Also, a bill (H. R. 10499) granting an increase of pension to James H. Lile; to the Committee on Pensions.

Also, a bill (H. R. 10500) granting an increase of pension to King A. Bowman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10501) granting an increase of pension to Marion F. Segars; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10502) granting an increase of pension to Jeremiah M. McPherson; to the Committee on Invalid Pensions.

By Mr. WOODS of Iowa: A bill (H. R. 10503) for the relief of Jacob M. Cooper; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of C. J. Cornin, of Bryan, Ohio, favoring a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. BARCHFELD: Papers in re bill granting an increase of pension to Henry Cump, late of Company F, Forty-sixth Regiment Pennsylvania Volunteer Infantry; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: Papers accompanying House bill 6156, granting an increase of pension to Matthew L. Johnson; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Resolutions of Trades Council of Nashville, Tenn., relative to the arrest, etc., of J. J. McNamara at Indianapolis; to the Committee on Labor.

Also, resolutions of International Moulders Union, of Nashville, Tenn., relative to the arrest, etc., of J. J. McNamara at Indianapolis; to the Committee on Labor.

By Mr. CARY: Communications from citizens of Milwaukee, Wis., urging the reduction of the tariff on sugar; to the Committee on Ways and Means.

Also, communication from Yahr & Lange Drug Co., Milwaukee, Wis., protesting against H. R. 8887, providing for stamp tax on proprietary medicines; to the Committee on Ways and Means.

By Mr. CLARK of Florida: Petition of L. H. Tempe and numerous other citizens of Sanford, Fla., demanding the withdrawal of American troops from the Mexican border; to the Committee on Foreign Affairs.

Also, petition of W. A. King and numerous citizens of Sanford, Fla., demanding a rigid investigation into the manner of the removal of John J. McNamara from the State of Indiana to the State of California for trial; to the Committee on the Judiciary.

By Mr. DANFORTH: Petition of 93 residents of Rochester, N. Y., favoring the enactment of a law establishing a national department of health; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of a citizen of St. Louis, Mo., asking for a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. FORNES: Resolutions of the Manufacturers' Association of New York City, that various schedules of tariff law should be considered and opportunity given all interests affected to be heard before final action; to the Committee on Ways and Means.

Also, petition of Shoe Manufacturers' Association of New York City, against free-list bill or placing leather on the free list; to the Committee on Ways and Means.

Also, petition of Manufacturers' Association of New York City, in relation to establishing a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. FRENCH: Resolutions of citizens of Twin Falls, Idaho; to the Committee on Rules.

By Mr. FULLER: Petition of Glass Bottle Blowers' Association, Branch 3, of Streator, Ill., favoring the Berger resolution; to the Committee on the Judiciary.

By Mr. GARDNER of Massachusetts: Resolution from Central Socialist Club, of Haverhill, Mass., protesting against the method of procedure in the arrest of J. J. McNamara and J. W. McNamara, charged with conspiracy in connection with alleged dynamiting of Los Angeles Times Building; to the Committee on Labor.

By Mr. GOODWIN of Arkansas: Petition of citizens of Patmos, Ark., protesting against the kidnaping of J. J. McNamara; to the Committee on Labor.

By Mr. HAMILTON of West Virginia: Petition of C. A. Millery Grocery Co., of Martinsburg, W. Va., asking for reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. KAHN: Papers to accompany House bill 8112, for the relief of Wilmerding-Loewe Co.; to the Committee on Claims.

By Mr. KNOWLAND: Petition signed by S. P. Dobbins and other residents of Vacaville, Cal., urging a reduction of the duty on raw and refined sugars; to the Committee on Ways and Means.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce of San Francisco, Cal., favoring the judicial settlement of international disputes; to the Committee on Foreign Affairs.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce of San Francisco, Cal., requesting the transfer of the sloop of war *Portsmouth* to San Francisco; to the Committee on Naval Affairs.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce, San Francisco, Cal., protesting against the free admission of burlap bags into this country; to the Committee on Ways and Means.

By Mr. MALBY: Petition of W. H. Gordon and others, requesting a reduction in the tariff on raw and refined sugars; to the Committee on Ways and Means.

By Mr. O'SHAUNESSY: Petition by the Carded Woolen Association, Boston, Mass., that the rates in Schedule K should be as far as possible ad valorem, because specific rates necessarily result in great irregularities, especially when imposed on a commodity varying as wide as wool does in condition and value; to the Committee on Ways and Means.

Also, petition of Michael Eagan and sundry citizens of Providence, R. I., for a reduction in duty on raw and refined sugars in the interests of the consumers of the country; to the Committee on Ways and Means.

By Mr. WILLIS: Papers to accompany House bill 4402, granting an increase of pension to John Scott; to the Committee on Invalid Pensions.

Also, resolutions adopted by Ohio State Council, Junior Order United American Mechanics, asking for the further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Resolutions adopted by Local No. 296, Journeymen Barbers' Association of America, of Trenton, N. J., urging immediate action on the resolution of investigation in reference to John J. McNamara, introduced by Representative BERGER, of Wisconsin; to the Committee on Labor.

SENATE.

TUESDAY, *May 23, 1911.*

The Senate met at 2 o'clock p. m.

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

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

RANDOLPH M. PROBSFIELD V. UNITED STATES.

The VICE PRESIDENT laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of findings of fact filed by the court in the cause of Randolph M. Probsfield *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed. (S. Doc. No. 37.)

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 8649) to authorize the extension and widening of Colorado Avenue NW., from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the congregation of the Church of the Brethren, of Burlington, W. Va., praying for the enactment of legislation to prohibit the sale and traffic in opium, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry members of the Third Unitarian Congregational Society, of Brooklyn, N. Y., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. CULLOM. I present numerous memorials remonstrating against the ratification of the proposed arbitration treaty with Great Britain, which I ask may be referred to the Committee on Foreign Relations. I also desire to state that in my position as chairman of the Committee on Foreign Relations some 2,000 letters protesting against the ratification of the treaty have been received by me.

The memorials presented by Mr. CULLOM were referred to the Committee on Foreign Relations, as follows:

Memorials of the Robert Fulton Social and Literary Society, of New York City; of the Star Spangled Banner Association of America; of the Peter O'Neill Crowley Club, of Kansas City, Mo.; of sundry citizens of Braddock, Pa.; of Local Division No. 46, Ancient Order of Hibernians, of Philadelphia, Pa.; of sundry citizens of New York; of Monsignor Slocum Branch, Ancient Order of Hibernians, of Waterbury, Conn.; of the United Irish Societies of Bristol County, Mass.; of sundry citizens of the eighth congressional district, Montclair, N. J.; of Local Branch No. 5, District No. 9, St. Patrick's Alliance of America, of Passaic, N. J.; of Local Division No. 10, Ancient Order of Hibernians, of Philadelphia, Pa.; of sundry citizens of Pueblo, Colo.; of Local Division No. 1, Ancient Order of Hibernians, of Dover, N. H.; of the Knights of the Red Branch, of East St. Louis, Ill.; of the county board of officers and directors, Ancient Order of Hibernians, of Fairfield County, Conn.; of the county officers, Ancient Order of Hibernians, of Strafford County, N. H.; of sundry citizens of Attleboro, Mass.; of sundry citizens of New Haven, Conn.; of the Jefferson Democratic Club of Perth Amboy; of the Central Labor Board of Perth Amboy; of the Washington Club of Perth Amboy; of Local Division No. 3, Ancient Order of Hibernians, of Perth Amboy; of the county board, Ancient Order of Hibernians, of Middlesex County; of District No. 8, St. Patrick's Alliance of America, of Middlesex County; of Independent Branch No. 1, St. Patrick's Alliance, of Perth Amboy; of Local Division No. 2, Ancient Order of Hibernians, of Sayreville; of Local Division No. 7, Ancient Order of Hibernians, of Chrome; of sundry citizens of New Brunswick; and of the Deutsch American Central Verein of Middlesex County, all in the State of New Jersey.

Mr. CULLOM presented a petition of the Chamber of Commerce of Philadelphia, Pa., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. BRANDEGEE presented a memorial of Local Division No. 1, Ancient Order of Hibernians, of Wallingford, Conn., remonstrating against the ratification of the treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Fairfield East Consociation of Congregational Churches of Connecticut, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Connecticut Merchants' Association, praying for the establishment of a self-sustaining parcels-post system, which was referred to the Committee on Post Offices and Post Roads.

Mr. PERKINS presented a memorial of Railroad Lodge No. 610, International Association of Machinists, of Oakland, Cal., remonstrating against the adoption of the Taylor system of shop management by the Government in arsenals and navy yards, which was referred to the Committee on Naval Affairs.

He also presented memorials of sundry manufacturers of San Francisco and San Jose, in the State of California, remonstrating against any reduction in the duty on alimentary pastes, which was referred to the Committee on Finance.

Mr. JONES presented a memorial of sundry citizens of Spokane, Wash., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. TOWNSEND presented petitions of sundry volunteer officers of the Civil War of Marquette, Coldwater, Ann Arbor, and Romeo, in the State of Michigan; of El Dorado and Ness City, Kans.; and of Minneapolis, Minn., praying for the enactment of legislation to place certain volunteer officers of the Civil War on the retired list, which were referred to the Committee on Military Affairs.

Mr. WATSON presented a memorial of sundry druggists of Charleston, W. Va., remonstrating against the imposition of a stamp tax on proprietary medicines, which was referred to the Committee on Finance.

Mr. BURNHAM presented the memorial of Rev. T. S. Tyng, of Ashland, N. H., remonstrating against the adoption of certain amendments to the proposed constitution of New Mexico, which was referred to the Committee on Territories.

He also presented memorials of Local Divisions Nos. 1, 2, 7, and 8, and Central Union, Ancient Order of Hibernians, of Manchester, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented a petition of the General Conference of the Congregational Churches of Claremont, N. H., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. ROOT presented petitions of 93 citizens of Schenectady, 21 citizens of Newburgh, and 9 citizens of Middletown, all in the State of New York, praying for the establishment of a national department of public health, which were referred to the Committee on Public Health and National Quarantine.

Mr. GALLINGER presented the memorial of J. H. Phillips, of Swanzey, N. H., and the memorial of George D. Stone, of Swanzey, N. H., remonstrating against the reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of the Ancient Order of Hibernians of Manchester, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. O'GORMAN presented a petition of the Manufacturers Association of New York, praying for the establishment of a United States court of patent appeals, which was referred to the Committee on Patents.

He also presented a petition of the Fine Arts Federation of New York City, N. Y., praying that the site be selected for the Lincoln memorial in the city of Washington, as recommended by the Park Commission, which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Glove Table Cutters' Union, of Gloversville, N. Y., remonstrating against fine gloves being placed on the free list, which was referred to the Committee on Finance.

He also presented petitions of sundry citizens of New York City, N. Y., praying that the Woman's National Weekly be admitted to the mails as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Mine & Smelter Supply Co., of New York City, N. Y., praying for the adoption of a 1-cent postage on first-class mail matter weighing 1 ounce or less, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of sundry citizens of New York, praying for the establishment of a national department of public health, which were referred to the Committee on Public Health and National Quarantine.

He also presented a memorial of Local Union No. 229, International Brotherhood of Stationary Firemen, of Fort Edward, N. Y., and a memorial of Pomona Grange, Patrons of Husbandry, of Essex County, N. Y., remonstrating against the reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of the Shoe Manufacturers' Association of New York, remonstrating against placing shoes on the free list, which was referred to the Committee on Finance.

He also presented memorials of sundry citizens of New York, remonstrating against the reciprocal trade agreement between the United States and Canada, especially in reference to print paper and wood pulp, which were referred to the Committee on Finance.

PUBLIC BUILDING AT BANGOR, ME.

Mr. WETMORE. From the Committee on Public Buildings and Grounds I report back, with an amendment in the nature of a substitute, the bill (S. 2055) to provide for the erection of a public building at Bangor, Me., and I submit a report (No. 36) thereon. I ask unanimous consent for its immediate consideration.

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

The amendment was to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a suitable site, and to contract, within the limit of cost hereinafter fixed, for the erection and completion thereon of a suitable and commodious building, including fireproof vaults, heating, hoisting, and ventilating apparatus, and approaches, complete, for the use and accommodation of the post office and other Government offices at Bangor, Me., at a cost for said site and building of not exceeding $400,000.

An open space of such width, including streets and alleys, as the Secretary of the Treasury may determine shall be maintained about said building for the protection thereof from fire in adjacent buildings.

For the purposes aforesaid the sum of $150,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated: *Provided*, That the balance of the appropriation heretofore made by the

sundry civil act of June 25, 1910, for the retaining wall and approaches at the former post-office building in said city, is hereby reappropriated and made immediately available, in addition to the appropriation hereinbefore made, toward the purposes of this act.

And the Secretary of the Treasury is further authorized and directed to sell, in such manner and upon such terms as he may deem for the best interests of the United States, the site and remains of the former post-office building in said city recently destroyed by fire; to convey the last-mentioned land to such purchaser or purchasers by the usual quit-claim deed, and to deposit the proceeds derived from such sale in the Treasury of the United States as a miscellaneous receipt.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

The title was amended so as to read: "A bill to provide for the purchase of a site and the erection of a new public building at Bangor, Me., also for the sale of the site and ruins of the former post-office building."

ADDRESS BY SENATOR JOSEPH F. JOHNSTON.

Mr. SMOOT. From the Committee on Printing I ask that a certain address by the Senator from Alabama [Mr. JOHNSTON], delivered December 31, 1907, before the Algonquin Club, Boston, Mass., be printed as a public document. (S. Doc. No. 36.)

The VICE PRESIDENT. Without objection, the order requested will be entered.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

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

By Mr. SWANSON:

A bill (S. 2471) granting an increase of pension to Moses M. Whitney; to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 2472) granting a pension to Bert E. Lockwood (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 2473) granting an increase of pension to Mary E. Carpenter;

A bill (S. 2474) granting an increase of pension to Alvord D. Chappell; and

A bill (S. 2475) granting an increase of pension to Isabella Oliver; to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 2476) granting an increase of pension to Joseph P. Sullivan (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 2477) granting an increase of pension to William Fitzgerald;

A bill (S. 2478) granting an increase of pension to Thomas Boland;

A bill (S. 2479) granting an increase of pension to Lyman C. Brown;

A bill (S. 2480) granting an increase of pension to Chauncey M. Carpenter;

A bill (S. 2481) granting an increase of pension to Michael Culp;

A bill (S. 2482) granting an increase of pension to William H. Dupray;

A bill (S. 2483) granting an increase of pension to Andrew J. Laws;

A bill (S. 2484) granting an increase of pension to John Leavell;

A bill (S. 2485) granting an increase of pension to George W. McKain;

A bill (S. 2486) granting an increase of pension to Alexander J. Matthews;

A bill (S. 2487) granting an increase of pension to Simon W. Morgan;

A bill (S. 2488) granting an increase of pension to Thomas H. Rutter;

A bill (S. 2489) granting an increase of pension to Charles E. Steadman;

A bill (S. 2490) granting an increase of pension to Leeman Underhill; and

A bill (S. 2491) granting an increase of pension to Henry H. Warner; to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 2492) to place William F. Greeley on the retired list of the Army (with accompanying papers); to the Committee on Military Affairs.

By Mr. STONE:

A bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri; to the Committee on Claims.

By Mr. HEYBURN:

A bill (S. 2494) granting an increase of pension to Charles E. Clark (with accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 2495) to define and classify health, accident, and death benefit companies and associations operating in the District of Columbia, and to amend section 653 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

By Mr. JOHNSON of Maine:

A bill (S. 2496) granting an increase of pension to David H. Robinson (with accompanying paper); and

A bill (S. 2497) granting a pension to Charles E. Jackson (with accompanying paper); to the Committee on Pensions.

By Mr. WATSON:

A joint resolution (S. J. Res. 28) authorizing the Secretary of War to donate two condemned cannon to the State of West Virginia for use at National Guard Armory at Huntington, W. Va.; and

A joint resolution (S. J. Res. 29) authorizing the Secretary of War to donate two condemned cannon to the State of West Virginia for use at Berkeley Springs Park; to the Committee on Military Affairs.

By Mr. TERRELL:

A joint resolution (S. J. Res. 30) authorizing the Secretary of Commerce and Labor to employ 10 commercial cotton agents to be stationed in foreign lands for the purpose of promoting foreign commerce in raw cotton and its manufactured products; to the Committee on Agriculture and Forestry.

WITHDRAWAL OF PAPERS—JAMES L. BRADFORD.

On motion of Mr. FOSTER, it was—

Ordered, That the papers in the case of Senate bill 1232, Sixty-first Congress, first session, for the relief of James L. Bradford, be withdrawn from the files of the Senate, there having been no adverse report thereon.

STUDIES IN CRIMINOLOGY.

Mr. CLAPP. I ask that the manuscript of studies in criminology, including other patho-social conditions, now on the files of the Senate, be withdrawn and that it be referred to the Committee on Printing.

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

DELIVERY OF MAIL FROM MOVING TRAINS.

Mr. CUMMINS. I submit a resolution, and ask for its immediate consideration.

The resolution (S. Res. 47) was read, considered by unanimous consent, and agreed to as follows:

Whereas the Post Office Department has for more than 25 years last past been endeavoring to secure a device which will reduce to the minimum injury to persons and property incident to the delivering of mails to and from moving trains; and

Whereas the department has from time to time advertised for proposals for such a device, and has at different times appointed committees of experts to examine different devices presented for its consideration, all of which has occurred at great expense to the Government; and

Whereas the Postmaster General, on the 15th day of March, 1910, formally approved a device for this purpose; and

Whereas the Second Assistant Postmaster General, on the 5th day of May, 1910, stated in a communication to the General Superintendent of the Railway Mail Service that the device so approved had successfully stood the tests prescribed by the department and had been approved by the Postmaster General, and further stated that it was expected that all the railway companies using catcher service for the exchange of mails would take steps for the introduction of an improved system of exchanging the mails at such stations on or before the 5th day of May, 1911; and

Whereas it is known that the railway companies have not complied with the direction of the department: Be it therefore

Resolved, That the Postmaster General be, and he is hereby, directed to furnish for the information of the Senate of the United States the causes of injuries to persons and damage and destruction of mail and mail equipment from accidents resulting from delivering and receiving mail to and from moving trains at what are known as catcher stations, the amount of mails, including newspapers and periodicals, lost or damaged, the places where the injury or damage occurred, the amount of loss to the Government or the railway companies, or both, on account of same, and also to state for the information of the Senate what, if anything, the department has done to compel the railway companies to equip their cars and stations with a suitable device approved by the department, in order to avoid the aforesaid injuries to persons and damage to mail and mail equipment.

THE STANDARD OIL CO. ET AL. V. THE UNITED STATES.

Mr. POMERENE submitted the following resolution (S. Res. 48), which was considered by unanimous consent and agreed to:

Whereas the Supreme Court of the United States, in the case of the Standard Oil Co. of New Jersey et al. *v.* The United States, decreed, in effect, that the Standard Oil Co. of New Jersey and 33 other constituent corporations and 7 individual defendants, John D. Rockefeller, Wil-

liam Rockefeller, Henry H. Rogers, Henry M. Flagler, John D. Archibald, Oliver H. Payne, and Charles M. Pratt, have united together to form and effect a combination, and as such conspired to monopolize and have monopolized, and are continuing to monopolize, a substantial part of the commerce among the States, in the Territories, and with foreign nations in restraint of interstate trade and commerce in violation of sections 1 and 2 of the Sherman antitrust law; and

Whereas under the provisions of said act, if the said defendants, or any of them, or any one for them, has entered into a combination or monopoly in restraint of trade or commerce among the several States, in the Territories, or with foreign nations, they are amenable to criminal prosecution: Therefore be it

Resolved, That the Attorney General of the United States be, and he is hereby, directed to inform the Senate of the United States what, if any, criminal prosecutions have been begun or are now pending against the said the Standard Oil Co. of New Jersey, or the said constituent companies, or individual defendants above named, or any of them, for violations of said sections 1 or 2 of said Sherman antitrust law.

REPORT ON SEIZURES OF COTTON.

Mr. WILLIAMS submitted the following resolution (S. Res. 49), which was read and referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate document room 1,000 copies of Executive Document No. 23, Forty-third Congress, second session, entitled "A Report of the Acting Secretary of the Treasury," in relation to the number of bales of cotton seized under orders of that department after the close of the war.

ASSISTANT CLERK TO COMMITTEE ON THE LIBRARY.

Mr. WETMORE submitted the following resolution (S. Res. 50), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on the Library be, and it is hereby, authorized to employ an assistant clerk at a salary of $1,500 per annum, to be paid from the contingent fund of the Senate until otherwise provided by law.

SENATOR FROM ILLINOIS.

Mr. MARTIN of Virginia. I submit a resolution and ask that it be read, printed, and lie on the table.

The resolution (S. Res. 51) was read, as follows:

Whereas the Senate adopted a resolution June 20, 1910, directing the Committee on Privileges and Elections to investigate the charges relating to the election of WILLIAM LORIMER to the Senate of the United States; and

Whereas since the Senate voted on the report of that committee it is represented that new material testimony has been discovered in reference to such matter; and

Whereas the *senate of* the State of Illinois, on the 18th of May, 1911, adopted a resolution for the reasons therein stated, requesting the Senate of the United States to institute further investigation of the election of WILLIAM LORIMER to the Senate: It is therefore

Resolved by the Senate of the United States, That the Committee on Privileges and Elections, sitting in banc, be, and are hereby, authorized and directed forthwith to investigate whether in the election of WILLIAM LORIMER as a Senator of the United States from the State of Illinois there were used and employed corrupt methods and practices; that said committee be authorized to sit during the sessions of the Senate and during any recess of the Senate or of Congress; to hold sessions at such place or places as it shall deem most convenient for the purposes of the investigation; to employ stenographers, counsel, and accountants; to send for persons and papers; to administer oaths; and as early as practicable to report the results of its investigation, including all testimony taken by it; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee. The committee is further and specially instructed to inquire fully into and report upon the alleged "jack-pot" fund in its relation to and effect, if any, upon the election of WILLIAM LORIMER to the Senate.

The VICE PRESIDENT. The resolution will be printed, under the rule, and, without objection, it will lie on the table.

CIVIL GOVERNMENT FOR ALASKA.

Mr. SMITH of Michigan submitted the following resolutions (S. Res. 52), which were read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Whereas certain bills are now pending before the Senate Committee on Territories providing for a civil government for Alaska, these measures having been proposed looking toward a thorough readjustment of the rules applicable to the government and control of that Territory: Therefore be it

Resolved, That the Committee on Territories be, and they are hereby, authorized and directed, by subcommittee or otherwise, to investigate the present needs and requirements of the people of Alaska, having especial reference to such legislation as may be necessary and desirable for the purpose of establishing a form of self-government or otherwise for said Territory; and be it further

Resolved, That said committee or any subcommittee are hereby authorized to sit, by subcommittee or otherwise, during the sessions or recess of the Senate at such time or places as they may deem advisable; and be it further

Resolved, That they shall be empowered to send for persons and papers, to administer oaths, and to employ such stenographic or other assistance as they may deem necessary for that purpose, the expense of such investigation or inquiry to be paid from the contingent fund of the Senate; and be it further

Resolved, That the committee is authorized to compile the Territorial laws applicable to Alaska, and order such printing and binding as may be necessary for its use.

HOUSE BILL REFERRED.

H. R. 8649. An act to authorize the extension and widening of Colorado Avenue NW. from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, was read twice by its title and referred to the Committee on the District of Columbia.

ELECTION OF SENATORS BY DIRECT VOTE.

The VICE PRESIDENT. The morning business is closed.

Mr. BORAH. I ask unanimous consent to take up House joint resolution 39.

There being no objection, the Senate as in Committee of the Whole resumed the consideration of the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Kansas [Mr. BRISTOW].

Mr. BRISTOW. Mr. President, there have been a great many inquiries made as to just what the joint resolution I have offered as a substitute provides. I want to invite the attention of the Senate to the changes which it proposes in the Constitution, and I shall occupy but a very few moments.

I offered the substitute for the joint resolution chiefly for the reasons: First, I think it desirable, because it makes the least possible change in the Constitution to accomplish the purposes desired; that is, the election of Senators by popular vote; and, second, because it is in the same form in which it was voted upon at the last session, when it received within 4 votes of enough to insure its adoption. Since that vote was taken 10 Members of the Senate who voted against the joint resolution have been succeeded by other Members, and I am advised that a majority of the 10 new Members will vote for the joint resolution, so that I have no doubt of its passage if it is submitted to the Senate at this time in the form in which it was submitted at the last Congress.

If Senators will take the Constitution, Rules, and Manual of the Senate, and turn to the Constitution on page 184, in section 2, Article I, I will call attention to the changes which are proposed. First, I will direct the Senate's attention to section 3 of Article I, which reads as follows:

SEC. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

This substitute of mine proposes to change that section by the striking out of the words "chosen by the legislature thereof" and inserting "elected by the people thereof."

The only change in section 3 is the substitution of the words "elected by the people thereof" for the words "chosen by the legislature thereof." That certainly is as simple a change as can be made. It involves no other question except the transferring of the election of Senators from the legislatures to the popular electors.

Then a change is made in section 2 of the same article, the section which refers to the House of Representatives. It now reads:

SEC. 2. The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

That provides for the election of Members of Congress; it provides the qualifications of the electors in such an election, and I have inserted that in my substitute, so that it reads:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

I have used the exact language used in the Constitution prescribing the qualifications of electors who will vote for Senator that is used in prescribing the qualifications of electors who vote for Members of Congress—nothing more and nothing less. So this substitute of mine simply transfers the election of Senators from the legislatures to the people, and provides that the electors, when they cast their vote for a Senator, shall have exactly the same qualifications as the electors who cast their votes for a Member of the House of Representatives.

The only other change that is proposed to be made in the Constitution as it is now is a provision for the filling of vacancies. The Constitution as it now reads, referring to vacancies in the Senate, says:

And if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Instead of that, I provide the following:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

Which is exactly the language used in providing for the filling of vacancies which occur in the House of Representatives, with the exception that the word "of" is used in the first line for the word "from," which, however, makes no material difference.

Then my substitute provides that—

The legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

That is practically the same provision which now exists in the case of such a vacancy. The governor of the State may appoint a Senator until the legislature elects. My amendment provides that the legislature may empower the governor of the State to appoint a Senator to fill a vacancy until the election occurs, and he is directed by this amendment to "issue writs of election to fill such vacancies."

That is, I use exactly the same language in directing the governor to call special elections for the election of Senators to fill vacancies that is used in the Constitution in directing him to issue writs of election to fill vacancies in the House of Representatives.

It is unnecessary for me to make any extended remarks in regard to my substitute for the joint resolution. I believe it is the best proposition, because it is the simplest of any that has been presented. It is substantially in the same language as the resolution which I introduced some two years ago, from which the joint resolution reported by the Committee on the Judiciary was formed. A very extended discussion was had on the joint resolution in the last Congress. A great deal of outside controversy was injected into it. I do not believe that section 4 of Article I of the Constitution should be in any way touched by the pending joint resolution. It is a separate and distinct proposition, and I do hope that Senators will not insist that we repeal a part of section 4 of Article I of the Constitution in order that we may give the people of the various States an opportunity to elect their Senators at a general election, instead of by the legislature.

I do not intend to enter into any elaborate discussion of section 4, Article I, of the Constitution as to the wisdom or unwisdom of its being repealed or modified in any way, because I do not think it ought to have any part in this discussion. I am going to vote for the joint resolution, whether any substitute shall be adopted or not, because the great question here is whether the people shall have an opportunity to elect their Senators instead of having them elected by the legislature. I believe the joint resolution is better in the form proposed by the substitute; I believe that it will be more satisfactory to the people of the country in that form, and I sincerely trust that the issue will not be confused by injecting into the discussion controversies that are foreign to it.

Mr. BRANDEGEE. Mr. President, I want to call the attention of the Senator from Kansas to the fact that section 2, Article I, of the Constitution, as read by him, provides:

The House of Representatives shall be composed of Members chosen even second year—

And section 3, as quoted by him, provides:

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof.

Section 4 also uses the word "chosen," only it is spelled in a different way. It provides:

But the Congress may at any time by law make or alter regulations, except as to the places of chusing Senators.

The Senator's proposed amendment inserts the word "elected," in line 9, on the first page, instead of the word "chosen," and yet he preserves the word "chosen" in the tenth line, on page 2. I desire to know if there is any distinction between the use of the two words, and whether it would not be better to have the language uniform through all sections of the Constitution.

Mr. BRISTOW. Well, I do not think there is any material difference. The phrases "chosen by the legislature" or "elected by the legislature," it seems to me, mean the same thing. I have used the phrase "elected by the people thereof" because that is the phrase that is generally used in discussing the matter.

Mr. BRANDEGEE. If the Senator will permit me, I am aware of that fact; but I ask, if that is so, why does he not use the same word in line 10 of page 2 of his amendment, where it provides—

This amendment shall not be so construed as to affect the election or term of any Senator chosen, etc.—

Whereas previously the amendment provides that Senators shall be elected?

Mr. SUTHERLAND. Mr. President, if the Senator from Kansas will allow me a moment——

Mr. BRISTOW. Certainly.

Mr. SUTHERLAND. I think the language the Senator from Kansas has used is entirely appropriate to accomplish the purpose which he intends to accomplish. In the first part of the proposed substitute the provision is:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof.

That is providing for a new method of selecting Senators. Heretofore they have been chosen by the legislatures; now they are to be elected by the people; but in the latter part of the proposed substitute, where the provision is that the amendment which alters the method by which Senators shall be elected shall not be construed so as "to affect the election or term of any Senator chosen before it becomes valid," the word "chosen" is there used with reference to the selection by the legislature, while in the first part the word "election" is used with reference to the selection by the people.

Mr. BRANDEGEE. Mr. President, if I may be permitted, if that distinction is intentional and of any significance whatever, why should not section 2, Article I, of the Constitution, which prescribes that "the House of Representatives shall be composed of Members chosen every second year by the people," be amended also so that it will read "elected by the people," instead of "chosen by the people"?

Section 2 provides for the manner of electing Members of the House of Representatives and uses the word "chosen." My point is that if there is any subtle distinction between the use of the word "chosen" and the word "elected," the language should be uniform in the different sections of the Constitution which we are proposing to amend. I do not know that there is any distinction between them, and I am inclined to think there is not; but I do think that the word ought to be used uniformly at least for the appearance of the diction of the section.

Mr. BRISTOW. I desire to say that, in line 2, page 2, of the proposed amendment, the word should be "legislature" instead of "legislatures"; that is, the "s" should be stricken off of the word, so that it will be singular instead of plural.

The VICE PRESIDENT. The amendment will be so modified, if there be no objection.

Mr. BRISTOW. The point raised by the Senator from Connecticut [Mr. BRANDEGEE] I do not think is at all material. The word "chosen," which is in line 10, on page 2, simply refers to Senators who have been chosen under the phraseology of the Constitution as it now exists; and I can not see any objection to it in that connection.

Mr. SMITH of Michigan. Mr. President, I should like to ask the Senator from Kansas whether the substitute which he has offered is in the same form and language as the substitute submitted by the Senator from Utah [Mr. SUTHERLAND] upon which we voted at the last session?

Mr. BRISTOW. It is in the same form as the joint resolution which was amended on motion of the Senator from Utah at the last session.

Mr. SMITH of Michigan. Then, it will leave the question of the election of Senators by direct vote of the people stripped of every other proviso or rider with reference thereto, the sole question involved being the manner of their election?

Mr. BRISTOW. It simply incorporates the words "elected by the people" for the words "chosen by the legislature." That is the only change that is made.

Mr. SMITH of Michigan. The safeguards which the Constitution has thrown around the authority of the General Government in the choice of these officers remains unimpaired?

Mr. BRISTOW. The Constitution is left just as it is now in that respect.

Mr. SMITH of Michigan. Mr. President, I am only going to say that I am strongly in favor of the resolution providing for the direct election of Senators by the people. In many ways I have contributed toward that result and have voted for such a resolution while a Member of the House of Representatives. That proposition places me in direct harmony with the expressed wishes of the people of our State, and I desire to redeem that promise made by my party.

I do not believe it to be wise to burden this proposal with any race rider or kindred problem of any kind or character. I think it should be shorn of every burden or subterfuge calculated to defeat it before the legislatures of our States.

Mr. BORAH. Mr. President——

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

Mr. SMITH of Michigan. Yes.

Mr. BORAH. What particular feature of the joint resolution as it was introduced does the Senator consider to be a subterfuge?

Mr. CLAPP. We can not hear what the Senator from Idaho says.

Mr. SMITH of Michigan. I did not mean to use the term "subterfuge" as a criticism of the honored Senator from Idaho. I think perhaps he has his measure in as good form as he has been able to get it from the committee to which it was referred, and I am finding no fault with him about it. I think

he is as zealous and as honest as any other Member of the Senate in his desire for this reform, but I regard the element of time and the general supervision which the Federal authority may now exercise over the choice of Senators, as well as Representatives, as very desirable to be retained in the Constitution, and it is my intention to vote for the substitute of the Senator from Kansas [Mr. BRISTOW].

If we can have this naked proposition, providing for the direct election of Senators by the people, unincumbered, I shall be very glad, but if the substitute of the Senator from Kansas shall fail, I then propose to cast my vote in favor of the joint resolution reported by the Senator from Idaho, and feel that by so doing I am discharging a solemn duty which I owe to the people of my State.

Mr. HITCHCOCK. I desire to ask the Senator from Kansas whether his substitute takes into account section 4 of Article I of the Constitution? Section 4 provides:

> 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 chusing Senators.

Mr. BRISTOW. We leave that just as it is. It does not affect or change it in any way.

Mr. HITCHCOCK. Then if his substitute were adopted there would still be a distinction between the power of Congress as it affects the election of Senators and as it affects the election of Representatives. That is, as it is now, Congress would have no power to alter the action of the legislature——

Mr. BRISTOW. It will have just the power that it now has. I do not undertake to change in any way the authority which the Congress has now over the election of Senators——

Mr. HITCHCOCK. That is to say, Congress would then have power to dictate to the States the places at which the election of Representatives should occur, while having no power to dictate to the States the places at which the election of Senators should occur.

Mr. BRISTOW. "But the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." We leave that just as it is.

Mr. HITCHCOCK. I should like to ask the Senator whether that would not create possibly an awkward conflict where Congress has reserved the power in one case and not in the other?

Mr. BRISTOW. I do not myself think it is a matter of any consequence.

Mr. HITCHCOCK. I am merely inquiring to know whether they should not be placed in harmony. Does the Senator intend that Congress shall have no power over the States with relation to the places of choosing Senators, while it does retain that power over the States in the election for the choosing of Representatives?

Mr. BRISTOW. I can say no more than I said before, that I do not think the question of regulating the place where Senators should be elected is of any consequence. I am perfectly willing to leave the Constitution just as it is. Congress never has exercised that authority, and what I am seeking to do is to change the Constitution just as little as it can be changed in order to bring about a direct election of Senators by the people instead of an election by the legislature.

Mr. HITCHCOCK. I merely raised this question because in the joint resolution as passed by the House of Representatives and as pressed by the Senator from Idaho that matter is made clear by the paragraph which provides that—

> the times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof——

Mr. BRISTOW. Yes.

Mr. HITCHCOCK. And in the joint resolution proposed as a substitute by the Senator from Kansas there seems to be an ambiguity, possibly, between the two provisions.

Mr. BRISTOW. I regret that the Senator should think there is an ambiguity. I think that the resolution as reported by the Senator from Idaho undertakes to amend section 4, and I did not want to amend section 4 in any way. I wanted to leave it alone, because I do not think it is necessary to amend it in order to accomplish the purpose that we are undertaking to accomplish here by this amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Kansas.

Mr. ROOT. Mr. President, this subject has been very fully debated in the Senate, and I do not wish to occupy the time of the Senate by going over the same arguments that I myself have already made or by repeating the arguments of others. I do wish, before the vote is taken, to state the position I take and the views which influence me to vote as I shall vote.

I shall vote for the substitute offered by the Senator from Kansas, and I shall then vote against the proposition to amend the Constitution. I shall vote for the substitute because it strikes out from the proposed amendment the amendment of section 4 of Article I, and I shall vote against the proposition as a whole because I am opposed to the amendment of section 3 of Article I.

There are two separate, distinct, and independent amendments of the Constitution included in the joint resolution as reported by the Committee on the Judiciary. One is an amendment to section 3, so as to provide for the election of Senators by the people instead of their election by the State legislatures. The other is an amendment of section 4 of Article I, so as to take away from the Congress of the United States the power to make or alter the regulations which may be prescribed by the several State legislatures in respect of the choosing of Senators.

The second amendment—that to section 4—is wholly unnecessary to the effectiveness of the first amendment, relating to the election of Senators by the people. There is no occasion whatever to destroy the power and authority of the Government of the United States over the process of constituting its own legislative body in order to secure the change of election from the State legislatures to the people of the several States. It is a new, additional, independent, disconnected, and unnecessary amendment of the Constitution. It has no place in the deliberations of this body or of any body upon the change in the manner of electing Senators. A change from the election by the legislature to an election by the people can be made with or without the other amendment, and wholly unaffected by it.

The people of the United States may wish for one and may not wish for the other. They ought not to be compelled to vote for one, which they may not wish for, as a condition for securing the other, which they may wish for. Each should stand upon its own basis. The people of the country should have an opportunity to vote to change the manner of the election of Senators, if they wish for it, without being compelled, as the price of getting it, to vote for the destruction of that control which the National Government has had from the beginning over the constitution of this great branch of the national institution.

I believe, sir, that the adoption of this amendment to section 4, which takes away the power of Congress to make in the last resort, if it finds it necessary, regulations to secure the effective, the honest, the uncontrolled selections of Members of the Senate, would be a reversal of the theory of the Constitution. I believe that it would strike a blow at that power of independent self-support which is essential to the perpetuity and the effectiveness of government. I believe that it would be a revertal to the theory of the old Confederation, under which the Government of the United States was dependent upon the States, and an abandonment of the theory of the Constitution under which we live, which was that the Government of the United States should stand erect and self-sustaining and have all the powers necessary for the maintenance of national life, dependent upon no State, upon no State legislature, and upon one power and upon no power whatever except the power of the Nation itself.

Mr. BORAH. Is it not true that the State legislature at this time has the sole and exclusive power to prescribe the manner of electing the electors who elect the President?

Mr. ROOT. It is.

Mr. BORAH. In what respect does this weakening of national powers differ from that which you choose to call a weakening with reference to the electing of electors?

Mr. ROOT. In this respect, Mr. President, if any State chooses not to take part in the election of the President, the President would be selected by the other States. Only the failure of all the States to perform their duty would prevent the election of a President.

Mr. BORAH. Is that not equally true with reference to Senators?

Mr. ROOT. No; it is not.

Mr. BORAH. If the State of New York should see fit not to choose her Senators, it would not hinder the State of Idaho from choosing hers?

Mr. ROOT. It would not; but it would prevent the Senate of the United States from having the representation of the State of New York in the membership of the body, and would render the Senate liable to have seats in the body filled by practices which might involve coercion, intimidation, and corruption, which it would have no power to prevent.

Mr. BORAH. The same effect precisely would be had upon the electoral college as to vacancies in the chairs, which should

be filled in that college as would be had should the State fail to elect Senators.

Mr. ROOT. In the ultimate result, Mr. President, we would receive the votes and count them, and the President would be elected. Any State which failed to perform its function would lose its voice in the selection of a President.

But, Mr. President, there is no proposition here to change the provision of the Constitution in regard to the election of the President. The proposition here is to change the Constitution so as to take away from the National Legislature the power to make any regulations with regard to its own creation, and it is to that that I object.

We have had occasion to exercise the power of regulation both in regard to the election of Members of the House of Representatives and in regard to the election of Senators. Congress in 1842 passed a statute to regulate the election of Members of the House. It was found necessary in order to have effective and proper elections. It has passed repeated statutes since then, notably in 1872, and our elections are being conducted now under those statutes passed by the Congress. Congress has found occasion to regulate the election of Senators, and those elections are being conducted now under the statute passed in 1866. No man can say that the time will not come again when it will be necessary for the Congress, in order to secure uniformity, in order to secure effectiveness, in order to prevent abuses, to exercise its power in respect of regulating the times and the manner of electing Members to each House of the National Legislature.

But, Mr. President, it was not my purpose, as I have already said, to reargue this case. I have stated the substantial grounds upon which I prefer that the substitute offered by the Senator from Kansas shall take the place of the original joint resolution. I shall oppose the resolution, then, on the ground that I think it is inexpedient and unnecessary to make any amendment of the Constitution at all in regard to the election of Senators. I believe that it will result in a deterioration in the personnel of the Senate. I believe that it will keep out of the Senate a large and important element well adapted to the performance of the peculiar and special duty of the Senate in our system of government. I believe that all the abuses which have led to such a desire for this change on the part of the people of the country can be cured by a simple amendment of the law, by amending the statute rather than by amending the Constitution of the United States.

Such a step I have already introduced. It was introduced at the last session and favorably reported by the Committee on Privileges and Elections. It has been introduced again at this session and is now pending before the Committee on Privileges and Elections. It provides for the election of Senators by a plurality, which is something that would be inevitable if we transfer the right of election from the legislatures to the people. It cures the evils which we have had by a simple amendment of the law. It affords an opportunity for a majority rule to control for a period which is stated in the bill as introduced at 20 days after the first convening of the two houses of the legislature. After the operation of 20 days has failed to produce an election by the majority rule, it provides for the application of a plurality rule.

Mr. President, I fully recognize the fact that we have going on throughout a large part of the country a process of change, a process of experiment in the way of modifying our governmental institutions. I recognize the fact that the people of many States have become dissatisfied with the way in which their political machinery has acted and that they desire to change it. I have great sympathy with the feeling and take great interest in the experiments that are being tried. I believe that good will come from the awakened interest of the people of the country in their own political affairs and from their determination to take a part in their affairs and to make their will effective.

But, sir, it is a process of experiment. We can not change the institutions of more than a century without long trial and consideration. Experiments will fail; experiments will succeed. All of us will see opportunities for modification and improvement. No one of us can evolve from his own thought, not all of us together can by conference produce, results which we may feel sure are better than the methods devised by the framers of our Government until the results have been put to the test of practical application.

The system under which we live, Mr. President, has produced the best results that ever have come from the experiments of mankind in government. We have received from our present institutions manifold blessings, and in the providence of God have wrought out under those institutions results which have made for the happiness, for the liberty, for the advancement of all mankind. With all history strewn with the wrecks of effort in government, with human nature still unchanged, I would hesitate long before assuming that my own judgment or the judgment of all of us can improve the system and framework of our Government except upon experiment and demonstration by practical application.

Mr. President, I do not like to see experiments begin or proceed in their early stages by amendments to the Constitution in advance of their being tried out fully. Amendments should be the result of long deliberation and trial. They should not initiate deliberation and trial.

For these reasons, sir, I shall take the course regarding the substitute and the joint resolution, whether the substitute be adopted or not, which I have indicated.

Mr. WILLIAMS. Mr. President, I had not intended to open my mouth at this session of the Senate of the United States, but it seems to me that it is necessary that my own position upon this question should be made clear. This is one of those curious and interesting cases where by keeping the language of the law just as it is in one place after a change in another place you change the facts, and where the only way of not changing the facts in their practical operation is to omit or change the language.

The Senator from New York [Mr. ROOT] is not only distinguished but notorious for his intellectual ingenuity, and with all of his ingenuity he can not cover up this practical change. The fact to-day is that when the people of Mississippi undertake to elect a legislature which is to elect a Senator the United States Government can not, does not pretend even to have the right to, interfere at the polls where the people are voting. If this change is made and the language in section 4 left just as it is and not omitted, then the power of the Federal Government is extended just that much further than it is to-day, to wit, that afterwards the Federal Government can at least pretend to the right, whether it have it or not, to interfere at the polls in the State of Mississippi when a Senator is being elected.

Now, gentlemen may refine all they please. They may split hairs "as betwixt the nor' and the nor'west side," but they know, just as well as the country, if intelligent, will know, that when they are pleading that the Constitution shall not be changed in section 4 they are really pleading that the relations between the Federal Government and the people at the polls shall be changed by adding a power which the Federal Government now has not, with regard to the presence and supervision of the election of a Senator.

I am not astonished at the position taken by the Senator from New York, because his object is to defeat the amendment to the Constitution making Senators to be elected by the people, and, of course, if he can force a large body of southern representatives by the adoption of the amendment of the main joint resolution as reported by the committee to a position of opposition he has with him upon the final vote against the adoption of the amendment to the Constitution just that many votes; and I presume, knowing his intelligence, that he has taken a reckoning of that fact. But I am a little astonished that the Senator from Kansas [Mr. BRISTOW], who desires the adoption of the amendment electing Senators by the people, should push his natural allies upon this subject, southern Senators, into that unnatural position.

Mr. President, the Senator from New York tells us that we should go slowly about changing the Constitution of the United States. It is strange that a New York Republican should tell a Democrat of my school that. I feel that, too; but the people of the United States have not gone rapidly about this. They have been considering it a long time. The Senate of the United States has been "tried in the balance" and, rightfully or wrongfully, wisely or foolishly, the people of the United States have concluded that as now constituted it has been found wanting.

I do not believe that the election of Senators by the people will result in any deterioration of the intellectual ability which will represent the States upon this floor. I know, as the Senator from New York says, that it might result in excluding from this Chamber "a certain element" which is of the highest ability in administering affairs, but it is an element that the people of the United States have concluded has been represented here too much.

Mr. President, I can not for the life of me see why the Senator from Kansas should desire to put us in the attitude in which he will put us if his amendment to the joint resolution shall prevail. Can no popular reform of any description be instituted in the United States without mulcting the South somewhere along the line—without demanding of her some special sacrifice? The Senator from Kansas, of course, knows as well as I do that if the joint resolution as it has come from the committee shall prevail there will be no change in the

facts, in the practical operation of things, in the present relationship between the Union and the States, whereas if he makes the change of fact by keeping the words which he proposes to keep in section 4, he does bring about practically the condition of things which our people at home would not admit for a moment of our overlooking, and concerning which they would condemn us if we omitted to take proper notice here and now.

Mr. President, I had not intended to be heard at all. That much I thought I ought to say.

Mr. SUTHERLAND. Mr. President, I have no intention of discussing this question at any great length. It was very fully discussed by the Senate within the last two or three months. But I do want to say a word or two to point out my position with reference to the joint resolution, and with reference to the substitute for it which has been proposed by the Senator from Kansas [Mr. BRISTOW].

In the first place, I am in hearty sympathy with the general proposition to amend the Constitution so as to provide for the election of United States Senators by the direct vote of the people. I am not going into any discussion of my reasons for that position. They have been stated very often. A United States Senator is a representative officer precisely the same as a Member of the House of Representatives, and I can see no reason why such a representative officer should not be elected by a *direct vote of the* people the same as a Member of the House of Representatives. I do not agree with the suggestion which has been made that we will in some unfortunate way affect the efficiency of this body or of the individual members of it. I think the tenure of office, six years, will of itself operate to mark whatever difference is desirable between these two great bodies—the House and the Senate.

It has been suggested that if we shall adopt this amendment and provide for the election of United States Senators by a direct vote of the people, it will next be proposed to destroy the equal representation which the States of the Union now enjoy in the Senate, and that we shall have a proposition, which ultimately will be adopted, that will provide for the same measure of representation that prevails in the other House, and that Senators will be elected in proportion to population and there will not be, as now, an equal representation from each State.

I do not well see how that can be brought about under that clause of the Constitution which provides that no State shall be deprived of its equal representation in this body without its own consent. I know it has been suggested that even that might be amended; but to destroy that provision would not be a change of the Constitution by the orderly processes of constitutional amendment. It would be equivalent to a revolution. That is the one thing which the people who framed this Constitution stipulated among themselves should never be altered so long as one State in the Union objected to it. I am not at all afraid that any serious attempt will ever be made to bring about that result.

But, Mr. President, while I am strongly in favor of this general proposition, I am opposed to the joint resolution as it has been presented, because the resolution as presented proposes not to accomplish the one result of electing Senators by direct vote of the people, but it proposes to accomplish that and another and an additional result, namely, the surrender of the power which the Government of the United States has possessed over the election of Senators from the foundation of this Government to the present day. The Constitution of the United States provides, in the first instance, that the legislatures of the various States shall regulate the times, places, and manner of choosing Representatives and of United States Senators, but that Congress may at any time make or alter such regulations. If we shall take out of the Constitution so much of it as provides for the exercise of this power on the part of Congress with reference to the election of United States Senators, we shall introduce into the Constitution, as I view it, an inconsistent and an altogether inharmonious condition.

The Constitution is entirely consistent and harmonious with itself. The Senator from Idaho [Mr. BORAH], interrupting the Senator from New York [Mr. ROOT] a few moments ago, called his attention to the fact that Congress had no power to regulate the time, place, or manner of the election of electors for President. That is true.

Mr. BORAH. Mr. President——

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

Mr. SUTHERLAND. I do.

Mr. BORAH. The Senator from New York only addressed himself to the question of the "manner."

Mr. SUTHERLAND. The Constitution expressly provides respecting the time. The Senator is correct. He calls attention to the fact that the Constitution does not provide for the exercise of the supervisory power on the part of Congress over the manner of electing electors, but the Constitution does preserve the power of Congress over the action of the electors themselves. In other words, the Constitution all the way through preserves the power of the Government of the United States to regulate the ultimate electors of the officers for whose election provision is made. In the case of Representatives the people vote directly for the officer; they are the ultimate electors. So the Constitution preserves the supervisory power of Congress over the people, who in that instance are the electors. In the case of United States Senators the people are not the ultimate electors, but the legislatures of the various States are. So the Constitution preserves the supervisory control of Congress over those bodies as the ultimate electors. In the case of the President of the United States the electors, so called, are the ultimate elective power. So the Constitution preserves the authority of Congress over those electors. The whole system is entirely consistent and entirely harmonious.

Mr. BORAH. Mr. President——

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

Mr. SUTHERLAND. I do.

Mr. BORAH. Mr. President, the Senator from New York [Mr. ROOT] was addressing himself to the question of the power under the Constitution to control elections for the purpose of insuring proper elections, and, with that end in view, I asked if it were not true that the legislatures prescribed the manner of electing electors. So far as the local election is concerned, the State legislature has absolute and exclusive control over the manner of electing electors. After the electors are elected they are in the same attitude that we are after elected. But, so far as the election of electors in the several States are concerned, to prescribe the manner of election, that is a matter which rests exclusively and alone with the legislature of the State.

Mr. SUTHERLAND. That is all quite true, but it in no manner, as it seems to me, affects the contention which I have made with reference to it.

Mr. BORAH. I think, Mr. President, that that is true, but I think it affects the proposition which the Senator from New York has made as to the manner of controlling a local election.

Mr. SUTHERLAND. The Senator from New York has demonstrated that he is quite capable of taking care of himself.

Mr. BORAH. I think that is true.

Mr. SUTHERLAND. I shall not undertake to do that for him.

The Senator from Mississippi [Mr. WILLIAMS] has said that the substitute offered by the Senator from Kansas [Mr. BRISTOW], while it ostensibly preserves the constitutional provision as it is, in reality makes a change in it. If I understand him, his position is that now, under the Constitution, Senators are not elected by a vote of the people, but are elected by the legislatures, and that, therefore, under the Constitution, Congress has no supervisory power over the acts of the voters themselves, and that by preserving this section 4 in the Constitution unaltered Congress will hereafter have an authority over the voters of the States which it does not now possess with relation to the election of United States Senators; but, as it seems to me, that argument is somewhat misleading and disingenuous. The Constitution provides that Congress shall have the supervisory control over the election of Representatives and the supervisory control over the election of Senators. The manner in which those different officers shall be elected has nothing whatever to do with the provision in the Constitution that the ultimate supervisory power shall exist in Congress; in other words, if the Constitution had provided in the beginning for the election of United States Senators by direct vote of the people, as it did for the election of Representatives by direct vote of the people, can there be the slightest doubt in the mind of anybody that the framers of the Constitution would have provided for the ultimate supervisory control of Congress over the election of Senators in that way precisely as it did over the election of Representatives?

Can any man give me any good reason why the supervisory control of Congress over the election of Representatives should be preserved when they are elected by the people and the supervisory control of Congress over the election of Senators should be destroyed when they are elected in precisely the same way? There is no change in principle. It is simply the application of an existing principle of the Constitution to new conditions.

We have illustrations of that in other parts of the Constitution. When the clause which gives Congress authority to regulate commerce among the several States was first adopted, it had no application to railroads; it had no application to tele-

graph lines; it had no application to telephones. Why? Because they were not in existence; but the moment those instrumentalities came into existence that provision of the Constitution applied to them of its own force at once. So, when this provision was put into the Constitution it was intended to operate irrespective of the manner of election, and when we provide for a new method of election the supervisory power of Congress already provided for in the Constitution at once and automatically attaches to that new condition of affairs.

The Senator from Mississippi [Mr. WILLIAMS] undertakes to find fault with the Senator from Kansas [Mr. BRISTOW] for having presented this substitute and made it impossible, according to his statement, for some Senators upon the other side to support it, and he warns the Senator from Kansas that it may result in the defeat of the joint resolution. I have no doubt in my own mind that if the substitute of the Senator from Kansas is not adopted it spells the defeat of this joint resolution—I do not mean necessarily in the Senate, but I mean before the country and before the legislatures of the country. If Senators who are in favor of giving up this supervisory control of Congress believe that the country is ready for it, let them present it by itself; let it stand upon its own feet; let it stand or fall by its own strength. I think if it should be separately proposed by Congress, not only would it not obtain a vote of three-fourths of the States of the Union, but it would not obtain the vote of a fourth of them.

Mr. RAYNER. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Maryland?

Mr. SUTHERLAND. Certainly.

Mr. RAYNER. If the Senator will allow me, I intend, of course, to vote against the proposed amendment of the Senator from Kansas [Mr. BRISTOW], but I shall vote for the joint resolution, even if the amendment be adopted. I want to call the Senator's attention, however, to a remark he made, which, I think, will require some modification. He said that, in his judgment, the framers of the Constitution, if they had provided that Senators should be elected by the people, would have adopted this supervisory power. I want to call his attention, or, rather, his recollection, to the fact that New York and, if I remember aright, Rhode Island, Pennsylvania, and Massachusetts, in ratifying the Constitution adopted a provision in the act of ratification that, in the contemplation of those States ratifying it, never was intended to give Congress any such power as that; that the only power it was ever intended to confer upon Congress was the power to act when the States failed to act.

Now, just one word further. I will only take a moment. Let us look at New York. The preamble to the ratification in New York recited:

> In full confidence, nevertheless, that until a convention shall be called and convened for proposing amendments to the Constitution * * * that the Congress will not make or alter any regulation in this State respecting the times, places, and manner of holding elections for Senators and Representatives unless the legislature in this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstances be incapable of making the same, and that in those cases such power will duly be exercised until the legislature of this State shall make provisions in the premises.

Pennsylvania, in adopting the Constitution, provided:

> That Congress shall not have power to make or alter regulations concerning the time, place, and manner of electing Senators and Representatives, except in case of neglect or refusal by the State to make regulations for the purpose, and then only for such time as such neglect or refusal shall continue.

The State of Massachusetts did the same thing, as also did Rhode Island. I can not agree with the Senator's contention.

Mr. SUTHERLAND. There were a number of States which took that view.

Mr. RAYNER. The idea of this clause was that where the States failed to act Congress should act, but it never was intended and never was in the contemplation of the framers of the Constitution; and the Senator will, I think, never be able to find in the debates of that body any recognition of the principle that the authority of the Congress should supersede the regulations of the States.

One other word before the Senator sits down with reference to the electors. There is a specific power in the Constitution that the States shall have the right to appoint electors. The Constitution confers the right upon the States to appoint their own electors. It provides—

> Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in Congress.

There is no provision in the Constitution giving Congress supervisory power of the manner in which the States shall determine the matter or the regulations as to the election of electors.

Mr. SUTHERLAND. No; but over the action of electors when chosen the power of Congress has been preserved. The Constitution not only preserves the power of Congress, but provides how those electors shall discharge their duties.

Mr. RAYNER. But not their selection.

Mr. ROOT. Mr. President, will the Senator from Utah permit me to ask the Senator from Maryland a question?

Mr. SUTHERLAND. Certainly.

Mr. ROOT. What force does the Senator from Maryland give to the words "or alter such regulations"? Section 4, Article I, provides—

> But Congress may at any time by law make or alter such regulations.

How could they alter such regulations if their power was to exist only in case the State failed to make any?

Mr. RAYNER. I can answer that by saying that where the regulations were not sufficient for the purpose of accomplishing the purpose they intended the power attached. Mr. President, I do not think the Senator from New York will say, in looking over the debates in the Constitutional Convention, although, of course, it does not bear practically upon this question at all, and I do not care what the debates were in the Constitutional Convention now, I do not think he would say that it was the intention of the framers of the Constitution or that it was the intention of the States that ratified the Constitution that Congress should have a supervisory power over the election regulations of the States. That power was deemed to exist in Congress only when the States failed to send Senators here and Representatives to the House of Representatives, and the word "alter" meant when they did not sufficiently accomplish the purpose. The action in the New York convention, in the Pennsylvania convention, in the Rhode Island convention, in the Massachusetts convention, and in other conventions of other States that I do not now recall shows plainly that it was never the intention to give Congress the power that the Senator from Utah claims it would have been given if the Constitution had originally provided for the election of Senators by the people, and that the framers of the Constitution would not have conferred any such power upon Congress as the Senator from Utah now wants to confer upon it. Of course, Congress has exercised the power with the approval of the courts, but I am speaking now of what was within the contemplation of the ratifying States.

Mr. SUTHERLAND. I am entirely familiar with the resolutions to which the Senator from Maryland refers, but, with all due respect to him, they do not meet in any degree the contention that I am making. I care not whether the position of the Senator from Maryland is correct about it or my position is correct about it; my proposition is that the framers of the Constitution would have given Congress the same power, whatever it may be, of supervision over the election of Senators that it does give them under the Constitution if they had been elected by a direct vote of the people. It gave the Congress the ultimate supervisory control over the election of Representatives, and they were elected by the people; it gave the ultimate supervisory power over the election of United States Senators, and they were elected by the legislature; but if the Constitution had provided that Senators should be elected by the people, the same as Representatives were elected by the people, the framers of the Constitution would have given to Congress exactly the power which they had given them over the election of Representatives. That is my contention.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Mississippi?

Mr. SUTHERLAND. I yield to the Senator from Mississippi.

Mr. WILLIAMS. Does not the Senator from Utah admit that our forefathers and the Constitution regarded the Senators as peculiarly the representatives of the States—in a certain sense as ambassadors?

Mr. SUTHERLAND. I do not know that I quite understood the Senator.

Mr. WILLIAMS. I say, does not the Senator from Utah admit that our forefathers and that the Constitution contemplated the Senators as peculiarly the representatives of the States, the Senate itself as a body being representative of the State and not of the people of the State?

Mr. SUTHERLAND. The Senator is a representative——

Mr. WILLIAMS. Now, if that is the case, does the Senator think they would have made exactly the same rule for the Representatives elected by the people and for these men who in their view were in a sort of way ambassadors from the States?

Mr. SUTHERLAND. The Senator from Mississippi is a representative of his State in one sense, but a Senator represents the people of his State the same as a Representative

represents the people of his State. And beyond that a Senator is not only a representative of his State, but he is a Senator of the United States. He exercises——

Mr. WILLIAMS. What I am trying to get at, if the Senator will permit me, is this: Not in your contemplation nor more than in mine, for things have evolved since then very much, but whether in the contemplation of our forefathers the Senators were not the representatives of the States, of the corporate body, the State, more than of the people of the State.

Mr. SUTHERLAND. Well, let me concede that, then——

Mr. WILLIAMS. This body was inaugurated for the very preservation of the equality of the States, was it not?

Mr. SUTHERLAND. Let me concede that, at any rate, for the sake of argument, and what does the Senator make of it? Does the Senator think that because that distinction might exist Congress ought to preserve no control over the election of United States Senators while it does preserve control over the election of Representatives?

Mr. WILLIAMS. Yes——

Mr. SUTHERLAND. Does that constitute a reason for that distinction?

Mr. WILLIAMS. The reason for that distinction is just as when a congress of people meet. There are so many delegates, and the congress itself has no control over the delegates.

Mr. SUTHERLAND. I can not follow the Senator in that.

Mr. WILLIAMS. I am saying that because you went back historically to the beginning; and if we are to go back, I should like to go back to the atmosphere that surrounded those people. Of course I admit, as a matter of fact, in the course of historical evolution that the very nature of institutions change because of the nature of new demands made upon them.

Mr. RAYNER. Will the Senator yield to me?

Mr. SUTHERLAND. If the Senator will let me have just a moment, I will yield to him.

To my mind, if there can be a distinction, there is more reason for the preservation of the supervisory control of Congress over United States Senators than over Representatives, because——

Mr. WILLIAMS rose.

Mr. SUTHERLAND. If the Senator will hear me through—because a Senator of the United States, while he may be, as the Senator says, a representative of the State, is more a representative of the United States than is a Member of the House. The Representative, the Member of the House of Representatives, has nothing to do with the question of treaties. He has nothing to do with the confirmation of appointees to Federal positions and ambassadors to foreign governments. The Senator of the United States passes upon treaties with foreign governments. A Senator of the United States advises and consents to the appointment of the judges, ambassadors, and all the other officers of the United States.

Mr. WILLIAMS. Yes; I understand that.

Mr. SUTHERLAND. In that condition, can it be said that the Government of the United States should absolutely yield to the States its control over the election of such an officer, who discharges these important functions of the National Government?

Mr. WILLIAMS. And from their standpoint at that time one of the very reasons why they gave all these extraordinary powers to the Senate was that the Senate was peculiarly representative of the equality of the States.

Now, right here one other question. The Senator from New York [Mr. ROOT] says that he wants to add to the present powers of the General Government this right to be present at the polls in a State when the Senator is elected.

Mr. ROOT. To retain it.

Mr. WILLIAMS. That is my standpoint. Of course, his standpoint is that he is keeping things as they are. He says that one reason why the Federal Government must do that is because it must continue its own existence in the Senate and that New York must have her Senator here.

I want to ask the Senator if, under the present condition of things, there is any way under the sun to compel Colorado to send a Senator here?

Mr. SUTHERLAND. Absolutely none.

Mr. WILLIAMS. None under the sun. So that the argument which he makes there is no more against the condition of things that would exist if the joint resolution of the committee should pass than it is at present.

Mr. RAYNER. The Senator from Utah has been very liberal in allowing interruptions. Will the Senator permit me?

Mr. SUTHERLAND. I will yield to the Senator briefly.

Mr. RAYNER. I object on general principles to interpretations of the Constitution which, in my opinion, were not sanctioned at all at the time it was adopted. The best way to get at what the Constitution means is to get at what the States meant when they ratified it. Nine out of the 13 States in their articles of ratification held that this clause does not mean what the Senator from Utah says it does mean. The records of the other 4 States have been lost, but I have no doubt they would follow in the same line. It will not take me a moment——

Mr. SUTHERLAND. Let me ask the Senator right here, whatever it means, why destroy the power?

Mr. RAYNER. Because it means just exactly what we say it means. We give the State the right to provide for the manner of electing Senators. And that is exactly what it meant, unless the States decline to act.

Mr. SUTHERLAND. Mr. President——

Mr. RAYNER. Just a moment, and then I shall have finished. I will just read this—it is only a few lines—and then I will not detain the Senator.

The matter has always been so clear to me that I do not like to have a statement made upon the floor of the Senate contrary to what I think the framers of the Constitution meant. Here is what the State of South Carolina said:

> And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operation of a General Government that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature should be forever inseparably annexed to the sovereignty of the several States, this convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the legislatures of the States shall refuse or neglect to perform and fulfill the same according to the tenor of said constitution.

Now, Virginia said:

> That Congress shall not alter, modify, or interfere in the times, places, and manner of holding elections for Senators and Representatives, or either of them, except when the legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same.

You have nine States. I never have had any doubt after a most careful examination as to the proposition that if the records of the other four States could be found they would substantiate the declaration in the ratification of these States. At least we have the records of nine of them, every one of them giving is as the opinion of the ratifying convention that it never was intended to repose in Congress the power that Congress has unlawfully exercised in regard to the matter.

The Senator from Georgia [Mr. BACON] at the last session of Congress cited these various acts of ratification to which I have referred and demonstrated the proposition that I am now contending for.

Mr. NELSON. Will the Senator yield to me for a moment?

Mr. SUTHERLAND. Yes.

Mr. NELSON. The unfortunate thing, Mr. President, with the position of the Senator from Maryland is that if this paragraph is amended, whether the legislature acts or fails to act, in any event the Congress of the United States will have absolutely no power, and therefore the statement made by the Senator from Maryland is not germane and has no force, because the original joint resolution does not even give the Congress the power to act when the legislature utterly fails. Here is the language, and the only language, left in the original joint resolution:

> The times, places, and manner of holding elections for Senators shall be prescribed in each State by the legislature thereof.

There is no proviso here giving Congress the power to act in case the legislature fails to act.

Mr. RAYNER. The Senator from Minnesota is contesting with a shadow. There is not the slightest possibility of a State declining to send a Senator to the Senate of the United States. There was danger at the time the Constitution was adopted. There is not now the slightest practical danger of a State not sending a Senator here.

Mr. HEYBURN. Will the Senator permit me?

Mr. RAYNER. I will permit an interruption, but the Senator from Utah has the floor.

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. RAYNER. I am talking about the intention of the framers of the Constitution. The Senator from Utah says it was the intention to give Congress a supervisory power. I know very well they have exercised a supervisory power, but I say when you look over the ratification of the States you can come to but one conclusion, and that is that it never was the intent of the framers of the Constitution; and let me say another thing, that the Constitution never would have been raified if the States had believed that that was the intention.

Mr. HEYBURN. I want to ask the Senator from Maryland a question, with the permission of the Senator from Utah.

The Senator from Maryland made the assertion that there was not the slightest danger that any State would ever fail or refuse to send representatives to the Congress of the United States. The history of the United States discredits that assertion.

Mr. RAYNER. I do not think it does, Mr. President. I should like the Senator to point out where it discredits it. It does not discredit it in the case of the State of Idaho.

Mr. HEYBURN. Well, Mr. President, there were certain years in the history of this country when certain States did not send representatives here.

Mr. RAYNER. And there were certain years in the history of the country when the Senate turned down Senators who were sent here and put in Senators who were never lawfully elected to the Senate.

Mr. HEYBURN. I was merely referring to the statement of the Senator—that such conditions could never exist.

Mr. BORAH. Will the Senator from Utah permit me to make just a suggestion here, because it illustrates what I may say is an exaggeration of the effect of section 4? At the time that the States did fail to send Senators here, of what earthly use was section 4 to the United States? We did not exercise any power under it. We could not exercise any power under it. It was utterly useless to accomplish anything which now by imagination it is suggested might be accomplished.

Mr. NELSON. May I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Minnesota?

Mr. SUTHERLAND. Yes.

Mr. NELSON. Of what earthly use was the Constitution anywhere—any part of it—during the Civil War?

Mr. BORAH. Well, I think it served a very good use. It held us together up here. But this particular section was never intended to give us the power to go into the States and elect Senators, and we have not that power now.

Mr. HEYBURN. Mr. President——

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

Mr. BORAH. I hope he will.

Mr. SUTHERLAND. Yes; I yield to the Senator.

Mr. HEYBURN. There is in the Constitution a process of compelling the election of Senators and Representatives, which was adopted at that time, and it was an effective process. It took a little while to do it, but the Government of the United States compelled those States to resume the functions of statehood and send their representatives here. It was only a question of how they would do it, and they adopted the only method of doing it.

Mr. BORAH. Mr. President——

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

Mr. SUTHERLAND. I will yield to the Senator from Idaho, and then I must proceed.

Mr. BORAH. I assert that never at any time did the Congress of the United States undertake to exercise any power under this section to compel any State to elect a Senator or a Representative.

That statement has been made here on the floor time and time again, and I challenge any Senator to point to a single instance, to a single statute, or a single proceeding under section 4 of the Constitution looking to the accomplishment of that purpose.

Mr. HEYBURN. I can refer you to one.

Mr. LODGE. Will the Senator yield to me?

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Massachusetts?

Mr. HEYBURN. If I may be permitted here, I think——

Mr. SUTHERLAND. Mr. President, I think——

The VICE PRESIDENT. The Senator from Utah has the floor. To whom does he yield?

Mr. SUTHERLAND. This whole discussion is aside——

Mr. HEYBURN. Three words will answer.

Mr. SUTHERLAND. I will yield to the Senator, but I hope he will be brief.

Mr. HEYBURN. By processes of martial law it made a government for these States.

Mr. LODGE, Mr. RAYNER, and others addressed the Chair.

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. SUTHERLAND. I must decline to yield further.

The VICE PRESIDENT. The Senator from Utah declines to yield further. The Senate will please be in order.

Mr. SUTHERLAND. I yield to the Senator from Massachusetts.

Mr. RAYNER. I only wanted to say to the Senator that martial law is no law at all.

The VICE PRESIDENT. The Senator has not yielded to the Senator from Maryland. He yielded to the Senator from Massachusetts.

Mr. LODGE. I will detain the Senator but a moment. I only wanted to say that it seems to me Senators forget the origin of those provisions. They were put in because toward the close of the Revolution the States failed to send delegates, in many cases, to the Continental Congress, and during the Confederation they absolutely brought the Government to a standstill by their failure to provide representation at the seat of government, and this was put in to prevent the new Government from being paralyzed in that way.

Mr. SUTHERLAND. I desire to get back to the point where I was when the storm broke.

The Senator from Maryland has called attention to the resolutions passed by several of the States in which in substance they declared that this clause of section 4 was only intended to operate in case the States failed to act. Now, I care not whether that was the view of the framers of the Constitution or the view of those who ratified the Constitution. The point that I was making to the Senator was that whatever their view of the scope and meaning of this provision was they intended it should operate upon the election of Representatives and United States Senators, whether they were elected by the people or by the legislature. Whether you give it a broad application or a limited application, they did not intend to make a distinction as to the power which should be exercised based upon the manner in which the Senator or the Representative should be elected. But if that was the original intention of the framers and that was the view of these States it has been construed to have a broader operation during the 124 years of the existence of the Republic, and the people of the United States during that 124 years have been quite content to leave that provision in the Constitution with that broad interpretation of it.

Now, Mr. President, it has been suggested that even if we eliminate this clause of section 4 from the Constitution the power will still exist in Congress to regulate the manner of the election of United States Senators, under the general provisions of the Constitution. I do not agree with that view. I think if we provide in express terms by an amendment to the Constitution that the legislatures of the States shall be given the authority to make regulations as to the times, place, and manner of election of Senators, that will constitute the last expression of the people's will upon that subject.

The language is exclusive. It is specific. It confers upon that one agency the power to do this thing; and the rule of statutory construction is too well settled to admit of dispute, that when we have conferred a specific power, in exclusive terms, upon one agent, we, by that very act, deny it to any other agent. I can not understand——

Mr. BORAH. Mr. President——

Mr. SUTHERLAND. Just a moment. I can not understand how, when we shall have conferred the express, positive, and exclusive power upon the State governments, any power to do that same thing can remain in the General Government under any general language of the Constitution.

Now I will yield to the Senator from Idaho.

Mr. BORAH. Mr. President, the Supreme Court has said in the case of McPherson *v.* Blacker, with which the Senator is familiar:

> Under the second clause of Article II of the Constitution, the legislatures of the several States have exclusive power to direct the manner in which the electors of President and Vice President shall be appointed.

The Congress has from time to time passed certain acts protecting elections with reference to Representatives and Senators and electors, and the Supreme Court has sustained those acts, when sustained at all, upon other grounds and according to other powers than that found in section 4.

Mr. SUTHERLAND. In what case did the Supreme Court say that?

Mr. BORAH. In one of the cases which the minority cited in their views.

Mr. SUTHERLAND. The Siebold case?

Mr. BORAH. No; the Yarborough case.

Mr. SUTHERLAND. I must entirely disagree with the Senator with regard to that. The Yarborough case is based upon the Siebold case, in One hundredth United States, and the Siebold case expressly holds that the act which was passed was under clause 4 of Article I of the Constitution.

Mr. BORAH. I will read the section to the Senator, and I will submit to him here on the floor whether he thinks that section was based on section 4.

Mr. SUTHERLAND. The Senator is referring to the act of 1872. I would not undertake to say that every section was passed under that clause. There may have been some sections that were not.

Mr. BORAH. But the section which the court was construing was section 5508. It was not passed by virtue of section 4, and the court did not undertake to uphold it by reason of section 4.

Mr. SUTHERLAND. What I say about it is this: Heretofore the express power has rested in Congress, in the last analysis, to supervise the time and manner of the election of Senators. If the people of the United States, in effect, repeal that provision, take it out of the Constitution, so that it shall no longer exist in the Constitution, and confer in exclusive terms that identical power upon the State legislatures, I can not understand under what rule of construction it could possibly be held that the power would still exist in the General Government as it exists now. It will be taken away in express terms and expressly conferred upon somebody else, and it can not at the same time be taken away and still exist, as it seems to me.

Now, Mr. President, I want to hurry along and get through, because it is not only getting late, but it is continuing warm.

This power has been exercised from time to time, and necessarily exercised, by the General Government. It passed at one time—I do not recall the exact date of it—a law which fixed the uniform time for the holding of elections. That was a necessary law. It could not have been passed so far as United States Senators are concerned if the joint resolution advocated by the Senator from Idaho had been in force.

We passed at a later time a provision with reference to the character of the ballot, providing that the ballot should be written or printed. Those laws have a uniform operation throughout the United States. Without the provision for a printed ballot it would have been entirely competent for a State to have provided for an election by a viva voce vote.

We provided for the use of the voting machine by a later act. The act of 1872, while perhaps not entirely based upon that clause, was at least in part based upon it, as the Supreme Court held in the case to which I have already referred.

Now, there is one other thing that I desire to call attention to in this connection, and that is that the burden of proof in this matter is upon those who undertake to change the existing provision of the Constitution. It is for them to show that no harm would result. It is indeed for them to show more than that—not only that no harm will result from it, but that some positive good is to result from this amendment to the Constitution. It does not seem to me that that has been done or attempted up to this moment.

If we amend the Constitution in this particular, however unwise it may be hereafter found to be, no matter what embarrassment the change may occasion to the General Government, it will be utterly impossible for us to retrace our steps. We can prevent its being done. One-fourth of the States of the Union may prevent this change from being made; but when it has once been made, no matter how important the restoration of the provision may be made hereafter to appear, it will be impossible to put it back into the Constitution except by a vote of three-fourths of the States, and that probably never could be obtained.

Something was said in a former debate on this question to the effect that the several States may be trusted to see that the elections are fairly conducted, their purity preserved, and their freedom from sinister influences guaranteed and protected. I do not doubt, and I think no one doubts, the truth of this assertion under the normal conditions which prevail to-day; but the Constitution is made, not for to-day alone, or for a month hence, or a year hence, but for a vastly expanding and constantly changing future, the nature and extent of which no man can with any degree of certainty predict.

We may indulge the hope, we may believe, that no occasion will ever arise for the exercise of the ultimate authority of Congress in this regard, and yet we can not with safety close our eyes to the fact that occasion has arisen in the past, and that what has happened may happen again. This authority of Congress will be and should be exercised sparingly in the future, as it has been exercised sparingly in the past.

The Constitution, by devolving upon the States the primary duty and responsibility, clearly contemplates that Congress shall not intervene so long as normal and healthful political conditions prevail, but who among us is so wise as to know that these normal and healthful conditions will always continue?

True, the States are interested in the election of Senators, but has the Nation no interest? The interest of the States is one of great importance, but that of the Nation is vital. If the retention of this ultimate supervising power in the Nation be an expression of distrust in the State governments, which it is not, will not its elimination express a loss of confidence in the wisdom and fairness of the National Government?

The Nation is simply the whole of which the States constitute the integral parts. We are an "indissoluble Union of indissoluble States." If in a Nation so constituted there are degrees of fidelity, surely the whole may be trusted to preserve the integrity of the various parts more safely than each of the several parts may be relied upon to preserve the integrity of the whole.

There is the one tremendous lesson of our history—some of the States once sought to dismember the Union, but the Union has never sought and will never seek to dismember itself. I am for preserving the power of the Nation unimpaired and undiminished, not for the normal ordinary days when the power may safely remain uninvoked, but for that rare and exceptional day of stress when its exercise shall become of imperious and overshadowing necessity—when the strong, supervising, compelling hand of the Federal Government not only may but must stretch forth to preserve it from disaster or from destruction.

Mr. BORAH. The Senator from Wisconsin [Mr. LA FOLLETTE] is on the floor, and as he perhaps desires to proceed under his notice of yesterday, I am going to have the joint resolution laid aside temporarily, but before doing so I move that when the Senate adjourns to-day it be to meet to-morrow at 12 o'clock.

The VICE PRESIDENT. The Senator from Idaho moves that when the Senate adjourns to-day it be to meet at 12 o'clock to-morrow.

The motion was agreed to.

Mr. BORAH. I ask that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. The Senator from Idaho asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? No objection is heard.

SENATOR FROM ILLINOIS.

The VICE PRESIDENT. Without objection, the Chair will lay before the Senate the following resolution.

The SECRETARY. Table Calendar 4, Senate resolution by Mr. LA FOLLETTE. A resolution (S. Res. 6) to appoint a special committee to investigate certain charges relative to the election of WILLIAM LORIMER.

Mr. LA FOLLETTE. Mr. President, when I concluded last evening speaking upon the resolution which I introduced, I had reviewed the leading facts of the case upon which the Senate passed on the 1st of March, 1911. I did not pretend, except in the briefest possible way, to make any summing up of the testimony submitted at that time; but I felt that in calling upon the Senate to reopen this case a backward glance over the important material facts upon which the Senate did pass was necessary and proper.

I briefly reviewed the case from the beginning down to the time when the Senate entered its judgment, by a vote of 46 to 40, in favor of the sitting Member.

I believed then, Mr. President, that this judgment was wrong. I believed that it would not stand. Senators may remember that when request was made here on one occasion to fix a time for a vote in the Lorimer case, I objected, and said I had reason for doing so.

I believed, Mr. President, that all the testimony in this case had not been secured. I am now sure, Mr. President, that all the testimony in this case had not been taken at that time, and I am equally sure that all the testimony in this case has not yet been recorded in any forum. I remember saying a few moments before a vote was taken, that this case would come back again to this Senate. I felt sure of that; and it is here to-day; and I am here, Mr. President, to ask that the Lorimer case be reopened.

It is a matter of common knowledge that the people of the State particularly interested, the State of Illinois, and the people of the whole country, did not accept the judgment which we entered on the 1st day of March last. They rejected it at once with almost one voice. From all over the country protests came against the action of the Senate.

Mr. President, nothing is ever really settled until it is rightly settled. It may seem to be settled. We may think in our imperfect human way that we have disposed of it, but it will come back to confront us. It is God's law of everlasting righteousness demanding judgment. As the law of gravity always pulls to make things plumb, so the eternal law of right goes on and on forever, exercising its tremendous, unending, immutable decree that right shall prevail.

Following the decision which we entered in this case, I gathered together as best I could the public opinion of this country as recorded in the public press of the country. I caused to be

clipped from every paper that could be reached the comment upon the action of the Senate. I did it, Mr. President, with a view of presenting it here. I have it. I can not present it without violating the rule of the Senate which provides that there shall be nothing uttered in debate which "directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator."

Sir, out of 117 editorials representing leading papers in all sections of the country there is not one that does not reflect most severely upon the action of the Senate in the Lorimer case and upon the motives of many Senators who voted to confirm LORIMER's title to a seat in this body. In view of the rule I merely call attention to the fact that the judgment of the Senate was not in accord with the judgment of the press.

Mr. President, I know that Senators—some Senators have expressed from time to time a feeling of indifference as to public opinion. Now, I do not think this great body ought to yield its judgment to any spasmodic manifestation of temper which may sweep over this country, but, Mr. President, taken by and large, public opinion in this country is right; public opinion is conservative, and I think it would be well for the Senate of the United States to look at itself from time to time in that great mirror, public opinion.

We complain sometimes here because we think that the so-called muckraking and uplift magazines and reform criticism present to the public a distorted and imperfect characterization of the Senate of the United States. But, Mr. President, for my part, I never have had any fear of the criticism magazines or newspapers may make of this body. I never have believed that it is possible for them to make any lasting impression as to the character of the Senate unless they print the exact truth about the Senate. That is the only thing the Senate need be apprehensive about.

What may be said outside of this Chamber, Mr. President, is not important excepting as it is a record of comment upon what actually transpires in this Chamber. What we ourselves, as Senators, do is important. What the newspapers and magazines say we do is of no consequence unless it be true. Then, sir, it is vitally important, because it is the basis for a real, lasting public opinion. And so I say, Mr. President, that the well-considered judgment of the press and the periodicals of this country on public men and public affairs goes to the making of the history of the country, and, taken as a whole, this collective editorial judgment of the Senate of the United States and the House of Representatives and the administrative officers of Government is generally in accord with what they deserve.

I am here to ask the Senate of the United States to reconsider this judgment, to reopen this "Lorimer case." I do not believe I need cite any authority. I will, however, bring to your attention the case of HENRY A. DU PONT, of Delaware, Senate Election Cases, page 873, where, in a report made, in which Gray and Turpie and Pugh and Palmer and Hoar and Chandler and Pritchard and Burrows joined, I find this:

> We do not doubt that the Senate, like other courts, may review its own judgments where new evidence has been discovered, or where, by reason of fraud or accident, it appears that the judgment ought to be reviewed. The remedy which in other courts may be given by writs of review or error or bills of review may doubtless be given here by a simple vote reversing the first adjudication. We have no doubt that a legal doctrine involved in a former judgment of the Senate may be overruled in later cases.

Now, Mr. President, I am prepared to offer to the Senate reasons why this judgment should be reopened, why the Senate should review the findings that it made in the Lorimer case on the 1st of March.

The majority report of the Senate Committee on Privileges and Elections, made in December to the Senate, approved the title of Mr. LORIMER to a seat in this body. That was an announcement to the people of the country, and particularly to the people of Illinois, which, I suppose, led them to believe that this committee would do all in its power in this Chamber to give validity to the title of WILLIAM LORIMER to a place here as the representative of the State of Illinois.

Mr. President, acting upon that information and that belief, they proceeded to organize in the Senate of the Illinois Legislature an investigation of their own. Manifestly they were not ready, sir, to accept the judgment of that committee; they did not believe that WILLIAM LORIMER ought to represent that great State on this floor. So, on the 17th day of January, 1911, the Illinois State Senate adopted the following resolution:

> Whereas certain official misconduct on the part of certain members of the senate has been charged, wherein it is alleged that certain senators have violated their oaths of office in that they have knowingly and intentionally paid, contributed, or received something, or have made or received some promise or promises, in the nature of a bribe, with intent to influence, directly or indirectly, the official action of a member or members of the general assembly: Now, therefore,
>
> *Resolved*, That the committee heretofore appointed, consisting of Senators Helm, Hay, McKenzie, Ettelson, and Burton, are hereby authorized, directed, and empowered to investigate and report to the senate concerning the alleged acts of bribery and official misconduct of members of this or the preceding general assembly.
>
> And in reference to such investigation said committee is hereby authorized and empowered to send for and subpœna persons to appear before it as witnesses and to compel such witnesses to testify, and to compel the production of documents and other papers; to administer oaths, to take testimony, and to employ, in its discretion, if it deems it essential, counsel, a clerk, stenographer, and other assistants; and
>
> All processes issued by the chairman of said committee shall be served by the sergeant at arms of the senate or his assistants.
>
> And said committee shall meet at such times and places as shall best serve its purposes.
>
> *Further resolved*, That the members of said committee shall be allowed their actual traveling expenses, and any persons employed to assist the committee shall be paid reasonable compensation out of the appropriations made by the senate.
>
> *Further resolved*, That this resolution be entered nunc pro tunc, as and for Senate Resolution No. 5.

Pursuant to that resolution, Mr. President, the senate committee of the Illinois Legislature organized and began its work of investigation. I want to take the time of the Senate to place before it so much of the results of that investigation as, it seems to me, has a material bearing upon the reopening of this case.

It appears, Mr. President, that one of the Chicago newspapers, the Record-Herald, had charged specifically in an editorial that a fund had been raised to purchase votes to secure the election of Mr. LORIMER to the Senate of the United States. The publication of the editorial led the Illinois senate committee to summon the editor of that paper.

Let me inject a word of explanation here, Mr. President. I requested that certified copies of the minutes of the testimony, taken by the committee, be furnished to me. I have before me here all the record evidence taken by that committee, except, I believe, that of the first session, containing the testimony of the editor of the Chicago Record-Herald, Mr. Kohlsaat, on the occasion of his first appearance as a witness before that committee, March 29, 1911. It was brief. I therefore state, as best I can from the press accounts, in substance, the testimony given on that occasion by Mr. Kohlsaat.

Summoned before the committee, he was asked to state upon what information he had published, editorially, the statement that a fund of $100,000 had been raised and expended to bring about the election of WILLIAM LORIMER. Mr. Kohlsaat refused to answer. He told the committee he had been informed that such a fund had been raised. When asked for the name of his informant, however, he declined to give it upon the ground that the information had been received in the strictest confidence and that he could not, without violating that confidence, make the disclosure. The committee then adjourned, after requesting Mr. Kohlsaat to reconsider the matter and reappear at a later meeting of the committee. Before the next meeting, Mr. Kohlsaat telegraphed the chairman of the committee that he had been released from his pledge of confidence and could, if desired, give the name of his informant. The committee called on Mr. Kohlsaat to name the man. Mr. Kohlsaat then appeared and testified that he had received his information from Mr. Funk, the general manager, I believe, of the International Harvester Co.

Mr. Funk, upon being called before the committee, testified to a conversation with one Edward Hines, of the Edward Hines Lumber Co. This conversation between Mr. Funk and Edward Hines had taken place shortly after WILLIAM LORIMER had been elected United States Senator. Mr. Funk testified that he met Mr. Hines in the Union League Club of Chicago; that Hines stopped Funk as he was coming down from the lunch room and talked to him in the lounging room. The following, in so far as I quote at all, is Mr. Funk's statement of the conversation:

> He (Hines) said I was just the fellow he had been looking for or trying to see, and said he wanted to talk to me a minute. So we went and sat down on one of the leather couches there on the side of the room, and without any preliminaries, and quite as a matter of course, he said, "Well, we put LORIMER over down at Springfield, but it cost us about a hundred thousand dollars to do it." Then he went on to say that they had had to act quickly when the time came; that they had had no chance to consult anyone beforehand. I think his words were these: "We had to act quickly when the time came, so we put up the money." Then he said, "We—now we are seeing some of our friends so as to get it fixed up." He says they had advanced the money, that they were now seeing several people, whom they thought would be interested, to get them to reimburse them. I asked him why he came to us. I said, "Why do you come to us?" meaning the Harvester Co. He said, "Well, you people are just as much interested as any of us in having the right kind of a man at Washington." "Well," I said. I think I replied and said, "We won't have anything to do with that matter at all." He said, "Why not?" I said, "Simply because we are not in that sort of business." And we had some aimless discussion back and forth, and I remember I asked him how much he was getting from his different friends. He said, "Well, of course, we can only go to a few big people; but if about 10 of us will put up $10,000 apiece that will clean it up." That is the substance of the conversation.

With some reluctance Mr. Funk testified that Hines told him to "send the money to Ed Tilden."

Within a day or two after this conversation with Hines Mr. Funk reported what Hines had said to both Mr. Cyrus H.

McCormick, president of the International Harvester Co., and to Edgar A. Bancroft, general counsel for the Harvester Co. Mr. McCormick said, "Good; I am very glad you turned him down promptly."

I think it was something like a year after this conversation with Hines and shortly after the publication of Assemblyman White's exposure of the Lorimer bribery matter that Funk informed Kohlsaat of what Hines had said to him, but Mr. Funk, as shown by the testimony, was very prompt in reporting what had taken place between himself and Hines to the principal officials of his company.

In February, 1911, Mr. Hines came to Mr. Funk's office. This was a day or two after an editorial appeared in the Chicago Record-Herald making specific reference to a $100,000 corruption fund.

Mark this: After Mr. Hines had made this statement to Mr. Funk and Mr. Funk had reported it to the president and the general counsel of the company for which he worked, after months had passed by and the country was stirred by disclosures in the Lorimer case, Mr. Funk had met Mr. Kohlsaat and said to him, in substance, "I know there was a great fund raised; at least, I was asked to make a contribution of $10,000 to help make up a hundred thousand dollar fund that was used in this case." That gave rise to the publication of this editorial, and the publication of the editorial in February, 1911—just last February—gave Mr. Hines, for the first time, notice that his talk about pulling off LORIMER's election had found its way into the public prints. This made him uneasy.

Now, see what he did. Sitting around me here this afternoon are many lawyers who will at once recognize Mr. Hines's next step as indicative of the man who is fearful of being caught. He hustles about to see whether he can not in some way correct—not correct, but pervert—the recollection of the men with whom he had perhaps been careless in his conversation. See what Hines did. I quote now from the testimony of Mr. Funk:

Q. What conversation did you have with him [Hines] upon that occasion?—A. Well, he was very much disturbed at that time and undertook to refresh my memory as to what our conversation had been. * * * I can not repeat his language exactly, but in substance it was to the effect that his former conversation with me had been merely a general discussion of the situation down there, and that he had not asked me for any money, and that he did not know anything about any money having been raised. * * *

The trick is an old one. You will observe Mr. Hines resorting to this same practice, which is the mark of guilt always, at other stages in this case:

Q. And did he pretend to have any other business or any other thing to discuss with you when he came to your office in February, 1911?—A. No.

Mr. President, how indicative that is of the guilty mind. The moment Hines saw that publication he began to think of the men with whom he had conversed upon this subject, with whom he had been somewhat boastful, perhaps, as it appears he was on some occasions when he was not looking for contributions, and he began to think of the men to whom he had gone to secure contributions. He remembered that this man, Mr. Funk, general manager of the Harvester Co., was one of the men to whom he had applied. We have not the testimony, but I have no doubt that Hines took the back track and visited as promptly as possible all other men with whom he had talked and to whom he had gone for contributions. The editorial in the Chicago Record-Herald was proof positive to Hines that there had been a "leak" somewhere.

Mr. OWEN. The editorial did not mention him?

Mr. LA FOLLETTE. Oh, no; it did not mention Mr. Hines; it did not mention any name; it just stated that it was known that a $100,000 fund had been raised to elect LORIMER—a plainly libelous editorial if it were not true. But Mr. Hines immediately hastens to Mr. Funk and says, "Now, you remember we had a talk, and about all I said was so and so and so and so," and he attempts to blur the recollection of this man as to that conversation. I say the trick is an old one. Any man who has had experience in trial work will recognize it at once. You will find it running all the way through this case. O Mr. President, this is one of the plainest cases that I have ever reviewed. I ask you to listen for a moment to a brief reference to the testimony of another witness.

Mr. Herman H. Hettler, of the Hettler Lumber Co., admitted having had some conversation with Edward Hines in reference to the senatorial election of 1909 at the Union League Club. (Employees of the club were present and in a position to hear what transpired.) He met Hines by the cigar stand in the outer hall by accident:

I stepped into the Union League Club on the day of the election just mentioned. I was about to buy some cigars, as I was leaving that day for Toronto. I was leaning over the cigar case talking with the cigar man and making the selections when—rather intent—when some one touched me on the shoulder, and turning around, I saw it was Mr. Hines, who was very enthusiastic, and apparently in a happy frame of mind, and stated, "Do you know the name of your new Senator?" * * * I looked at him before I made any reply, and he says, "I just come out of the telephone booth, just a minute," pointing to the booth, "I have just been talking to him." He says, "LORIMER has been elected. And," he says, "I am feeling very happy over it," which was plain to be seen by his actions. He says, "I elected him. I did it myself personally."

Now, I take you for a moment to some facts which developed on a railroad train. William Burgess, of Duluth, Minn., manager and treasurer of the Burgess Electrical Co., testified that in March, 1911, he was present at a conversation on the Winnipeg Flyer, a train running between Duluth and Virginia, Minn., at which was discussed "the election of an Illinois Senator." This conversation occurred in the smoking room of the Winnipeg sleeper. A man named Johnson, of the Northwestern Lumberman; Rudolph Weyerhaeuser; John Weyerhaeuser; and "I think" Carl Weyerhaeuser; Samuel J. Cusson, manager of the Virginia & Rainy Lake Lumber Co.; and C. F. Wiehe were in the smoking compartment on that trip. The C. F. Wiehe referred to is secretary of the Edward Hines Lumber Co. and the brother-in-law of Hines.

Now, I quote from Mr. Burgess's testimony:

A. I can not remember how the conversation started in regard to the election of Mr. LORIMER any more than I made some remark disparaging to Mr. LORIMER's election—

These men were grouped about in the smoking compartment and fell into conversation. This Lorimer case was in all the papers. It was most natural that it should come up in that casual meeting—

What that remark was I do not remember. And Mr. Wiehe immediately took the cudgel up and wanted to know what I knew about Mr. LORIMER's election, and I told him that the only thing that I knew about Mr. LORIMER's election was what I had read in the papers. He wanted to know if I got my information from the—I think he said the Chicago Record—Record-Herald—whatever the paper is—

Perhaps he said the Chicago Tribune; I do not know—

I told him no; that I got it from the local papers in Duluth, the Evening Herald and News-Tribune, and the Chicago Examiner; and he made the remark that I "did not know very damn much about it." And the conversation started, and he made—I told him that it was credited around the country that Mr. LORIMER had used a considerable amount of money to secure his election, and he said that Mr. LORIMER had not used a dollar of his own money for his election. And the conversation kept on. He started in to tell me how Mr. LORIMER was elected, and finally he made this statement: "There was a jack pot raised to elect Mr. LORIMER; I know what I am talking about, because I subscribed $10,000 to it myself."

Mr. OWEN. A brother-in-law.

Mr. LA FOLLETTE. A brother-in-law of Mr. Edward Hines.

Now, it is not any bolder or more audacious than a dozen statements made by Edward Hines that will be proven by a score of witnesses if this case is ever reopened and tried by the Senate.

Q. Was anything said about the General Assembly of Illinois in that conversation?—A. He did make this remark that it was impossible to get anything of merit through the Illinois Legislature without the use of money.

Burgess testified that the only one of the persons whom he named as being on that train, who was present during his conversation with Wiehe, was a young man from Regina, Canadian Northwest, with whom Burgess got into conversation after Wiehe left the smoking compartment, but whose name Burgess did not remember.

Burgess repeated his conversation with Wiehe the next day to two men; one of them was Mr. Bailey—W. T. Bailey, a lumberman from Duluth, who was in the lumber business at Virginia—and the other was Mr. W. H. Cook.

Mr. Burgess testified:

I went into the hotel that night, and when I asked Mr. Bailey who this gentleman (Wiehe) was, he told me. I told him about the conversation I had on the train.

When Burgess left Virginia on the Winnipeg Flyer the following Wednesday morning, he repeated Mr. Wiehe's statement about the $10,000 contribution to the Lorimer election fund to a Mr. Cook.

There appeared before this committee, at the request of Mr. Wiehe, two or three of the gentlemen who were on that train; friends whom he called to sustain him in his statement that he did not have such a conversation with Mr. Burgess. If this case is ever reopened, and Mr. Burgess comes before a Senate committee to testify, I have no doubt, from information which has come to me, as to the reliability which the Senate will attach to Mr. Burgess's testimony.

B. A. Johnson, of Chicago, for 25 years general staff representative of the American Lumberman, a newspaper, testified that he was in the smoking compartment of the Winnipeg Flyer on the night mentioned in Burgess's testimony, when Wiehe talked to Burgess about the "slop fund." He went into the compartment soon after the train left Duluth, smoked a cigar, and left after finishing his smoke, which was in about "25 or 30

minutes." When asked who was in the compartment when he left, he replied: "A gentleman whom I afterwards learned was William Burgess."

He testified that Mr. Wiehe had telegraphed to him to come to Springfield to testify regarding what took place that night on the Winnipeg Flyer and said he did not hear any conversation in that smoking compartment about the Lorimer matter by anybody; that Mr. Wiehe left the compartment before he did and was not seen again by Johnson, who testified he "looked for" Wiehe on the train. "It was not idle curiosity; it was a matter of cold business." Johnson did not leave his seat in the sleeper, he admitted, although "looking for" Wiehe.

He testified that he left that smoking compartment, went into the sleeper, took a seat about the center of the sleeper, and watched for Mr. Wiehe.

I think it will appear in this connection, from other witnesses whom Wiehe called to sustain him in his denial, that Johnson is not telling the truth.

S. J. Cusson, general manager of the Virginia & Rainy Lake Lumber Co., testified that he was on the Winnipeg Flyer on the night in question with the Hines-Weyerhauser-Wiehe crowd. His testimony as to the length of time he was in the smoking compartment is vague and confused. He saw Burgess and Wiehe sitting near each other and facing each other.

Q. * * * and you heard no conversation in there about the Lorimer matter?—A. None at all.

Mr. Cusson was not in the committee room during the examination of Mr. Johnson. Mr. Helm, chairman of the committee, had asked that witnesses who had not yet testified retire to another room. Cusson did not therefore hear Johnson's testimony about his efforts to find Mr. Wiehe, after he had left the smoking compartment, in order to discuss "business matters" with him. Cusson's testimony on this point contradicts Johnson's testimony. Johnson testified that when he left the smoking compartment he went back into the sleeper—same car—and sat down in a seat near the middle and "played it both ways"—that is, watched both ends to make sure that Wiehe did not enter the car without his knowledge.

A pretty handy witness, you see; a fellow who was looking "both ways."

Said Johnson:

I was not successful in seeing Mr. Wiehe—after he left the smoking compartment—until the next evening at 8 o'clock, in Virginia.

You see the purpose of this testimony is to get Wiehe out of the way, out of the smoking compartment, so that he could not possibly have had this conversation with Mr. Burgess—that is, if Johnson is telling the truth, which he is not.

Johnson responded to this line of questioning evasively, bringing from Chairman Helm the admonition, "Don't argue; answer the question."

On this point, coming back now to Cusson's testimony, Cusson testified as follows, directly contradicting Johnson:

Q. Do you mean to say, Mr. Cusson, that when you came out of the smoking compartment into the body of the car that Mr. Wiehe was there?—A. I do.

Now Johnson, you recall, says Wiehe did not appear in the car that evening. Clearly, Johnson was framing the story so Wiehe could not possibly have gone into the smoking compartment again to resume this conversation with Burgess. Johnson was playing a strong hand. Whereupon comes Mr. Cusson, who had not heard Mr. Johnson's testimony on this subject, saying that when he had gone out into the sleeping car Mr. Wiehe was there.

Q. And he remained there until you arrived at Virginia?—A. Yes, sir.
Q. Did you talk with him?—A. Yes, sir. * * *
Q. How far apart were Johnson and Wiehe when you came out of the compartment?—A. Oh, I don't know as I could say just where Mr. Johnson sat.
Q. Well, assuming that he sat in the middle of the car, how far was Mr. Wiehe away from where Johnson sat?—A. Two or three seats.
Q. Forward or backward?—A. Forward.
Q. In front of him, so that he was in plain view of Mr. Johnson all the time?—A. Yes, sir.

James H. Harper, of the insurance firm of Harper, Shields & Co., of Duluth, carrying fire insurance for lumber concerns with which Mr. Hines is associated and a stockholder in the Virginia & Rainy Lake Lumber Co., of which Mr. Hines is president, was another witness called in this case. Harper testified that he was on the Winnipeg Flyer on the night in question, but that at no time during the trip was he in the smoking compartment. He looked into the smoking compartment as he came into the car, greeted Mr. Wiehe, who was inside, and "noticed in there at that time Mr. Johnson, a Mr. Burgess, and Mr. Fred Weyerhaeuser, and there were some others I did not notice particularly, because I just looked for an instant."

Harper testified that about half an hour later Mr. Wiehe came out of the smoking compartment into the main part of the car. This also directly contradicts Johnson's testimony.

Q. Well, how long did he remain there?—A. Well, he was there—oh, I suppose he and I were together possibly an hour, the rest of the time.
Q. In the main part of the car?—A. Yes, sir. * * *
Q. So that, so far as your observation went, Mr. Wiehe was in that same car during that entire trip?—A. Yes, sir.
Q. Did not leave the car, in other words?—A. Not to my knowledge; no. * * *
Q. Where did Mr. Wiehe sit with reference to the seat occupied by Mr. Johnson and the man with whom he was talking?—A. Well, when he was with me he was down near the end of the car, next to the smoker, where my seat was.
Q. And when he left you, then he went up to the other end of the car?—A. Yes, sir; as I remember it.
Q. And stood there and talked with those other men whom you mentioned?—A. I think he sat in with them.
Q. So that he was about one section removed from Mr. Johnson and the men he was talking with?—A. Well, I think they were perhaps right across the aisle.
Q. Yes; within comparatively a few feet of each other?—A. Yes.

Now, Mr. President, I quote from the testimony of Mr. Wiehe himself.

Mr. Christian F. Wiehe, of Chicago, secretary and a director of the Edward Hines Lumber Co., testified that he was in the smoking compartment of the Winnipeg sleeper on the night in question and remained there "25 or 30 minutes."

Although denying he told anyone he had contributed $10,000 to the Lorimer fund, Mr. Wiehe admitted, and I quote now his exact words:

I may have talked into a conversation. I may have talked there. I would not say I did not or did.

Mr. W. H. Cook, of Duluth, stockholder in the Virginia & Rainy Lake Lumber Co., of which Edward Hines is president, testified that he was on the Winnipeg Flyer on the night in question. He did not see Mr. Burgess on the train, but about 11 o'clock next morning, at Virginia, he met Mr. Burgess and talked with him.

Q. What was that conversation?—A. Why, he came up to me and asked me who that—he said, "What do you call that fellow with the short, black whiskers, one of the Hines gang?" "Oh," I said, "do you refer to Mr. Wiehe?" He said, "Yes; that is the fellow." He said, "He is a funny fellow. He talks too much."

Now, mark you, that was the next morning.

Q. He said he talked too much?—A. Yes.
Q. Anything else said?—A. Oh, he said he was talking about the Lorimer election up there, and money, and one thing and another. I did not pay much attention to what he did say.

I cite that as showing what was in Mr. Burgess's mind—the impression that had been made upon him by this talk with Wiehe in the smoking compartment.

Mr. Cook testified further that he has known Edward Hines for some 10 years; that in the month of May, 1909, shortly before the election of WILLIAM LORIMER, he had a conversation with Edward Hines at the Grand Pacific Hotel, in Chicago, in the presence of Mr. Henry Turrish, of Duluth, who is in the lumber business in Oregon.

I think it is fair to say at this point that Mr. Cook and Mr. Hines have had some business troubles. The following is from Mr. Cook's testimony:

A. Mr. Hines was going through the lobby—this was in the Grand Pacific Hotel—and he saw Mr. Turrish and myself standing there. He stopped and spoke to us. Mr. Turrish asked him how he was getting on down in Washington. "Oh," he said, "I am having a hell of a time." He said, "Now, there is—for instance," he said, "there is old STEPHENSON," he said, "after I elected him he has gone down to Washington and started working there for free lumber." He said, "I had a terrible time getting him lined up." Then he went on and told about what a time he had with the southern Democrats. He said he would have them all fixed up to-day and to-morrow they would flop, and he would have to go and fix them all over again.
Q. What else, if anything, was said at that conversation?—A. Mr. Turrish asked him how they were getting along down here with the senatorial deadlock. "Well," he said, "it is all fixed." He said, "I will tell you confidentially LORIMER will be the next Senator." He said, "We had Boutell fixed for the senatorship. He had promised to work to keep the $2 tariff on lumber, but," he said, "when the lumber schedule came up before the Ways and Means Committee he was working for free lumber." He said, "I immediately took it up with Senator Aldrich, and we decided that we had to have another man, a man we could depend on. It was decided that I should have a talk with LORIMER. I did. LORIMER has agreed to stand pat. He will listen to reason. I have got it all fixed; he will be the next Senator from Illinois." That was the substance of the conversation.

Mr. Cook testified to another conversation with Mr. Hines subsequent to this, "somewhere about" the 24th or 25th of the same month—May, 1909. Mr. Cook and Mr. O'Brien, of St. Paul, had arranged with either Mr. Wiehe or Mr. Baker, of the Hines Lumber Co., for a conference with Hines at the Grand Pacific Hotel. Hines kept the appointment.

As soon as Hines came into the hotel Cook met him in the lobby. After asking for the number of Cook's room he said he had talked over the long-distance telephone and would go up to Cook's room and attend to it there.

Q. Well, did he subsequently come to your room?—A. Yes. I got him—my room was on the parlor floor and Mr. O'Brien's was up on either the second or third floor, and my room was easiest to get at, and we went up and—well, Mr. Hines went in and put in a long-distance call, and then we all went to my room. * * *

Q. Well, now, what happened after you got in your room?—A. Why, we were in the room for a short time—some, probably, three or four minutes. The phone rang. I went to the phone. The operator, I suppose, asked if Mr. Hines was there. I said, "Yes." She says, "Here is Springfield for him; here is the governor." I called Hines to the phone.

Now, there will appear some contradictions in this testimony as to just whom Hines talked with at that time. I will later undertake to demonstrate that he talked with LORIMER. As is suggested to me by the Senator from Oklahoma [Mr. OWEN], the use of the word "governor" might have been prearranged. I will prove with the aid of Hines's own testimony that he talked with LORIMER, and talked about money and about "putting it over," and so I ask Senators to follow me closely.

Now, mark you, they are in the room of Cook on the second floor of the Grand Pacific Hotel. O'Brien is there; Cook is there; Hines is there; and Hines's brother-in-law, Wiehe, is there.

Q. Did you hear the conversation which he had on the telephone that morning?—A. Yes.

Q. Will you tell the committee what it was as you remember it?—A. Hines took the receiver out of my hand, and he spoke in the phone. He asked, "Hello, hello, hello. Hello, is this you, governor?" He said, "Well, I just left President Taft and Senator Aldrich last night in Washington. Now, they tell me that under no consideration shall Hopkins be returned to the Senate. Now, I will be down on the next train. Don't leave anything undone. I will be down on this next train, prepared to furnish all the money that is required. Now, don't stop at anything; don't leave anything undone; I will be down on the next train," or words to that effect—repeated it over three or four times.

Q. And who was present in the room during that conversation besides you and Mr. Hines?—A. William O'Brien and either Mr. Wiehe or Mr. Baker; I am not positive which.

About a year afterwards, in May or June, 1910, Mr. Cook received a visit from Mr. C. F. Wiehe, who came to him at Mr. Hines's request. Mr. O'Brien was present during this conversation between Mr. Wiehe and Mr. Cook. At 12 o'clock midnight Mr. Wiehe came to the Grand Pacific Hotel.

Q. Well, tell the committee what occurred when Mr. Wiehe came to the hotel that night about midnight.—A. Mr. O'Brien and I had been to a theater. We came back to the hotel shortly after 11 o'clock, and sat down and had a smoke. And we smoked there for some time, finally burned up a couple of cigars, and I says, "Bill, it is about time to go to bed," and I looked at the clock, and it was just 12 o'clock. He says "I guess that is right," he says, "we had better go to bed." We were just about starting for bed and Mr. Wiehe came in. He seemed to be very anxious that we should get out of town; told us if we did not get out of town that night they would have us before the grand jury the next morning. He said that Hines had called him up out of bed and told him to get down and see us; LORIMER had called him—that is, Hines—and told him that we were in town, and "for God's sake to get us out."

Q. Do you remember anything else that occurred at that time?—A. Yes. We had—Mr. Wiehe sat down after a while, and we had a little further conversation. I think Mr. O'Brien made the remark that "the papers seem to be chasing Hines pretty hard"; and Wiehe says, "Yes, ha, ha, they will get him." He says, "Hines talks too much." He says, "All the office force gets there from daylight to dark is, 'Keep still, keep still, keep still; don't say a word,' then," and he says, "Every damned newspaper reporter that comes along, Hines will give him two columns." * * *

[Laughter.]

Mr. O'Brien asked Wiehe how—he says, "How do you expect we are going to get out of here this time of night; no train leaving here now?" And there were some further remarks about certain people not being very scared of the grand jury, even if they were pulled up. That was about all. * * *

Q. How did Mr. Wiehe act on that occasion?—A. Well, he was considerably excited when he first came in.

Q. Did he say that he had come from his home to see you gentlemen purposely in order to convey this message?—A. Well, he said Mr. Hines had called him up out of bed.

Mr. Cook further testified that he met Mr. Hines about two or three weeks after this midnight visit of Mr. Wiehe's. This time he met Hines by appointment in the office of William E. McCordic, who is Mr. Cook's Chicago attorney.

Q. Well, did you have a talk with Mr. Hines on that occasion?—A. Yes; Mr. Hines came down there to see Mr. Davis and Mr. McCordic and myself about some exchange of some bonds that we were interested in. After our business was concluded Mr. Hines and I went down together. As soon as we got out into the hall Hines spoke to me about a story that was going around to the effect, or purporting to be something similar to, the conversation which he carried on over the long-distance phone from my room in the hotel about a year previous. He says, "Now, this story comes from some telephone operator, some girl," he says, "and they have got it all mixed up"; says he, "the way they have got it is that I was talking from your office in Duluth with ex-Gov. Yates at Springfield, wherein I told him I would be down on the next train prepared to furnish a million dollars to elect LORIMER." "Now," he says, "you know that was not Yates at all I was talking with." He says, "It was Deneen"—

Fixing up another witness's memory, you see—

And then he went on to caution me about keeping very quiet about such a story, or about the conversation he held there. He said if it ever came out that it would be betraying the confidence that President Taft and Senator Aldrich put in him; that he never could go back to Washington; he never could look either of those gentlemen in the face again, and that it would compromise some of the best people in the city of Chicago and the State of Minnesota.

Cook told the committee that he had discussed Hines's telephone conversation with Mr. O'Brien, of St. Paul, and that there was no difference at all between his remembrance of what took place and what Mr. O'Brien remembered about it except the single matter as to whether it was Gov. Deneen that Hines was talking with over the phone or ex-Gov. Yates.

It does not make any difference; any governor was good enough for Hines to use as a cover for LORIMER.

Mr. Cook further testified that he had had some business controversies with Mr. Hines, but that such matters would in no way cause him to testify to anything that was untrue or to color any of his statements to the detriment of Mr. Hines.

In further corroboration of these conversations with Hines and Wiehe, Mr. Cook testified that he had repeated all of them to his attorney, Mr. McCordic, and also to Mr. Washburn and Mr. Bailey, his attorneys in Duluth, soon after they occurred.

Now, of course, this Illinois committee, in conducting its investigations, was limited by State lines, and whenever it heard of any witnesses outside it was necessary to send some messenger or employee of the committee to interview them and ask them if they would come before the committee and testify. For this purpose the Illinois senate employed Mr. M. B. Coan.

Mr. Coan testified that he went to St. Paul to interview Mr. William O'Brien. What Mr. O'Brien said to Coan is in direct contradiction of Mr. Hines's statement that he had not talked about money in the Lorimer election to anyone. Mr. Coan's account of what O'Brien told him is as follows:

He (O'Brien) said he was mixed up in a deal with the Weyerhausers and Hines, and he did not think it would be to his advantage to come down here and testify; that he felt that his testimony might convict Mr. Hines of perjury to this committee; that he believed Mr. Hines had testified that he had not spoken to anyone in regard to the money used in connection with the election of Mr. LORIMER; and that he had told him he—he had had talks with him about it.

O'Brien also told Coan that W. H. Cook's testimony concerning Hines's telephone conversation from the Grand Pacific Hotel to a person he addressed as "governor" was entirely correct, except that O'Brien differed with Cook as to who was on the other end of the telephone. O'Brien was of the opinion that it was ex-Gov. Yates to whom Hines was talking, while Cook thought it was Gov. Deneen.

Regarding Cook's statement that Mr. Wiehe came to the Grand Pacific Hotel and asked Cook and O'Brien to get out of town before the grand jury could call them, "and so forth," O'Brien said to Coan, "Why, they can't deny it; they know it is true; they won't deny it."

Coan further testified that in the capacity of investigator for the committee he visited Marquette and interviewed Frank J. Russell, editor of the Mining Journal; E. V. Mosier, deputy United States marshal; and a reporter named Lowe on the Mining Journal, in reference to the Illinois senatorial election. He also talked with Shelly B. Jones, druggist, and Rush Culver, lumberman and lawyer, of L'Anse, Mich.

Mr. Jones stated to Mr. Coan that he had some information with reference to the Illinois senatorial election. Mr. Coan said:

He (Jones) told me that * * * in the early part of 1909 Edward Hines, who was dealing with him and his brother-in-law (Rush Culver) and Edward Culver in lumber from the Northern Lumber Co., in which they were both interested, came to Marquette, and they were out that evening and having a few drinks, and either in the Marquette Hotel or in a saloon called Bush's saloon, he could not remember which, he said Mr. Hines began telling him the history of his life—a synopsis of it—how he rose from a poor boy to becoming a very prominent lumberman, and he concluded by saying that he had just succeeded in making a United States Senator that had cost a hundred thousand dollars, and that it was well worth it; that he would stand for a high duty on lumber, and that the lumber trade needed such a man in Washington. That is about all he said.

Mr. Jones stated to Mr. Coan that at the time of this conversation with Hines his brother-in-law, Rush Culver, was present. This statement was made by Mr. Jones to other persons in and about Marquette.

Mr. Coan, during this visit to Marquette, on or about April 9, also talked with Mr. Rush Culver, lawyer and lumberman. He met him at his house in L'Anse and asked him about this conversation. Mr. Coan said:

He (Culver) said that he and Hines were very good friends, and that he did not want to say anything that would get Mr. Hines into any trouble; that he had talked with Mr. Hines a number of times about Senator LORIMER and his political affiliations; that Hines had spoken to him about financing LORIMER'S campaign, and perhaps for Congress and otherwise, and he said that he was not clear as to just when this conversation had taken place; he thought it was perhaps before his last conversation with Hines on the campaign contribution; he said he thought it was in 1907. Then he called in his son, Harry Culver, and he asked him when it was that the Northern Lumber Co. had sold Hines a lot of hardwood culls, whatever they are, and his son said that it was in the summer before he left college, and he left college in 1910, which made it the summer of 1909. And he placed that as nearly as he thought he could—the date when he talked with Hines. * * * He said Mr. Hines talked very candidly to him and he talked frankly to him.

Frank J. Russell, a resident of Marquette, made affidavit as follows:

That on or about the 6th day of April, A. D. 1911, in the city of Marquette, I went to see Shelly E. Jones, of said city, in his place of business and asked him if he was a party to a conversation with Edward Hines, of the city of Chicago, State of Illinois, relative to the election of WILLIAM LORIMER as a United States Senator from Illinois. To this question Jones replied, in substance, that Hines had said in the course of the conversation referred to, "We put LORIMER over. It cost us a lot of money to do it, but he is well worth the price. I handled the stuff."

On the following day Russell again discussed the matter with Jones, and Jones again repeated his statement, saying that the remarks made by Hines about LORIMER'S election grew out of a discussion of the lumber tariff, Hines saying that LORIMER was a high lumber-tariff man and that was why he was a good man to have in the United States Senate.

Russell stated further that in this conversation Jones also said:

Have within a week called this conversation to the attention of Rush Culver, who was also present, and he told me that he remembered it.

I suppose these gentlemen were reminded of Hines's former statement by the testimony which the investigation by the Illinois Senate committee was bringing out at that time and was then the subject of general newspaper comment.

A witness, Mr. Bergener, was present at this conversation. That witness was present, of course, at Mr. Coan's instance, because, I assume, he was directed to have somebody present when he interviewed these witnesses in other States who could not be persuaded to respond to a subpœna.

Mr. BORAH. Mr. President——

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

Mr. LA FOLLETTE. Certainly.

Mr. BORAH. Does the Senator from Wisconsin desire to try to conclude to-night?

Mr. LA FOLLETTE. It will be impossible, I will say to the Senator from Idaho, for me to conclude to-night. I would be perfectly willing to continue as long as the Senate cares to sit. I regret that I did not get started earlier to-day. I was completing my analysis of this testimony. There are some 600 pages of this testimony. I have put some time upon it in order to present it to the Senate, as I consider it important.

Mr. CULLOM. Will the Senator yield for a motion to adjourn?

Mr. LA FOLLETTE. I will, and with the statement that I should like to go on as early to-morrow as possible and complete what I have to submit to the Senate if I can.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 42 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, May 24, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 23, 1911.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God, our heavenly Father, before whom millions daily prostrate themselves in adoration and praise, we humbly and reverently bow in Thy presence and acknowledge with unfeigned gratitude our indebtedness to Thee for all things; and we most humbly and fervently pray that Thou wilt continue Thy blessings unto us, to uphold, sustain, and guide us, that we may fulfill to the uttermost our mission in this life and be fully prepared at the proper time to enter upon that other life where we shall serve Thee in a world without end, for Thine is the kingdom and the power and the glory forever. Amen.

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

RATIFICATION OF THE INCOME TAX.

The SPEAKER laid before the House the following communication from the secretary of state of Colorado, inclosing a joint resolution of the Legislature of Colorado ratifying the proposed amendment to the Constitution of the United States authorizing an income tax:

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA, *State of Colorado, ss:*

I, James B. Pearce, secretary of state of the State of Colorado, do hereby certify that the annexed is a full, true, and complete transcript of senate concurrent resolution 3, which was filed in this office the 21st day of February, A. D. 1911, at 5.43 o'clock p. m., and admitted to record.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Colorado, at the city of Denver, this 20th day of May, A. D. 1911.

[SEAL.] JAMES B. PEARCE, *Secretary of State.*
By THOMAS F. DILLON, Jr., *Deputy.*

Senate concurrent resolution 3, ratifying the sixteenth amendment to the Constitution of the United States of America.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"Joint resolution proposing an amendment to the Constitution of the United States.

"*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution, namely:

"'ART. XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.'"

Therefore be it

Resolved by the General Assembly of the State of Colorado, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Colorado.

That certified copies of this preamble and joint resolution be forwarded by the governor of this State to the President of the United States, Secretary of State of the United States, to the Presiding Officer of the United States Senate, and to the Speaker of the United States House of Representatives.

STEPHEN R. FITZGARRALD,
President of the Senate.
GEORGE MCLACHLAN,
Speaker of the House of Representatives.

Approved this 20th day of February, A. D. 1911.

JOHN F. SHAFROTH,
Governor of the State of Colorado.

Filed in the office of the secretary of state of the State of Colorado on the 21st day of February, A. D. 1911, at 5.43 o'clock p. m.

JAMES B. PEARCE, *Secretary of State.*
By THOMAS F. DILLON, Jr., *Deputy.*

RIGHT OF GOVERNMENT EMPLOYEES TO ORGANIZE.

Mr. MCCALL. Mr. Speaker, I ask unanimous consent to print in the RECORD an article which I hold in my hand, chiefly made up of a letter by Hon. Nicholas Murray Butler, of Columbia University, New York City, on the question of the right of the Government employees to unite together in organizing a union. It is a very admirable letter and I think Members might like to read it.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to have printed in the RECORD the article to which he refers. Is there objection?

There was no objection.

The article referred to is as follows:

WHEN GOVERNMENT EMPLOYEES GO ON STRIKE.

[The Sun, Tuesday, May 18, 1909.]

We have asked and obtained permission to quote from a private letter written by President Nicholas Murray Butler, of Columbia University, concerning a momentous question which he has made recently the subject of several public addresses:

"The newspapers are advising us day by day of the situation in which the French Government finds itself through an earlier temporizing with this question. France will either be a republic or a commune, with all that the word commune means, unless Clemenceau can have public opinion at his back in the attitude which he is now taking, sound although belated.

"In my judgment the fundamental principle at issue is perfectly clear. Servants of the State in any capacity—military, naval, or civil—are in our Government there by their own choice and not of necessity. Their sole obligation is to the State and its interests. There is no analogy between a servant or employee of the State and the State itself on the one hand, and the laborer and private or corporate capitalist on the other. The tendency of public-service officials to organize for their own mutual benefit and improvement is well enough, so far as it goes. The element of danger enters when these organizations ally or affiliate themselves with labor unions, begin to use labor-union methods, and take the attitude of labor unions toward capital in their own attitude toward the State. In my judgment loyalty and treason ought to mean the same thing in the civil service that they do in the military and naval services. The door to get out is always open if one does not wish to serve the public on these terms. Indeed, I am not sure that as civilization progresses loyalty and treason in the civil service will not become more important and more vital than loyalty and treason in the military and naval services. The happiness and prosperity of a community might be more easily wrecked by the paralysis of its postal and telegraph services, for example, than by a mutiny on shipboard.

"Just as soon as any human being puts the interest of a group or class to which he belongs, or conceives himself to belong, above the interest of the State as a whole, at that moment he makes it impossible for himself to be a good citizen. It seems to me that what I said in my speech in Chicago is entirely true, namely, that a servant of the entire community can not be permitted to affiliate or ally himself with the class interests of a part of the community.

"President Roosevelt's attitude on all this was at times very sound, but he wabbled a good deal in dealing with specific cases. In the celebrated Miller case at the Government Printing Office he laid down in his published letter what I conceive to be the sound doctrine in regard to this matter. It was then made plain to the printers that to leave their work under the pretense of striking was to resign, in effect, the places which they held in the public service, and that if those places were vacated they would be filled in accordance with the provisions of the civil-service act, and not by the reappointment of the old employees after parley and compromise.