearly as may be equal in population.

"But the laying off and defining of the congressional districts is the exercise of a political and discretionary power by the legislature, for which they are amenable to the people whose representatives they are." (Wise *v.* Bigger, 79 Va., 282.)

So the court remitted Mr. Wise to the supreme tribunal of the people.

This interpretation is decisive, and has never been overruled, questioned, or assailed since it was afforded. How, then, can the Virginia act of 1908 be considered to be in excess of the legislative authority, and therefore unconstitutional, when the supreme court of that State declares that in laying off districts the legislature is not only exercising a constitutional function, but an exclusive political function with which the courts had no concern, and with which they would not interfere? In Virginia, therefore, it may be fairly said that the legislature of that State has the final right to make apportionments, just as the Congress of the United States will have that power, if the contention of the contestant is maintained. The moment Congress exercises the right to establish the congressional districts in the States, it will exercise a political and discretionary power for which it will be amenable to the people, and to no one else. Is it likely that it would be more wisely exercised than by the States? But not only has the decision of Wise *v.* Bigger never been questioned, but it has, in effect, been ratified by the present constitution of Virginia. It has been noted that in New York, it was necessary to overcome the effect of Rice *v.* Carter by the language of a subsequent constitution. In Virginia a new constitution was adopted after the case of Wise *v.* Bigger had interpreted the language of the old constitution with respect to the section relating to apportionments.

When the constitutional convention met that body had the decision of Wise *v.* Bigger before them, impressing the language of the old constitution with respect to apportionments, with a precise and definite meaning. The convention followed the old constitution, so that it may therefore be fairly said that the last convention adopted and ratified the meaning placed on the section relating to apportionments, by the highest court in Virginia. If, therefore, the House was indisposed to follow the line of cases outside of Virginia, announcing the principle that the courts ought not to interfere with legislative apportionments unless they could be fairly declared to be no apportionments at all, it would hesitate to declare the statute of a State unconstitutional, with reference to the constitution of that State, when its supreme court had pronounced in favor of its constitutionality, and a subsequent convention had ratified that interpretation.

The Committee on Elections, being a judicial body, must adopt the judicial attitude when it comes to interpret the laws of Virginia. It is not necessary in this connection to cite the familiar authorities establishing the attitude of the federal courts toward the statutes or constitution of a State which have been interpreted by the court of last resort of that State. Therefore, on the purely state question of whether the act of 1908 is violative of the constitution of Virginia, the committee should follow the court of that State. The decision of Wise *v.* Bigger has peculiar value from the fact that politically, the court, and the legislature which made the apportionment, were opposed, and the application for judicial review was made by a member of the minority party.

The majority has cited the cases which maintain the right of the courts to interfere with apportionments, but it has paid but scant attention to those decisions which maintain the opposing view. Your minority has cited these cases in order that both lines of authority will be presented to the Members of the House. The cases cited by the minority maintain the view that so long as an apportionment is made, the courts can not interfere; that to justify their interference such a situation must exist that it can be said of an apportionment, that it is no apportionment at all. Applying this test to the fifth district of Virginia, having reference to its physical size, its general appearance, and the number of its inhabitants in comparison with the districts established in other States by the legislatures thereof, it is impossible to say of it that it is no apportionment at all. It may be criticized in various ways by the members of the committee who have made the majority report. They may consider it to be far short of such a district as they would construct if given the opportunity, but after all, in a real sense, it is a district and not a nullity.

The conclusion reached by your minority, and supported by authority, is that the statute of 1908 does not contravene the constitution of Virginia, if the interpretation of the supreme court of that State is to be followed. The Committee on Elections is required by the statute to consider the questions before it, as judges would do, in order that election contests may be decided, as far as possible, upon the merits. This being so, the committee should not adopt, for party purposes, a different rule from the one that would be followed by a federal court, if it was asked to determine whether the statute under consideration contravened the constitution of Virginia. With respect to the further question whether the act contravenes the federal statute, it is submitted that nothing can be added to the well-considered report in Davison *v.* Gilbert, deciding the very question presented in this case. In this connection the minority insists that even if it should be considered that Congress can control the apportionment of the States into districts and fix the delimitations of the same, it should not undertake this rôle. In the language of the report in Davison *v.* Gilbert, supra:

"It would be in the last degree unwise and intolerable that it should exercise it. To do so would put into the hands of Congress the ability to disfranchise, in effect, a large body of the electors. It would give Congress the power to apply to all the States, in favor of one party, a general system of gerrymandering. It is true that the same method is, to a large degree, resorted to by the several States, but the division of political power is so general and diverse that, notwithstanding the inherent vice of the system of gerrymandering, some kind of equality of distribution results."

If gerrymandering is the outcome of the exercise of uncontrolled political power under certain familiar conditions, it is difficult to see how the disease will be cured by transferring the power to accomplish it, from a number of diverse political bodies to one central body, which will be operated upon by the same considerations as the members of the smaller bodies. If Congress is to undertake the exercise of this authority, conceding that this body possesses it, then it ought to be done upon the theory that its assumption and exercise, will be in the general public interest. What indication has been afforded that such has been the case or would be the case? The latest illustration of scientific arrangement was afforded in the case of Oklahoma, when the enabling act of Congress created districts in that State with a population difference of 89,733, and ingeniously grouped the Democratic majorities in such fashion, that one Democratic district had a majority of about 25,000. The remedy offered for the disease does not commend itself. In lieu of a number of individual gerrymanders, effected by different political organizations, in different States, and working out some kind of equality, as pointed out by the report in Davison *v.* Gilbert, we will have one universal gerrymander, coextensive with the limits of the country. The effect of this new policy in unsettling tenure of seats will be intolerable. No Member would know when he would be secure from a contest, based on the grounds of disparity of population or irregularities in the physical make-up of the district. The opportunity to make a universal gerrymander would be a stake well worth the scramble of the party organizations, since it might mean a tenure of power extending over an indefinite period of years. Scores of Members in this House would find themselves threatened with contests looking to the disestablishment of their districts. Cases like Davison *v.* Gilbert, which have been settled, will come again into the House for a further hearing. New cases will be instituted whenever the population of a district falls as much as 20,000 below the population unit, that being the amount of the divergence in the present fifth Virginia case.

Adopt the principle that the districts must conform mathematically, as nearly as may be, to the standard of population and physical make-up, and an extensive reorganization of the districts in the country at large will of necessity follow. As we understand the majority report, it plants itself on the principle announced in Eighty-third Wisconsin, that "there should be as close an approximation to exactness as possible, and this is the utmost limit for the exercise of legislative discretion."

If this principle is to be applied straight through, and it should be done, if the Member from Virginia is to be unseated on this ground, then a Pandora's box will be opened by the assumption of this authority on the part of the House.

If the House does not propose to undertake this universal task, and do complete justice, then it ought not to undertake to use this principle for party purposes, to justify the purely partisan action of unseating the contestee merely to furnish the contestant with a seat to which he has not been elected. The majority report is erroneous on another ground. It not only proposes to unseat the contestee, but to seat the contestant. At best it can only unseat the contestee. If the statute was void, there was no election under it. This committee, as a matter of law, can not count for the contestant votes which were not cast for him in the district in which he was a candidate. So, from any point of view, this contestant should not be seated.

The majority report undertakes to hold that Davison *v.* Gilbert is not a valid precedent on the ground that there were no provisions in the constitution of Kentucky like those found in the constitution of Virginia. Granted. But this does not hinder Davison *v.* Gilbert from being authority on the federal proposition presented in both cases, namely, that the state statute was in contravention of the federal statute. So far as the other question presented in the Virginia case is concerned, it is not pretended that Davison *v.* Gilbert is authority. It is a state question, pure and simple, to be determined according to other principles, which have been fully stated. On this proposition Davison *v.* Gilbert would be irrelevant. But the decision of Wise *v.* Bigger is pertinent and conclusive in that connection.

Unlike the committee in Davison *v.* Gilbert, which first discussed the existence of the power and then, admitting its existence, discussed the policy of its exercise and application, the majority in this case contents itself with claiming this novel authority for Congress, seeming to think that by unseating the contestee it will "shut the door of the House of Representatives to one of the most insidious and dangerous political offenses that can menace democratic government." This is a ludicrous non sequitur. Condemning in effect the exercise of a political function by an aggregation of political bodies, it selects another and greater political body as the repository of the power now held and exercised by the subdivisions. There are like men with like passions in the larger body. Is there anything in its history or anything suggested by our knowledge of human nature, that makes it likely that the membership of this body, under the stress of party exigency or the suggestions of party advantage, would occupy the calm judicial attitude of a court? The weakness of the position of the majority report consists in the fact that it relies on the authority of cases in which the courts have overturned legislative appointments, to justify the conclusion that the same result which is supposed to follow from judicial review, will follow from political review. The committee in Davison *v.* Gilbert agreed that the disease was bad, but concluded that federal interference through the House of Representatives would not afford the remedy. In this they were plainly right.

One concluding thought to a report which is already too extended. The majority criticises the conclusion reached in the case of Davison *v.* Gilbert on the ground that it rests on an "antiquated states-rights doctrine, which has been completely and finally refuted." In this

criticism we can not concur. The decisions relied on by the majority to maintain their finding in this respect, are Ex parte Siebold (100 U. S.) and Ex parte Yarbrough (110 U. S.). These decisions were before the committee which rendered its report in Davison *v.* Gilbert. They are not new decisions, and they decide nothing which was considered by that committee to interfere with the conclusions which they reached. It is not necessary to pass them in review, and it is only sufficient to say that the very able lawyers who composed the committee which reported Davison *v.* Gilbert did not overlook them. The questions decided in these cases are not relevant, or pertinent in this connection. Your minority finds that the contestee is clearly entitled to his seat for the reasons given in extenso, and should not be disturbed.

W. E. TOU VELLE.
J. A. HAMILL.
C. A. KORBLY.

MONONGAHELA RIVER BRIDGE.

The SPEAKER. The Chair lays before the House the following bill returned from the Senate, the title of which the Clerk will report.

The Clerk read as follows:

A bill (S. 8668) amendatory of the act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County."

The SPEAKER. A motion to reconsider the vote by which the bill was passed is pending.

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

Mr. MANN. Mr. Speaker, I move to amend on page 2, line 9, by striking out the word "April" and inserting the word "March."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 4, strike out "April" and insert "March."

The amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

DISPOSITION OF THE PUBLIC DOMAIN.

The SPEAKER. If the gentleman will withhold his motion, the Chair lays before the House the following message from the President.

The Clerk read as follows:

To the Senate and House of Representatives:

There are, perhaps, no questions in which the public has more acute interest than those relating to the disposition of the public domain. I am just in receipt from the Secretary of the Interior of recommendation that in disposition of important legal questions which he is called upon to decide relating to the public lands, an appeal be authorized from his decision to the court of appeals for the District of Columbia.

I fully indorse the views of the Secretary in this particular which are set forth in his letter, transmitted herewith, and urge upon the Congress an early consideration of the subject.

WM. H. TAFT.

THE WHITE HOUSE, *June 21, 1910.*

The SPEAKER. Referred to the Committee on Public Lands and ordered to be printed.

SURVEY OF PUBLIC LANDS, ETC.

The SPEAKER laid before the House from the Speaker's table the following House bill with a Senate amendment.

The Clerk read as follows:

An act (H. R. 18176) making an appropriation for the survey of public lands lying within the limits of land grants, to provide for a forfeiture to the United States of unsurveyed land grants to railroads, and for other purposes.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the House nonconcur in the Senate amendment and agree to a conference, and I also ask unanimous consent that the reading be dispensed with.

The SPEAKER. The proposition is to nonconcur and disagree to the Senate amendment.

Mr. CLARK of Missouri. What is this?

The SPEAKER. The gentleman from Wyoming asks unanimous consent to dispense with the reading of the Senate amendment, disagree to the Senate amendment, and ask for a conference.

Mr. CLARK of Missouri. I object. This is bedtime.

The SPEAKER. The Clerk will read the Senate amendment.

The Senate amendment was read.

The SPEAKER. The question is on the motion of the gentleman from Wyoming [Mr. MONDELL] that the House do disagree to the Senate amendment and ask for a conference.

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

The Speaker announced the following conferees: Mr. MONDELL, Mr. VOLSTEAD, and Mr. BYRD.

[Mr. HITCHCOCK addressed the House. See Appendix.]

[Mr. MANN addressed the House. See Appendix.]

[Mr. PAYNE addressed the House. See Appendix.]

ADJOURNMENT.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 10 o'clock and 10 minutes p. m.) the House adjourned until Wednesday, June 22, 1910, at 12 o'clock noon.

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. McCALL, from the Committee on the Library, to which was referred the bill of the House (H. R. 25981) to authorize the Secretary of the Navy to erect a suitable monument over the remains of Rear-Admiral Charles Wilkes, U. S. Navy, in the national cemetery at Arlington, Va., reported the same with amendment, accompanied by a report (No. 1693), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GARDNER of Michigan, from the Committee on Expenditures in the Department of Commerce and Labor, to which was referred House bill 23259, reported in lieu thereof a bill (H. R. 27068) to establish in the Department of Commerce and Labor a bureau to be known as the children's bureau, accompanied by a report (No. 1675), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COOPER of Pennsylvania, from the Committee on Printing, to which was referred the resolution of the Senate (S. J. Res. 99) to amend public resolution 11, approved March 28, 1904, relating to the sale of public documents by the superintendent of documents, reported the same without amendment, accompanied by a report (No. 1677), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 27011) to authorize the construction of a bridge across the Kootenai River in the State of Idaho, reported the same without amendment, accompanied by a report (No. 1674), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 27064) granting to the Northern Pacific Railway Company the right to construct and maintain a bridge across the Yellowstone River, reported the same without amendment, accompanied by a report (No. 1672), which said bill and report were referred to the House Calendar.

Mr. RICHARDSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18007) requiring the branding of hermetically sealed oyster cans with the net weight of the oyster meat contained therein, and other provisions relating thereto, reported the same with amendment, accompanied by a report (No. 1678), which said bill and report were referred to the House Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the resolution of the House (H. Res. 707) directing the Secretary of War to furnish certain information to the House, reported the same without amendment, accompanied by a report (No. 1692), which said resolution 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. BUTLER, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 25370) to waive the age limit for admission to the Pay Corps of the United States Navy for one year in the case of Pay Clerk Arthur Henry Mayo, reported the same with amendment, accompanied by a report (No. 1673), which said bill and report were referred to the Private Calendar.

Mr. ROBERTS, from the Committee on Private Land Claims, to which was referred the House bill 25900, reported in lieu thereof a bill (H. R. 27069) to relinquish the title of the United States

in New Madrid, location and survey No. 2880, accompanied by a report (No. 1676), which said bill and report were referred to the Private Calendar.

Mr. McLACHLAN of California, from the Committee on War Claims, to which was referred the bill of the Senate (S. 1318) for the relief of Arthur H. Barnes, reported the same without amendment, accompanied by a report (No. 1679), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4780) for the relief of the heirs of George A. Armstrong, reported the same without amendment, accompanied by a report (No. 1680), which said bill and report were referred to the Private Calendar.

Mr. KAHN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 21646) for the relief of William Doherty, reported the same without amendment, accompanied by a report (No. 1681), which said bill and report were referred to the Private Calendar.

Mr. FLOYD of Arkansas, from the Committee on War Claims, to which was referred House bill 26913, reported in lieu thereof a resolution (H. Res. 819) referring to the Court of Claims the papers in the case of Diederick Glauder, deceased, accompanied by a report (No. 1682), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred House bill 18360, reported in lieu thereof a resolution (H. Res. 820) referring to the Court of Claims the papers in the case of Antoine Laurent, deceased, accompanied by a report (No. 1683), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred House bill 19592, reported in lieu thereof a resolution (H. Res. 821) referring to the Court of Claims the papers in the case of Leander Johnsey, deceased, accompanied by a report (No. 1684), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred House bill 22912, reported in lieu thereof a resolution (H. Res. 822) referring to the Court of Claims the papers in the case of Frank W. Clark, accompanied by a report (No. 1685), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred House bill 26423, reported in lieu thereof a resolution (H. Res. 823) referring to the Court of Claims the papers in the case of Samuel Munday, deceased, accompanied by a report (No. 1686), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred House bill 26635, reported in lieu thereof a resolution (H. Res. 824) referring to the Court of Claims the papers in the case of John C. Henley, accompanied by a report (No. 1687), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred House bill 4141, reported in lieu thereof a resolution (H. Res. 825) referring to the Court of Claims the papers in the case of John M. Higgins, deceased, accompanied by a report (No. 1688), which said resolution and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII,

Mr. FLOYD of Arkansas, from the Committee on War Claims, to which was referred the bill of the House (H. R. 25440) for the relief of Jacob S. Lowry and George A. Gray, reported the same adversely, accompanied by a report (No. 1691), which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 23393) granting an honorable discharge to Lewis H. Noe—Committee on Military Affairs discharged, and referred to the Committee on Naval Affairs.

A bill (H. R. 26901) authorizing the Ponca tribe of Indians to submit claims to the Court of Claims—Committee on Claims discharged, and referred to the Committee on Indian Affairs.

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. BARNHART: A bill (H. R. 27066) to provide for the purchase of a site and the erection of a public building thereon at Warsaw, Ind.—to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27067) to make appropriation for public building site in Rochester, Ind.—to the Committee on Public Buildings and Grounds.

By Mr. COUDREY: A bill (H. R. 27070) to authorize the Secretary of Agriculture to investigate and report upon the drainage of swamp lands—to the Committee on Agriculture.

By Mr. MONDELL: A bill (H. R. 27071) to provide for appeals from decisions of the Secretary of the Interior to the court of appeals of the District of Columbia, and for other purposes—to the Committee on the Public Lands.

By Mr. PARKER: A bill (H. R. 27120) to give the police court of the District of Columbia concurrent jurisdiction of affrays, etc.—to the Committee on the District of Columbia.

By Mr. BEALL of Texas (by request): A bill (H. R. 27121) to declare the true intent and meaning of section 48 of the act of August 28, 1894, levying taxes on distilled spirits—to the Committee on Ways and Means.

By Mr. FOELKER: Resolution (H. Res. 826) that the Attorney-General of the United States be, and he hereby is, directed to furnish the House of Representatives certain information—to the Committee on the Judiciary.

By Mr. HILL: Resolution (H. Res. 828) authorizing continuance of clerk hire to certain committees—to the Committee on Accounts.

By Mr. McCALL: Joint resolution (H. J. Res. 234) authorizing the joint committee appointed to investigate the Department of the Interior and the Bureau of Forestry to make its report in recess, and authorizing the Secretary of the Senate and the Clerk of the House to make the same public—to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 27072) for the relief of Mrs. C. D. Corbin—to the Committee on Claims.

By Mr. ANDERSON: A bill (H. R. 27073) granting an increase of pension to Thomas B. Holt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27074) granting an increase of pension to George W. Taylor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27075) granting an increase of pension to Eliza J. Barnd—to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 27076) granting an increase of pension to John Armstrong—to the Committee on Invalid Pensions.

By Mr. BOEHNE: A bill (H. R. 27077) granting a pension to Joseph Vernia—to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 27078) granting a pension to Horace W. Durnall—to the Sommittee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27079) granting a pension to Sarah E. Dillon—to the Committee on Invalid Pensions.

By Mr. DUREY: A bill (H. R. 27080) granting an increase of pension to E. B. Branch—to the Committee on Invalid Pensions.

By Mr. ESCH: A bill (H. R. 27081) to remove charge of desertion from military record of George W. Moore, alias George W. More—to the Committee on Military Affairs.

By Mr. GRANT: A bill (H. R. 27082) granting a pension to Robert Garrett—to the Committee on Pensions.

Also, a bill (H. R. 27083) granting a pension to Charles Nichols—to the Committee on Pensions.

Also, a bill (H. R. 27084) granting a pension to Catharine Voyles—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27085) granting a pension to F. W. Mashburn—to the Committee on Pensions.

By Mr. KELIHER: A bill (H. R. 27086) to reimburse Wellington Tracy for damages sustained to his property by the firing of heavy guns in practice at Forts Banks and Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27087) to reimburse J. E. Lawrence for damages sustained to his property by the firing of heavy guns in practice at Forts Heath and Banks, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27088) to reimburse Winifred W. Robertson for damages sustained to her property caused by the firing of heavy guns in practice at Fort Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27089) to reimburse Guy H. Maynard for damages sustained to his property by the firing of heavy guns in practice at Forts Heath and Banks, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27090) to reimburse Mary A. Thomas for damages to her property by the firing of heavy guns in practice at Fort Banks, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27091) to reimburse Jary Palladino for damages to her property by the firing of heavy guns in practice at Fort Banks, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27092) to reimburse Abram P. Downs in payment of damages sustained to his property caused by the firing of heavy guns in practice at Fort Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27093) to reimburse Annie M. Byrne in payment for damages sustained to her property caused by the firing of heavy guns in practice at Fort Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27094) to reimburse Asher Millar for damages sustained to his property caused by the firing of heavy guns in practice at Fort Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27095) to reimburse Margaret M. Brown for damages sustained to her property caused by the firing of heavy guns at Fort Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27096) to reimburse Marion J. Low for damages sustained to her property caused by the firing of heavy guns in practice at Fort Heath, Mass.—to the Committee on Claims.

Also, a bill (H. R. 27097) to reimburse Bertha L. Tasker for damages sustained to her property caused by the firing of heavy guns in practice at Fort Heath, Mass.—to the Committee on Claims.

By Mr. KENNEDY of Ohio: A bill (H. R. 27098) granting an increase of pension to Orlando Martin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27099) granting an increase of pension to Jeremiah Wildasinn—to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 27100) granting a pension to Clement M. Holderman—to the Committee on Pensions.

By Mr. LATTA: A bill (H. R. 27101) granting a pension to Edward E. Valder—to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 27102) to correct the military record of Benjamin F. Davis—to the Committee on Military Affairs.

By Mr. NORRIS: A bill (H. R. 27103) granting an increase of pension to Frank Weiner—to the Committee on Invalid Pensions.

By Mr. O'CONNELL: A bill (H. R. 27104) granting an increase of pension to Paul Unglaube—to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27105) granting an increase of pension to Andrew J. Hart—to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27106) to correct the record of Frank I. Willis—to the Committee on Military Affairs.

By Mr. SPERRY: A bill (H. R. 27107) granting an increase of pension to George A. Cargill—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27108) granting an increase of pension to William H. Porter—to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 27109) granting a pension to Mitchell Wheatley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27110) granting a pension to Samuel Bigham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27111) granting an increase of pension to Francis M. Whittington—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27112) granting an increase of pension to Alfred Walker—to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 27113) granting an increase of pension to Andrew A. Smith—to the Committee on Invalid Pensions.

By Mr. CAPRON: A bill (H. R. 27114) granting an increase of pension to Elma O. Phinney—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27115) granting an increase of pension to William Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27116) granting an increase of pension to William P. Johnson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 27117) granting an increase of pension to Angeline L. Arnold—to the Committee on Invalid Pensions.

By Mr. SHEFFIELD: A bill (H. R. 27118) granting an increase of pension to Hugh McGuckian—to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 27119) granting an increase of pension to Samuel Goodfellow—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 the SPEAKER: Petition of Charles Kreutner and 374 other citizens of Kansas, praying for the enactment of legislation to prevent interstate transportation in intoxicating liquors—to the Committee on the Judiciary.

Also, petition of the Colorado African Colonization Company, praying for assistance to the Republic of Liberia—to the Committee on Foreign Affairs.

Also, petition of the Allied Printing Trades Council, of Washington, D. C., praying for the repeal of the tax on oleomargarine—to the Committee on Agriculture.

Also, petition of J. H. Blakeman, J. F. Stoltz, George C. Creighton, L. G. Hammond, O. G. Reinhardt, and other members of the grange, praying for the establishment of an Office of Public Roads—to the Committee on Agriculture.

Also, petition of the United Brotherhood of Carpenters and Joiners of America, of Elum, Wash., protesting against the action of the Government in reopening the question in the rights of the drainage basin of the Tuolumne River of California—to the Committee on the Public Lands.

Also, petition of the National Society of the Sons of the American Revolution, praying for legislation to authorize the compilation of the military and naval records of the civil war—to the Committee on the Library.

Also, petition of organization of citizens of White County, Ind., praying for the reduction in the expenditures for war—to the Committee on Appropriations.

Also, petition of the Associated Chambers of Commerce of the Pacific Coast, praying for an appropriation of $30,000,000 for irrigation projects—to the Committee on Appropriations.

Also, petition of W. C. Burnes and 62 other citizens of Danville, Ill., protesting against the passage of the several medical bills now pending—to the Committee on Interstate and Foreign Commerce.

Also, petition of the secretary of the Commercial Travelers of America, of the jurisdiction of Minnesota, the Dakotas, etc., praying for legislation to prevent the advance of freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Federation of Citizens' Associations of the District of Columbia, praying for the regulation of gas companies of the District of Columbia—to the Committee on the District of Columbia.

Also, petition of Nancy Hart Chapter, Daughters of the American Revolution, of Milledgeville, Ga., 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. AIKEN: Paper to accompany bill for relief of Mrs. C. D. Corbin—to the Committee on Claims.

By Mr. ANDERSON: Paper to accompany bill for relief of William Swaney—to the Committee on Invalid Pensions.

By Mr. CALDER: Paper to accompany bill for relief of Emeline C. Sewell—to the Committee on Invalid Pensions.

By Mr. DICKINSON: Paper to accompany bill for relief of William F. Hahn—to the Committee on Invalid Pensions.

By Mr. DANIEL A. DRISCOLL: Petition of the Brotherhood of Locomotive Engineers, Division No. 328, of Buffalo, N. Y., for a fair adjustment of railway rates—to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petition of the soldiers of Parsons, Kans., favoring the dollar-per-day pension bill—to the Committee on Invalid Pensions.

Also, petition of the Commercial Club of Durand, Wis., for an appropriation of $50,000 for permanent improvement on the Chippewa River—to the Committee on Rivers and Harbors.

By Mr. FORNES: Petition of William H. Wilder, against House bill 24879, affecting the Sibley Hospital rights—to the Committee on the District of Columbia.

Also, petition of New York State Waterway Association, favoring the Root bill relative to control of interurban streams—to the Committee on Rivers and Harbors.

Also, petition of the Municipal Art Society of New York, favoring the Burnham-McKim plan for future improvement of Washington—to the Committee on the District of Columbia.

Also, petition of Samuel Untermyer, of New York City, against the Tou Velle stamped-envelope bill—to the Committee on the Post-Office and Post-Roads.

By Mr. GOULDEN: Petition of the Merchants' Association of New York, against the Tou Velle bill against furnishing government stamped envelopes—to the Committee on the Post-Office and Post-Roads.

Also, petition of Mrs. George O. Robinson, of the Woman's Home Missionary Society, against House bill 24879—to the Committee on the District of Columbia.

Also, petition of the Merchants' Association of New York, against the Tou Velle bill concerning government stamped envelopes—to the Committee on the Post-Office and Post-Roads.

By Mr. GRAHAM of Pennsylvania: Petition of Fort Pitt Bridge Works, of Pittsburg, Pa., favoring an appropriation of $100,000 for the testing of structural materials—to the Committee on Appropriations.

Also, memorial of the Allegheny County Bar Association, favoring the bill allowing increase of salaries of circuit and district judges—to the Committee on the Judiciary.

Also, petition of Gilt Edge Lodge, No. 62, Switchmen's Union of North America, of Pittsburg, Pa., favoring House bill 22239—to the Committee on the Post-Office and Post-Roads.

Also, petition of Lawrence B. Lamb, of Wyncote, Pa., favoring the antiprize-fight bill—to the Committee on the Judiciary.

By Mr. HAMILL: Petition of John H. Williams, of Heber, Cal., against Senate bill 6636—to the Committee on the Public Lands.

Also, petition of faculty of Princeton University, Princeton, N. J., for $75,000 appropriation for fieldwork by Bureau of Education—to the Committee on Education.

Also, petition of H. A. Havens, of Imperial, Cal., against Senate bill 6636—to the Committee on the Public Lands.

Also, petition of Peter J. Savage, of Wyckoff Camp, United Spanish War Veterans, for House bill 18169, medals for Spanish war veterans—to the Committee on Military Affairs.

By Mr. HAMMOND: Petition of Otto Schell and 18 others, of New Ulm, Minn., against Senate bill 5473—to the Committee on the District of Columbia.

Also, petition of officers of the Third Regiment of Infantry, Minnesota National Guard, for the passage of House resolution 707—to the Committee on Military Affairs.

By Mr. HANNA: Petition of H. T. Kennedy and others, of North Dakota, for a national health bureau—to the Committee on Interstate and Foreign Commerce.

Also, petition of H. W. Kiff and others, of North Dakota, for Senate bill 3776, by Senator CUMMINS—to the Committee on Interstate and Foreign Commerce.

By Mr. KORBLY: Petition of citizens of Indiana, against a parcels-post service—to the Committee on the Post-Office and Post-Roads.

By Mr. McHENRY: Petition of Pomona Grange, No. 5, Patrons of Husbandry, of Pennsylvania, for the establishment of a parcels-post system—to the Committee on the Post-Office and Post-Roads.

By Mr. MOORE of Texas: Paper to accompany bill for relief of Martin & Co., of Houston, Tex.—to the Committee on Claims.

By Mr. SHEPPARD: Paper to accompany bill for relief of S. B. Claybourne—to the Committee on War Claims.

By Mr. STEVENS of Minnesota: Petition of officers of the Third Regiment of Infantry of the Minnesota National Guard, for the McLaughlin bill—to the Committee on Military Affairs.

By Mr. SULZER: Petition of Richard D. Harlan, relative to legislation for equal educational opportunities for the District of Columbia, favoring the Gallinger-Boutell bill—to the Committee on the District of Columbia.

Also, petition of Luther H. Gulick, for an appropriation of $75,000 for enlarged educational facilities—to the Committee on Education.

Also, petition of the National Liberal Immigration League, relative to condition in naturalization courts of New York—to the Committee on Immigration and Naturalization.

Also, petition of Duke C. Bowers, of Memphis, Tenn., for Senate bill 8503 and House bill 26541—to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Ohio: Petition of C. W. Toulk, president of the American Chemical Society, and others, for House bill 22239—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of North Carolina: Paper to accompany bill for relief of Zadok Paris—to the Committee on War Claims.

By Mr. TOWNSEND: Petition of citizens of Buffalo, N. Y., for the boiler-inspection bill (H. R. 22066)—to the Committee on Interstate and Foreign Commerce.

By Mr. WATKINS: Paper to accompany bill for relief of estate of Theophile Metoyer—to the Committee on War Claims.

SENATE.

WEDNESDAY, *June 22, 1910.*

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

The Vice-President resumed the chair.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by C. R. McKenney, its enrolling clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 24070) to authorize the President of the United States to make withdrawals of public lands in certain cases.

The message also announced that the House had passed the bill of the Senate (S. 8668) amendatory of the act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 23311) making appropriations for the naval service for the fiscal year ending June 30, 1911, and for other purposes.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 18176) making appropriation for the survey of public lands lying within the limits of the land grants, to provide for the forfeiture to the United States of unsurveyed land grants to railroads, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MONDELL, Mr. VOLSTEAD, and Mr. BYRD managers at the conference on the part of the House.

The message further announced that the House had passed a bill (H. R. 18398) to authorize advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 26730) making appropriations to supply deficiencies in appropriations for the fiscal year 1910, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. TAWNEY, Mr. MALBY, and Mr. LIVINGSTON managers at the conference on the part of the House.

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. 1874. An act granting leaves of absence to homesteaders on lands to be irrigated under the provisions of the act of June 17, 1902;

S. 5836. An act to amend section 1, chapter 209, of the United States Statutes at Large, volume 27, entitled "An act providing when plaintiff may sue as a poor person and when counsel shall be assigned by the court," and to provide for the prosecution of writs of error and appeals in forma pauperis, and for other purposes;

H. R. 4738. An act for the relief of the estate of James Allender;

H. R. 10280. An act to authorize the Chief of Ordnance, United States Army, to receive twelve 3.2-inch breech-loading field guns, carriages and caissons, limbers, and their pertaining equipment from the State of Massachusetts;

H. R. 13448. An act amending the statutes in relation to the immediate transportation of dutiable goods and merchandise;

H. R. 15812. An act relating to liens on vessels for repairs, supplies, or other necessaries;

H. R. 16222. An act for the erection of a replica of the statue of General Von Steuben;

H. R. 20487. An act to provide for the sittings of the United States circuit and district courts of the eastern division of the eastern district of Arkansas at the city of Jonesboro, in said district;

H. R. 20575. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by an act approved February 5, 1903, and as further amended by an act approved June 15, 1906;